

1 AMENDMENT TO HOUSE BILL 36

2 AMENDMENT NO. _____. Amend House Bill 36, AS AMENDED, by
3 replacing the title with the following:

4 "AN ACT concerning agriculture."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 1. Short title. This Act may be cited as the
8 Illinois Agriculture Infrastructure Development Act of 2001.

9 Section 5. Definitions. In this Act:

10 "Advisory Board" or "board" means the Department of
11 Agriculture's Infrastructure Development Advisory Board for
12 Agriculture.

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

1 or processes used in agricultural production. "Agribusiness"
2 includes but is not limited to the following:

3 (1) grain handling and processing, including grain
4 storage, drying, treatment, conditioning, milling, and
5 packaging;

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

7 (3) fruit and vegetable processing, including
8 preparation, canning, and packaging;

9 (4) processing of livestock and livestock products,
10 dairy products, poultry and poultry products, fish or
11 apiarian products, including slaughter, shearing,
12 collecting, preparation, canning, and packaging;

13 (5) fertilizer and agricultural chemical
14 manufacturing, processing, application and supplying;

15 (6) farm machinery, equipment, and implement
16 manufacturing and supplying;

17 (7) manufacturing and supplying of agricultural
18 commodity processing machinery and equipment, including
19 machinery and equipment used in slaughter, treatment,
20 handling, collecting, preparation, canning, or packaging
21 of agricultural commodities;

22 (8) farm building and farm structure manufacturing,
23 construction, and supplying;

24 (9) construction, manufacturing, implementation,
25 supplying, or servicing of irrigation, drainage, and soil
26 and water conservation devices or equipment;

27 (10) fuel processing and development facilities
28 that produce fuel from agricultural commodities or
29 by-products;

30 (11) facilities and equipment for processing and
31 packaging agricultural commodities specifically for
32 export;

33 (12) facilities and equipment for forestry product
34 processing and supplying, including sawmilling

1 operations, wood chip operations, timber harvesting
2 operations, and manufacturing of prefabricated buildings,
3 paper, furniture, or other goods from forestry products;
4 and

5 (13) facilities and equipment for research and
6 development of products, processes, and equipment for the
7 production, processing, preparation, or packaging of
8 agricultural commodities and by-products.

9 "Agricultural facility" means land, any building or other
10 improvement on or to land, and any personal properties deemed
11 necessary or suitable for use, whether or not now in
12 existence, in farming, ranching, the production of
13 agricultural commodities (including, but not limited to, the
14 products of aquaculture, hydroponics, and silviculture) or
15 the treating, processing, or storing of agricultural
16 commodities when the activities are customarily engaged in by
17 farmers as a part of farming or as part of the Illinois
18 value-added agricultural enhancement program.

19 "Agricultural land" means land suitable for agriculture
20 production.

21 "Asset" includes, but is not limited to, the following:
22 cash crops or feed on hand; livestock held for sale; breeding
23 stock; marketable bonds and securities; securities not
24 readily marketable; accounts receivable; notes receivable;
25 cash invested in growing crops; net cash value of life
26 insurance; machinery and equipment; cars and trucks; farm and
27 other real estate including life estates and personal
28 residence; value of beneficial interest in trusts; government
29 payments or grants; and any other assets.

30 "Department" means the Department of Agriculture.

31 "Director" means the Director of Agriculture.

32 "Fund" means the Illinois Agriculture Infrastructure
33 Development Fund.

34 "Grantee" mean the person or entity to whom a grant is

1 made to from the Fund.

2 "Lender" means any federal or State chartered bank,
3 federal land bank, production credit association, bank for
4 cooperatives, federal or state chartered savings and loan
5 association or building and loan association, small business
6 investment company, or any other institution qualified within
7 this State to originate and service loans, including, but not
8 limited to, insurance companies, credit unions, and mortgage
9 loan companies. "Lender" includes a wholly owned subsidiary
10 of a manufacturer, seller or distributor of goods or services
11 that makes loans to businesses or individuals, commonly known
12 as a "captive finance company".

13 "Liability" includes, but is not limited to, the
14 following: accounts payable; notes or other indebtedness owed
15 to any source; taxes; rent; amounts owed on real estate
16 contracts or real estate mortgages; judgments; accrued
17 interest payable; and any other liability.

18 "Person" means, unless limited to a natural person by the
19 context in which it is used, a person, corporation,
20 association, trust, partnership, limited partnership, joint
21 venture, or cooperative.

22 "State" means the State of Illinois.

23 "Value-added" means the processing, packaging, or
24 otherwise enhancing the value of farm and agricultural
25 products or by-products produced in Illinois.

26 Section 10. Legislative findings.

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

29 (1) There exists an inadequate supply of funds at
30 interest rates sufficiently low to enable persons engaged
31 in agriculture in this State to pursue agricultural or
32 agribusiness operations at present levels.

33 (2) The inability to pursue agricultural operations

1 lessens the supply of agricultural commodities available
2 to fulfill the needs of the citizens of this State.

3 (3) The inability to continue operations decreases
4 available employment in the agricultural sector of the
5 State and results in unemployment and its attendant
6 problems.

7 (4) These conditions prevent the acquisition of an
8 adequate capital stock of farm equipment and machinery,
9 much of which is manufactured in this State, therefore
10 impairing the productivity of agricultural land and
11 causing unemployment or lack of appropriate increase in
12 employment in that manufacturing.

13 (5) These conditions are conducive to consolidation
14 of acreage of agricultural land with fewer individuals
15 living and farming on the traditional family farm.

16 (6) These conditions result in a loss in
17 population, unemployment, and movement of persons from
18 rural to urban areas accompanied by added costs to
19 communities for creation of new public facilities and
20 services.

21 (7) There have been recurrent shortages of funds
22 from private market sources at reasonable rates of
23 interest.

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

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

28 (10) A stable supply of adequate funds for
29 agricultural financing is required to encourage family
30 farmers and agribusiness in an orderly and sustained
31 manner and to reduce the problems described in this
32 Section.

33 (b) The General Assembly determines and declares that
34 there exist conditions in the State that require the

1 Department to issue grants on behalf of the State for the
2 acquisition and development of agricultural facilities and
3 value-added products and processing.

4 Section 15. Infrastructure Development Advisory Board
5 for Agriculture; grant requirements.

6 (a) The Infrastructure Development Advisory Board for
7 Agriculture is created in the Department of Agriculture. The
8 Advisory Board consists of 7 members, no more than 4 of whom
9 may be of the same political party, appointed by the
10 Governor. One Advisory Board member must represent each of
11 the following: the banking and lending industry, the economic
12 development industry, the agribusiness industry, and the
13 manufacturing industry. Three members must be involved in
14 production agriculture. All members must be residence of the
15 State.

16 In making the first appointments, the Governor must
17 designate 2 members to serve until the third Monday in
18 January, 2002, 2 members to serve until the third Monday in
19 January, 2003, 2 members to serve until the third Monday in
20 January, 2004, and one member to serve until the third Monday
21 in January, 2005, or until their successors are appointed and
22 qualified. The successors shall be appointed to serve 4-year
23 terms expiring on the third Monday in January or until their
24 successors are appointed and qualified. Any vacancy occurring
25 in the Board whether by death, resignation, or otherwise
26 shall be filled by appointment by the Governor in the same
27 manner as original appointments. A member appointed to fill a
28 vacancy shall serve for the remainder of the unexpired term
29 or until his successor is qualified.

30 (b) The Director or his or her designee shall serve as
31 chairman of the Advisory Board. Meetings of the Board will be
32 called by the chair. Notice of special meetings shall be
33 given to members of the Board as provided by law. Members may

1 waive notice and do so without further action by being
2 present at any meeting. Meetings of the Board are subject to
3 the Open Meetings Act. Members of the Board may participate,
4 and shall be counted for a quorum, in all meetings via
5 electronic means including telephone conference calls or
6 video conferencing.

7 (c) Four members of the Advisory Board and the chairman
8 shall constitute a quorum at any meeting. No vacancy in the
9 membership of the Board shall impair the right of a quorum to
10 exercise all the rights and perform all the duties of the
11 Advisory Board. The members of the Board shall serve without
12 compensation, but each member shall be reimbursed for his or
13 her necessary expenses incurred in the discharge of his or
14 her duties as a member of the Advisory Board.

15 (d) The Advisory Board shall review grant requests for
16 the Agriculture Infrastructure Development Grant Program that
17 are submitted to the Department and must advise the Director
18 on whether the project should receive all or part of the
19 funding request. The Board may request additional details and
20 information on all grant submissions prior to making any
21 recommendations to the Director. The Advisory Board, in
22 reviewing the applications, must consider, but is not limited
23 to considering the following criteria:

24 (1) The project has a reasonable assurance of
25 enhancing the value of agricultural products or will
26 expand agribusiness in Illinois.

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

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

32 (4) There is favorable community support for the
33 project.

34 (5) There are favorable recommendations from local

1 economic development groups, university-based technical
2 specialists, or other qualified service providers.

3 (6) The applicant demonstrates a personal
4 commitment and a commercialization development plan.

5 (7) There is an adequate and realistic budget
6 projection.

7 (8) The application meets the eligibility
8 requirements and the project costs are eligible under
9 this Act.

10 (9) The applicant has established a need for the
11 grant.

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

14 (e) No grant may be made by the Director without a
15 review and recommendation of the Advisory Board. The Director
16 may include the Advisory Board's recommendations for a grant
17 or to impose additional or lesser requirements for the grant.
18 Preference for grants shall be given to, but is not limited
19 to, the following:

20 (1) Proposals for industrial and nonfood production
21 processes using Illinois agricultural products.

22 (2) Proposals for food, feed, and fiber products
23 that use Illinois agricultural products and add to the
24 value of Illinois agricultural products.

25 (3) Research proposals that have not been
26 duplicated by other research efforts.

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

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

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

1 Section 20. Conflict of interest. No member of the
2 Advisory Board may be employed by, hold any official relation
3 to, or have any financial interest in (i) any corporation or
4 entity receiving guarantees, advances, or grants under this
5 Act or (ii) to any agricultural facility financed or assisted
6 under this Act. No moneys of the Department may be deposited
7 in any financial institution in which any officer, director,
8 or holder of a substantial proprietary interest is also a
9 member of the Board. No real estate to which a member of the
10 Board holds legal title or in which that person has any
11 beneficial interest, including any interest in a land trust,
12 may be purchased or financed under this Act. In the event it
13 is later disclosed that the applicant purchased real estate
14 in which a member had an interest, the purchase is void and
15 the member involved shall be disqualified from membership on
16 the Advisory Board.

17 Section 25. Report. The Director must file with the
18 Governor, the State Treasurer, the Secretary of the Senate,
19 and the Clerk of the House of Representatives, by March 1 of
20 each year, a written report covering the activities of the
21 Department for the previous calendar year. The report is a
22 public record and must be available for inspection at the
23 offices of the Department during normal business hours. The
24 report must include a complete list of (i) all applications
25 for grants under the Agriculture Infrastructure Development
26 Grant Program during the calendar year; (ii) all persons that
27 have received any form of financial assistance from the
28 Department during the calendar year; and (iii) the nature and
29 amount of all financial assistance.

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

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

6 (2) To grant its moneys to any agribusiness which
7 operates or will operate a facility located in Illinois
8 for the purposes of adding value to Illinois agricultural
9 commodities. Grants must be on any terms and conditions
10 as the Department requires.

11 (3) To contract with lenders or others for the
12 origination of or the servicing of the grants made by the
13 Department.

14 (4) To receive and accept, from any source, aid or
15 contributions of money, property, labor, or other items
16 of value for furtherance of any of its purposes, subject
17 to any conditions not inconsistent with this Act or the
18 laws of this State pertaining to the contributions,
19 including, but not limited to, gifts, guarantees, or
20 grants from any department, agency, or instrumentality of
21 the United States of America.

22 (5) To collect any fees and charges in connection
23 with its grants, advances, servicing, and other
24 activities that it determines.

25 (6) To appoint, employ, contract with, and provide
26 for the compensation of any employees and agents,
27 including, but not limited to, engineers, attorneys,
28 management consultants, fiscal advisers, and
29 agricultural, silvicultural, and aquacultural experts,
30 that business of the Department requires. No Advisory
31 Board member or member of his or her firm, business,
32 partnership, or corporation shall be employed or
33 compensated by the Department.

34 (7) To make, enter into, and execute any contracts,

1 agreements, and other instruments with any person,
2 including but not limited to, any federal, State, or
3 local governmental agency and to take any other actions
4 that may be necessary or convenient to accomplish any
5 purpose for which this authority was granted to the
6 Department or to exercise any power expressly granted
7 under this Act.

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

10 (9) To adopt any necessary rules that are
11 consistent with this Act.

12 Section 35. Liability. The Director, any Department
13 employee, or any authorized person executing grants is not
14 personally liable on the grants and is not subject to any
15 personal liability or accountability by reason of the
16 issuance of the grants.

17 Section 40. Agriculture Infrastructure Development Grant
18 Program.

19 (a) The Department must develop and administer an
20 Agriculture Infrastructure Development Grant Program for the
21 purpose of promoting the value-added processing of Illinois
22 agriculture products and by-products through grants to
23 current and potential processors. Qualifying processing
24 facilities must be located in Illinois and must process,
25 package, or otherwise enhance the value of farm products or
26 by-products produced in Illinois. Grants may be used for the
27 costs of developing, establishing, and operating a
28 value-added processing facility, including, but not limited
29 to, (i) purchasing land, (ii) purchasing, constructing, or
30 refurbishing buildings, (iii) purchasing or refurbishing
31 machinery or equipment, (iv) installation, (v) repairs, (vi)
32 labor, (vii) professional services, and (viii) working

1 capital.

2 The recipient of a grant under this Section must provide
3 a minimum percentage, as determined by the Department, of the
4 total cost of the processing project, with the balance of the
5 project's total cost available from other sources. Other
6 sources include, but are not limited to, commercial and
7 private lenders, leasing companies, and grants. The
8 recipient's match may be in cash, cash-equivalent
9 investments, or bonds, irrevocable letters of credit, or any
10 combination thereof. A grant under this Section may provide
11 (i) up to 75% of the cost for technical assistance to develop
12 a project to enhance the value of agricultural products or to
13 expand agribusiness in Illinois but not to exceed \$25,000,
14 (ii) up to 50% of the cost of undertaking feasibility
15 studies, competitive assessments, and consulting or
16 productivity services that the Department determines may
17 result in the enhancement of value-added agricultural
18 products, and (iii) up to 10% of the project's total capital
19 construction cost not to exceed \$5,000,000. Notwithstanding
20 any other provision of this Section, the grant moneys may not
21 be used for the purpose of compliance with the provisions of
22 the Livestock Management Facilities Act.

23 Grant applications must be made on forms provided by and
24 in accordance with procedures established by the Department.
25 At a minimum, an applicant must be an Illinois resident, as
26 defined by Department rule, and must provide the names,
27 addresses, and occupations of all project owners, the project
28 address, relevant credit and financial information
29 (including, but not limited to, assets and liabilities), and
30 any other information deemed necessary by the Advisory Board
31 or the Department for review of the grant application.

32 (b) All requests for the waiver of any requirements in
33 this Section must be made in writing to the Department. A
34 grant award is subject to modification or alteration under,

1 but is not limited to, the following conditions:

2 (1) The grant award is subject to any modifications
3 that may be required by changes in State law or
4 regulations. Any required modification shall be
5 incorporated into and made a part of the grant as
6 provided in the Illinois Grant Funds Recovery. The
7 Department shall notify the recipient in writing of any
8 amendment to the regulations and the effective date of
9 those amendments.

10 (2) A recipient's request for budget variations in
11 the amount or line item costs shall be in writing by
12 certified mail and shall give justifications for the
13 requested variations. The Department may approve
14 modification requests if the Department determines the
15 modification is necessary to achieve program objectives.
16 Any changes in cost categories or line items shall not
17 alter the activities or deliverables for the project. If
18 the Department approves the modification request, the
19 recipient must be notified in writing of the change and
20 the effective date of the change.

21 (3) If either the Department or the recipient
22 requests to modify the terms of the grant award other
23 than as set forth in paragraphs (1) and (2), written
24 notice of the proposed modification shall be given to the
25 other party. No modification shall take effect unless
26 agreed to in writing by both the Department and the
27 recipient.

28 (c) The Agricultural Infrastructure Development Fund is
29 created as a special fund within the State treasury.
30 Appropriations and moneys from any public or private source
31 may be deposited into the Fund. Amounts in the Fund not
32 currently needed to meet the obligations of the Fund shall be
33 invested as permitted by law. All interest earned from those
34 investments shall be deposited into the Fund, except that 1%

1 of annual investment earning may be used by the Department
2 for expenses. Subject to appropriation, the Fund shall be
3 used to make grants under this Section. Repayments of grants
4 made under this Section shall be deposited into the Fund.

5 Section 45. Project reporting. The grantee of a funded
6 project shall submit to the Department periodic reports, as
7 specified in the grant agreement, outlining progress,
8 timeline, and budget compliance. Deviations from the
9 agreement may result in the withholding of further funding or
10 in a grant default. A final written report, describing the
11 work performed, results obtained, and economic impact is
12 required with 30 days after a project is completed. The
13 final report shall also include a financial report of all
14 expenses actually incurred and income generated by the
15 project, if any. Grantees may be required to submit to the
16 Department the following information: employment reports,
17 federal tax returns or financial statements, and other
18 information as requested by the Department where economic or
19 business conditions may be necessary to determine conformance
20 with grant conditions. The Department may require the
21 financial statements be compiled, reviewed, or audited by an
22 independent accountant at the expense of the grantee at any
23 time for 3 years following the completion of the grant.

24 Section 50. Certification. The Department may develop an
25 organic, identity preserved, and or value-added certification
26 processes and programs that guarantees a buyer that the
27 certified Illinois products have traits and qualities that
28 warrant a premium price or an increase in added value. The
29 Department may adopt rules setting certification and
30 licensing standards for persons to certify products under
31 this Section.

1 Section 55. Market access. The Department may (i)
2 identify international and domestic consumer preferences,
3 (ii) identify the new markets those preferences indicate,
4 particularly for value-added products, (iii) identify
5 preserved products, (iv) underwrite demonstrations on foreign
6 soils, and (v) provide market analyses and trend projections
7 to farmers and other interested persons.

8 Section 60. Default or termination of grant agreement.
9 If the recipient of a grant violates any of the terms of the
10 grant agreement, the Department shall send a writing notice
11 to the recipient that he or she is in default and be given
12 the opportunity to correct the violations.

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

16 (1) Declare due and payable the amount of the grant
17 and cease additional grant payments not yet made to the
18 grantee.

19 (2) Take possession of the facility or project,
20 repair, maintain, operate, sell, lease, or otherwise
21 dispose of the project or facility to another entity.

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

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

27 (1) The Department has notified the recipient in
28 writing of the existence of circumstances such as
29 repeated failure to submit required reports,
30 misapplication of grant funds, failure to match
31 Department funds, evidence of fraud and abuse, repeated
32 failure to meet performance timelines or standards, or
33 failure to resolve negotiated points of the agreement.

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

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

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

10 (2) If the Department determines that the recipient
11 has failed to comply with the terms and conditions of the
12 grant agreement, the Department shall terminate the grant
13 in whole, or in part, at any time before the date of
14 completion.

15 (3) The Department and the recipient shall
16 terminate the grant in whole, or in part, when the
17 Department and recipient agree that the continuation of
18 the project would not produce beneficial results
19 commensurate with the further expenditures of funds.

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

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

27 Section 65. State agriculture planning agency. The
28 Department is the State agriculture planning agency. The
29 Department may accept and use planning grants or other
30 financial assistance from the federal government (i) for
31 statewide comprehensive planning work, including research and
32 coordination activity directly related to agriculture needs;
33 and (ii) for State and interstate comprehensive planning and

1 research and coordination activity related to that planning.
2 All such grants shall be subject to the terms and conditions
3 prescribed by the federal government.

4 Section 70. Construction. This Act is necessary for the
5 welfare of this State and must be liberally construed to
6 effect its purposes.

7 Section 800. The Open Meetings Act is amended by
8 changing Section 1.02 as follows:

9 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

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

11 "Meeting" means any gathering of a majority of a quorum
12 of the members of a public body held for the purpose of
13 discussing public business.

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

1 jurisdictional authority acting under the State Gift Ban Act
2 as provided by Section 80 of that Act.

3 (Source: P.A. 90-517, eff. 8-22-97; 90-737, eff. 1-1-99;
4 91-782, eff. 6-9-00.)

5 Section 805. The State Finance Act is amended by adding
6 Section 5.545 as follows:

7 (30 ILCS 105/5.545 new)

8 Sec. 5.545. The Agricultural Infrastructure Development
9 Fund.

10 (20 ILCS 205/40.43 rep.)

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

14 Section 999. Effective date. This Act takes effect upon
15 becoming law."