

1 AMENDMENT TO SENATE BILL 994

2 AMENDMENT NO. _____. Amend Senate Bill 994 replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois AgriFIRST Program Act of 2001.

6 Section 5. Definitions. In this Act:

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

18 (1) grain handling and processing, including grain
19 storage, drying, treatment, conditioning, milling, and
20 packaging;

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

22 (3) fruit and vegetable processing, including

1 preparation, canning, and packaging;

2 (4) processing of livestock and livestock products,
3 dairy products, poultry and poultry products, fish or
4 apiarian products, including slaughter, shearing,
5 collecting, preparation, canning, and packaging;

6 (5) fertilizer and agricultural chemical
7 manufacturing, processing, application and supplying;

8 (6) farm machinery, equipment, and implement
9 manufacturing and supplying;

10 (7) manufacturing and supplying of agricultural
11 commodity processing machinery and equipment, including
12 machinery and equipment used in slaughter, treatment,
13 handling, collecting, preparation, canning, or packaging
14 of agricultural commodities;

15 (8) farm building and farm structure manufacturing,
16 construction, and supplying;

17 (9) construction, manufacturing, implementation,
18 supplying, or servicing of irrigation, drainage, and soil
19 and water conservation devices or equipment;

20 (10) fuel processing and development facilities
21 that produce fuel from agricultural commodities or
22 by-products;

23 (11) facilities and equipment for processing and
24 packaging agricultural commodities specifically for
25 export;

26 (12) facilities and equipment for forestry product
27 processing and supplying, including sawmilling
28 operations, wood chip operations, timber harvesting
29 operations, and manufacturing of prefabricated buildings,
30 paper, furniture, or other goods from forestry products;
31 and

32 (13) facilities and equipment for research and
33 development of products, processes, and equipment for the
34 production, processing, preparation, or packaging of

1 agricultural commodities and by-products.

2 "Agricultural facility" means land, any building or other
3 improvement on or to land, and any personal properties deemed
4 necessary or suitable for use, whether or not now in
5 existence, in farming, ranching, the production of
6 agricultural commodities (including, but not limited to, the
7 products of aquaculture, hydroponics, and silviculture) or
8 the treating, processing, or storing of agricultural
9 commodities.

10 "Agricultural land" means land suitable for agriculture
11 production.

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

21 "Department" means the Department of Agriculture.

22 "Director" means the Director of Agriculture.

23 "Fund" means the Illinois AgriFIRST Program Fund.

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

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

1 that makes loans to businesses or individuals, commonly known
2 as a "captive finance company".

3 "Liability" includes, but is not limited to, the
4 following: accounts payable; notes or other indebtedness owed
5 to any source; taxes; rent; amounts owed on real estate
6 contracts or real estate mortgages; judgments; accrued
7 interest payable; and any other liability.

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

12 "State" means the State of Illinois.

13 "Value-added" means the processing, packaging, or
14 otherwise enhancing the value of farm and agricultural
15 products or by-products produced in Illinois.

16 Section 10. Legislative findings.

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

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

23 (2) The inability to pursue agricultural operations
24 lessens the supply of agricultural commodities available
25 to fulfill the needs of the citizens of this State.

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

30 (4) These conditions prevent the acquisition of an
31 adequate capital stock of farm equipment and machinery,
32 much of which is manufactured in this State, therefore
33 impairing the productivity of agricultural land and

1 causing unemployment or lack of appropriate increase in
2 employment in that manufacturing.

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

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

11 (7) There have been recurrent shortages of funds
12 from private market sources at reasonable rates of
13 interest.

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

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

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

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

28 Section 15. Illinois AgriFIRST Program Requirements.

29 (a) The Department shall review grant requests for the
30 Illinois AgriFIRST Grant Program that are submitted to the
31 Department. The Department, in reviewing the applications,
32 must consider, but is not limited to considering the
33 following criteria:

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

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

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

9 (4) There is favorable community support for the
10 project.

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

14 (6) The applicant demonstrates a personal
15 commitment and a commercialization development plan.

16 (7) There is an adequate and realistic budget
17 projection.

18 (8) The application meets the eligibility
19 requirements and the project costs are eligible under
20 this Act.

21 (9) The applicant has established a need for the
22 grant.

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

25 (b) The Department may impose additional or lesser
26 requirements for the grant. Preference for grants shall be
27 given to, but is not limited to, the following:

28 (1) Proposals for industrial and nonfood production
29 processes using Illinois agricultural products.

30 (2) Proposals for food, feed, and fiber products
31 that use Illinois agricultural products and add to the
32 value of Illinois agricultural products.

33 (3) Research proposals that have not been
34 duplicated by other research efforts.

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

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

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

8 Section 20. Report. The Director must file with the
9 Governor, the State Treasurer, the Secretary of the Senate,
10 and the Clerk of the House of Representatives, by March 1 of
11 each year, a written report covering the activities of the
12 Department for the previous calendar year. The report is a
13 public record and must be available for inspection at the
14 offices of the Department during normal business hours. The
15 report must include a complete list of (i) all applications
16 for grants under the Illinois AgriFIRST Grant Program during
17 the calendar year; (ii) all persons that have received any
18 form of financial assistance from the Department during the
19 calendar year; and (iii) the nature and amount of all
20 financial assistance.

21 Section 25. Powers of the Department. The Department
22 has the following powers, together with all powers incidental
23 to or necessary for the discharge of those powers:

24 (1) To grant its moneys to one or more persons to
25 be used by those persons to pay the costs of technical
26 assistance and feasibility studies and acquiring,
27 constructing, reconstructing, or improving agricultural
28 facilities for the purpose of adding value to Illinois
29 agricultural commodities. Grants must be on any terms and
30 conditions that the Department determines.

31 (2) To grant its moneys to any agribusiness which
32 operates or will operate a facility located in Illinois

1 for the purposes of adding value to Illinois agricultural
2 commodities. Grants must be on any terms and conditions
3 as the Department requires.

4 (3) To contract with lenders or others for the
5 origination of or the servicing of the grants made by the
6 Department.

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

15 (5) To collect any fees and charges in connection
16 with its grants, advances, servicing, and other
17 activities that it determines.

18 (6) To appoint, employ, contract with, and provide
19 for the compensation of any employees and agents,
20 including, but not limited to, engineers, attorneys,
21 management consultants, fiscal advisers, and
22 agricultural, silvicultural, and aquacultural experts,
23 that business of the Department requires.

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

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

34 (9) To adopt any necessary rules that are

1 consistent with this Act.

2 Section 30. Liability. The Director, any Department
3 employee, or any authorized person executing grants is not
4 personally liable on the grants and is not subject to any
5 personal liability or accountability by reason of the
6 issuance of the grants.

7 Section 35. Illinois AgriFIRST Program.

8 (a) The Department must develop and administer an
9 Illinois AgriFIRST Program to enhance the value of Illinois
10 agriculture products or by-products through grants to current
11 and potential processors. Qualifying persons and
12 agribusinesses 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.

15 The recipient of a grant under this Section must provide
16 a minimum percentage, as determined by the Department, of the
17 total cost of the processing project, with the balance of the
18 project's total cost available from other sources. Other
19 sources include, but are not limited to, commercial and
20 private lenders, leasing companies, and grants. The
21 recipient's match may be in cash, cash-equivalent
22 investments, or bonds, irrevocable letters of credit, or any
23 combination thereof. A grant under this Section may provide
24 (i) up to 75% of the cost for technical assistance to develop
25 a project to enhance the value of agricultural products or to
26 expand agribusiness in Illinois but not to exceed \$25,000,
27 (ii) up to 50% of the cost of undertaking feasibility
28 studies, competitive assessments, and consulting or
29 productivity services that the Department determines may
30 result in the enhancement of value-added agricultural
31 products, and (iii) on and after July 1, 2003, up to 10% of
32 the project's total capital construction cost not to exceed

1 \$5,000,000, including, but not limited to, (A) purchasing
2 land, (B) purchasing, constructing, or refurbishing
3 buildings, (C) purchasing or refurbishing machinery or
4 equipment, (D) installation, (E) repairs, (F) labor, and (G)
5 working capital. Notwithstanding any other provision of this
6 Section, the grant moneys may not be used for the purpose of
7 compliance with the provisions of the Livestock Management
8 Facilities Act.

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

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

22 (1) The grant award is subject to any modifications
23 that may be required by changes in State law or
24 regulations. The Department shall notify the recipient
25 in writing of any amendment to the regulations and the
26 effective date of those amendments.

27 (2) If either the Department or the recipient
28 requests to modify the terms of the grant award other
29 than as set forth in paragraph (1), written notice of the
30 proposed modification shall be given to the other party.
31 No modification shall take effect unless agreed to in
32 writing by both the Department and the recipient.

33 (c) The Illinois AgriFIRST Program Fund is created as a
34 special appropriated fund within the State treasury.

1 Appropriations and moneys from any public or private source
2 may be deposited into the Fund. The Fund shall be used for
3 the purposes of the Illinois AgriFIRST Program Act of 2001.
4 Repayments of grants made under this Section shall be
5 deposited into the Fund.

6 Section 40. Project reporting. The grantee of a funded
7 project shall submit to the Department periodic reports, as
8 specified in the grant agreement, outlining progress,
9 timeline, and budget compliance. Deviations from the
10 agreement may result in the withholding of further funding or
11 in a grant default. A final written report, describing the
12 work performed, results obtained, and economic impact is
13 required within 30 days after a project is completed. The
14 grantee shall also provide a financial report and return any
15 unused funds to the Department consistent with the Illinois
16 Grant Funds Recovery Act. Grantees may be required to submit
17 to the Department the following information: employment
18 reports, federal tax returns or financial statements, and
19 other information as requested by the Department where
20 economic or business conditions may be necessary to determine
21 conformance with grant conditions. The Department may
22 require the financial statements be compiled, reviewed, or
23 audited by an independent accountant at the expense of the
24 grantee at any time for 3 years following the completion of
25 the grant.

26 Section 45. Certification. The Department may develop
27 and implement organic, identity preserved, and value-added
28 certification processes and programs that guarantee a buyer
29 that the certified Illinois products have traits and
30 qualities that warrant a premium price or an increase in
31 added value. The Department may adopt rules setting
32 certification and licensing standards for persons to certify

1 products under this Section.

2 Section 50. Market access. The Department may (i)
3 identify international and domestic consumer preferences,
4 (ii) identify the new markets those preferences indicate,
5 particularly for value-added products, (iii) identify
6 preserved products, (iv) underwrite demonstrations on foreign
7 soils, and (v) provide market analyses and trend projections
8 to farmers and other interested persons.

9 Section 55. Default or termination of grant agreement.
10 If the recipient of a grant violates any of the terms of the
11 grant agreement, the Department shall send a writing notice
12 to the recipient that he or she is in default and be given
13 the opportunity to correct the violations.

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

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

20 (2) Take any other action considered appropriate to
21 protect the interest of the project.

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

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

32 (2) The recipient fails to develop and implement a

1 corrective action plan within 30 calendar days of the
2 Department's notice.

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

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

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

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

19 (4) The recipient may refuse or elect not to
20 complete the grant agreement and terminate the grant. The
21 recipient shall notify the Department within 10 days
22 after the date upon which performance ceases. The
23 Department may declare due and payable the amount of the
24 grant and may cease additional grant payments not yet
25 made to the grantee.

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

29 Section 60. State agriculture planning agency. The
30 Department is the State agriculture planning agency. The
31 Department may accept and use planning grants or other
32 financial assistance from the federal government (i) for
33 statewide comprehensive planning work, including research and

1 coordination activity directly related to agriculture needs;
2 and (ii) for State and interstate comprehensive planning and
3 research and coordination activity related to that planning.
4 All such grants shall be subject to the terms and conditions
5 prescribed by the federal government.

6 Section 65. Construction. This Act is necessary for the
7 welfare of this State and must be liberally construed to
8 effect its purposes.

9 Section 805. The State Finance Act is amended by adding
10 Section 5.545 as follows:

11 (30 ILCS 105/5.545 new)

12 Sec. 5.545. The Illinois AgriFIRST Program Fund.

13 (20 ILCS 205/40.43 rep.)

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

17 Section 999. Effective date. This Act takes effect upon
18 becoming law."