

SUBSTITUTE FOR
SENATE BILL NO. 1168

A bill to amend 2000 PA 322, entitled
"Julian-Stille value-added act,"
by amending the title and section 2 (MCL 285.302).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to create certain **COMMITTEES; TO CREATE CERTAIN** funds
from certain sources and to provide for the disposition of money
from the funds; to provide for the creation of certain funds by
certain private entities; to create incentives and to locate and
maintain value-added agricultural processing, **COMMERCIALIZATION OF**
AGRICULTURE, and production ventures within this state; to provide
for grants, ~~and~~ loans, **AND LOAN GUARANTEES** to certain private and

1 governmental entities for ~~environmental~~ **CERTAIN** purposes; to
2 provide for certain powers and duties for certain private entities,
3 state agencies, commissions, and departments; to authorize loans,
4 **LOAN GUARANTEES**, expenditures, and grants from the funds; and to
5 finance the development of certain programs.

6 Sec. 2. (1) As used in this section **AND SECTIONS 2A AND 2B**:

7 (a) "Agricultural processing" means 1 or more of the
8 operations that transform, package, sort, or grade livestock or
9 livestock products, agricultural commodities, or plant or plant
10 products into goods that are used for the intermediate or final
11 consumption including goods for nonfood use.

12 (B) **"COMMERCIALIZATION" MEANS THE TRANSITION FROM RESEARCH TO**
13 **THE ACTIONS NECESSARY TO ACHIEVE MARKET ENTRY AND GENERAL MARKET**
14 **COMPETITIVENESS OF NEW INNOVATIVE TECHNOLOGIES, PROCESSES, AND**
15 **PRODUCTS AND THE SERVICES THAT SUPPORT, ASSIST, EQUIP, FINANCE, OR**
16 **PROMOTE A PERSON OR AN ENTITY WITH THAT TRANSITION.**

17 (C) ~~(b)~~ "Department" means the Michigan department of
18 agriculture.

19 (D) **"ELIGIBLE GRANTEE" MEANS A PERSON ABLE TO RECEIVE A GRANT**
20 **UNDER THIS SECTION AND INCLUDES, BUT IS NOT LIMITED TO,**
21 **INDIVIDUALS, FARMER OWNED COOPERATIVES, PARTNERSHIPS, LIMITED**
22 **LIABILITY COMPANIES, PRIVATE OR PUBLIC CORPORATIONS, AND LOCAL**
23 **UNITS OF GOVERNMENT.**

24 (E) ~~(e)~~ "Fund" means the agricultural development fund
25 created in ~~this~~ section **2A**.

26 (F) **"INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF**
27 **HIGHER EDUCATION OR A COMMUNITY OR JUNIOR COLLEGE DESCRIBED IN**

1 SECTION 4, 5, 6, OR 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF
2 1963 OR AN INDEPENDENT NONPROFIT DEGREE-GRANTING INSTITUTION OF
3 POSTSECONDARY EDUCATION IN THIS STATE THAT IS APPROVED BY THE STATE
4 BOARD OF EDUCATION.

5 (G) "JOINT EVALUATION COMMITTEE" MEANS A COMMITTEE SELECTED BY
6 THE COMMISSION OF AGRICULTURE WITH APPROPRIATE EXPERTISE TO CONDUCT
7 AN INDEPENDENT, UNBIASED, OBJECTIVE, AND COMPETITIVE EVALUATION OF
8 ACTIVITIES FUNDED.

9 (H) "SPECIALTY CROPS" MEANS ANY AGRICULTURAL COMMODITY EXCEPT
10 WHEAT, CORN, SOYBEANS, OTHER FEED GRAINS, OIL SEEDS, COTTON, RICE,
11 PEANUTS, AND TOBACCO.

12 (I) ~~—(d)—~~ "Value-added" means the enhancement or improvement
13 of the overall value of an agricultural commodity or of an animal
14 or plant product into a product of higher value. The enhancement or
15 improvement includes, but is not limited to, marketing,
16 agricultural processing, transforming, or packaging.

17 ~~——(2) The agricultural development fund is created within the~~
18 ~~department of treasury to be administered by the department. Money~~
19 ~~in the fund at the close of the fiscal year shall remain in the~~
20 ~~fund and shall not lapse to the general fund. The department may~~
21 ~~utilize up to 5% of the fund for administrative purposes. The state~~
22 ~~treasurer shall credit to the fund money from the following~~
23 ~~sources:~~

24 ~~——(a) Appropriations.~~

25 ~~——(b) Money or other assets from any source for deposit into the~~
26 ~~fund, including federal money, other state revenues, gifts,~~
27 ~~bequests, donations, as well as money from any other source~~

1 provided by law.

2 ~~—— (3) The department of treasury shall deposit not less than~~
3 ~~\$5,000,000.00 of the revenue available within the Michigan clean~~
4 ~~air fund under section 3(2) into the agricultural development fund~~
5 ~~under section 2(2).~~

6 (2) ~~—(4)— The department shall use the fund to make grants to~~
7 ~~qualified grantees who apply for such grants and who submit~~
8 ~~proposals demonstrating feasibility for development of value-added~~
9 ~~agricultural processing and agricultural production ventures~~
10 ~~consistent with the purposes described in this act. Grantees may~~
11 ~~include individuals, farmer-owned cooperatives, partnerships,~~
12 ~~limited liability companies, private or public corporations, and~~
13 ~~local units of government for projects designed to establish,~~
14 ~~retain, expand, attract, or develop value-added agricultural~~
15 ~~processing and related agricultural production operations in this~~
16 ~~state. Grant money shall be used only for land, buildings,~~
17 ~~equipment, and property acquisition and assembly, demolition, site~~
18 ~~development, utility modifications and improvements, transportation~~
19 ~~improvements, infrastructure improvements, telecommunications~~
20 ~~infrastructure, technical assistance, marketing research, business~~
21 ~~plan development, and utilization of technology designed to~~
22 ~~establish, retain, expand, attract, or develop value-added~~
23 ~~agricultural processing and related agricultural production~~
24 ~~operations in this state.— ESTABLISH AND ADMINISTER AN AGRICULTURAL~~
25 ~~VALUE-ADDED GRANT, LOAN, AND LOAN GUARANTEE PROGRAM. THE COMMISSION~~
26 ~~OF AGRICULTURE SHALL AWARD GRANTS, LOANS, AND LOAN GUARANTEES FROM~~
27 ~~THE FUND CREATED IN SECTION 2A ONLY FOR PROJECTS DESIGNED TO~~

1 ESTABLISH, RETAIN, EXPAND, ATTRACT, OR DEVELOP VALUE-ADDED
2 AGRICULTURAL PROCESSING AND RELATED AGRICULTURAL PRODUCTION
3 OPERATIONS IN THIS STATE. AS PART OF THE GRANT, LOAN, AND LOAN
4 GUARANTEE PROGRAM, THE COMMISSION OF AGRICULTURE SHALL ESTABLISH A
5 LOW-INTEREST LOAN PROGRAM IN COOPERATION WITH MICHIGAN FINANCIAL
6 INSTITUTIONS IN A MANNER SIMILAR TO THE QUALIFIED AGRICULTURAL LOAN
7 PROGRAM ESTABLISHED IN SECTION 2A OF 1855 PA 105, MCL 21.142A. THE
8 PROGRAM SHALL ENSURE THAT PARTICIPATING FINANCIAL INSTITUTIONS DO
9 NOT REFINANCE PRIOR DEBT AND SHALL PROHIBIT AN OFFICER, DIRECTOR,
10 PRINCIPAL SHAREHOLDER OF A PARTICIPATING FINANCIAL INSTITUTION, OR
11 HIS OR HER IMMEDIATE FAMILY MEMBERS FROM RECEIVING AN AGRICULTURAL
12 VALUE-ADDED LOW-INTEREST LOAN FROM THE FINANCIAL INSTITUTION. LOAN
13 APPLICATIONS MAY BE CONSIDERED BY THE COMMISSION OF AGRICULTURE AT
14 ANY TIME. THE JOINT EVALUATION COMMITTEE SHALL PROVIDE
15 RECOMMENDATIONS TO OR ASSIST THE COMMISSION OF AGRICULTURE IN
16 IDENTIFYING HIGH-QUALITY PROJECTS FOR FUNDING BASED UPON THE
17 SELECTION CRITERIA AND SCORING SYSTEM APPROVED BY THE COMMISSION OF
18 AGRICULTURE. THE RECOMMENDATIONS SHALL INCLUDE ALL MATERIALS AND
19 DECISION DOCUMENTS USED BY THE JOINT EVALUATION COMMITTEE IN MAKING
20 THE RECOMMENDATIONS. THE COMMITTEE SHALL INCLUDE AT LEAST 3
21 PRODUCERS, INCLUDING 1 PLANT AGRICULTURAL PRODUCER, 1 ANIMAL
22 AGRICULTURAL PRODUCER, AND ANOTHER PRODUCER AT LARGE.

23 (3) SUBJECT TO SUBSECTION (2), THE DEPARTMENT SHALL DO ALL OF
24 THE FOLLOWING:

25 (A) ESTABLISH A COMPETITIVE PROCESS TO AWARD GRANTS AND MAKE
26 LOANS AND LOAN GUARANTEES. THE COMPETITIVE PROCESS SHALL INCLUDE,
27 BUT IS NOT LIMITED TO, THE FOLLOWING:

1 (i) A PROVISION THAT THE APPLICATIONS MUST BE REVIEWED BY THE
2 JOINT EVALUATION COMMITTEE. SCIENTIFIC AND TECHNICAL MERIT,
3 COMMERCIAL MERIT, AND THE ABILITY TO LEVERAGE ADDITIONAL FUNDING
4 SHALL BE GIVEN EQUAL WEIGHT IN THE REVIEW AND SCORING PROCESS.

5 (ii) A PREFERENCE FOR PROPOSALS THAT DEMONSTRATE A HIGH LEVEL
6 OF INNOVATION FOR VALUE-ADDED AGRICULTURAL PROCESSING AND RELATED
7 AGRICULTURAL PRODUCTION VENTURES TO BENEFIT PRODUCERS IN THIS
8 STATE.

9 (iii) A PREFERENCE FOR PROPOSALS THAT ARE ATTEMPTING TO SECURE A
10 LICENSE FOR AGRICULTURAL VALUE-ADDED TECHNOLOGY THROUGH AN
11 INSTITUTION OF HIGHER EDUCATION.

12 (iv) A PROVISION THAT THE PROGRAM WILL UTILIZE CONTRACTS WITH
13 MEASURABLE MILESTONES, CLEAR OBJECTIVES, AND PROVISIONS TO REVOKE
14 AWARDS FOR BREACH OF CONTRACT.

15 (v) PROVIDE FOR A CASH MATCH OF AT LEAST 10% OF THE GRANT BY
16 THE APPLICANT OR OTHER REPAYMENT GUARANTEE WITH A DEDICATED FUNDING
17 SOURCE IDENTIFIED BEFORE THE GRANT IS AWARDED.

18 (vi) LIMIT OVERHEAD RATES FOR RECIPIENTS OF GRANTS TO REFLECT
19 ACTUAL OVERHEAD BUT NOT GREATER THAN 15% OF THE GRANT.

20 (vii) A PREFERENCE FOR PROPOSALS THAT FORECAST REVENUES WITHIN
21 2 YEARS OR HAVE OUTSIDE INVESTMENTS FROM INVESTORS WITH EXPERIENCE
22 AND MANAGEMENT TEAMS WITH EXPERIENCE IN THE AREA TARGETED BY THE
23 PROPOSAL, OR BOTH.

24 (B) ~~—(5) The director of the department shall have final~~
25 ~~approval of grants made under this act. The department shall~~
26 ~~prepare~~ **PREPARE** a request for proposals on at least an annual
27 basis for grants **FOR ELIGIBLE GRANTEEES** from the fund. Grants are

1 contingent upon the availability of funds.

2 (4) IN APPROVING A GRANT, LOAN, OR LOAN GUARANTEE UNDER THIS
3 SECTION, THE COMMISSION OF AGRICULTURE SHALL STATE THE SPECIFIC
4 OBJECTIVE REASONS SUPPORTING THE SELECTION OF THE APPLICANT OVER
5 COMPETING APPLICANTS.

6 (5) SUBJECT TO SUBSECTION (3) (A) (i), AN APPLICATION FOR A
7 GRANT, LOAN, OR LOAN GUARANTEE SUBMITTED UNDER THIS SECTION SHALL
8 BE EVALUATED AND RANKED ACCORDING TO SELECTION CRITERIA AND A
9 SCORING OR POINT SYSTEM APPROVED BY THE DIRECTOR OF THE DEPARTMENT.
10 THE SELECTION CRITERIA AND THE SCORING OR POINT SYSTEM SHALL BE
11 REVIEWED AND APPROVED BY THE COMMISSION OF AGRICULTURE. IN
12 DEVELOPING SUCH A SYSTEM, THE DEPARTMENT SHALL SEEK THE ASSISTANCE
13 OF THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION, ANY INSTITUTION
14 OF HIGHER EDUCATION, THE UNITED STATES DEPARTMENT OF AGRICULTURE--
15 RURAL DEVELOPMENT AGENCY, THE RURAL DEVELOPMENT COUNCIL OF
16 MICHIGAN, AGRICULTURAL PRODUCERS, AND OTHER INDUSTRY AND
17 PROFESSIONAL ORGANIZATIONS AS DETERMINED BY THE DIRECTOR OF THE
18 DEPARTMENT.

19 (6) THE COMMISSION OF AGRICULTURE SHALL ENSURE THAT A
20 RECIPIENT OF A GRANT, LOAN, OR LOAN GUARANTEE UNDER THIS SECTION
21 AGREES THAT, AS A CONDITION OF RECEIVING THE GRANT, LOAN, OR LOAN
22 GUARANTEE, THAT RECIPIENT SHALL NOT USE THE MONEY FOR THE
23 DEVELOPMENT OF A CASINO REGULATED UNDER THE MICHIGAN GAMING CONTROL
24 AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.101 TO 432.226,
25 A CASINO REGULATED UNDER THE INDIAN GAMING REGULATORY ACT, PUBLIC
26 LAW 100-497, 102 STAT. 2467, OR ANY OTHER GAMING ENTERPRISE.

27 (7) ~~—(6)—~~ The director of the department may impose fiduciary

1 obligations upon a recipient of a grant, LOAN, OR LOAN GUARANTEE,
2 including performance bonding, and may impose conditions upon the
3 receipt and expenditure of the grant, LOAN, OR LOAN GUARANTEE
4 money. FOR PURPOSES OF THIS SECTION, THE COMMISSION OF AGRICULTURE
5 SHALL DISCHARGE THE DUTIES OF THE POSITION IN A NONPARTISAN MANNER,
6 IN GOOD FAITH, IN THE BEST INTERESTS OF THIS STATE, AND WITH THE
7 DEGREE OF DILIGENCE, CARE, AND SKILL THAT A FIDUCIARY WOULD
8 EXERCISE UNDER SIMILAR CIRCUMSTANCES IN A LIKE POSITION. IN
9 DISCHARGING DUTIES OF THE OFFICE, THE COMMISSION OF AGRICULTURE
10 WHEN ACTING IN GOOD FAITH MAY RELY UPON THE REPORT OF THE JOINT
11 EVALUATION COMMITTEE OR UPON FINANCIAL STATEMENTS OF THE DEPARTMENT
12 REPRESENTED TO THE COMMISSION OF AGRICULTURE BY THE OFFICER HAVING
13 CHARGE OF ITS BOOKS OR ACCOUNTS OR STATED IN A WRITTEN REPORT BY
14 THE AUDITOR GENERAL. A MEMBER OF THE COMMISSION OF AGRICULTURE OR
15 THE JOINT EVALUATION COMMITTEE SHALL NOT MAKE OR PARTICIPATE IN
16 MAKING, OR IN ANY WAY ATTEMPT TO USE HIS OR HER POSITION TO
17 INFLUENCE, A MATTER BEFORE THE DEPARTMENT REGARDING A LOAN, LOAN
18 GUARANTEE, GRANT, OR OTHER EXPENDITURE UNDER THIS ACT. A MEMBER OF
19 THE COMMISSION OF AGRICULTURE OR THE JOINT EVALUATION COMMITTEE
20 SHALL NOT HAVE ANY FINANCIAL INTEREST IN A RECIPIENT OF PROCEEDS
21 UNDER THIS ACT AND SHALL NOT ENGAGE IN ANY CONDUCT THAT CONSTITUTES
22 A CONFLICT OF INTEREST. IN SUCH CASE, A MEMBER OF THE COMMISSION OF
23 AGRICULTURE OR THE JOINT EVALUATION COMMITTEE SHALL IMMEDIATELY
24 ADVISE THE COMMISSION OF AGRICULTURE IN WRITING OF THE DETAILS OF
25 ANY INCIDENT OR CIRCUMSTANCES THAT MAY PRESENT THE EXISTENCE OF A
26 CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF HIS OR HER
27 DUTY UNDER THIS ACT. A MEMBER OF THE COMMISSION OF AGRICULTURE OR

1 THE JOINT EVALUATION COMMITTEE HAVING A CONFLICT OF INTEREST
2 RELATED TO ANY MATTER BEFORE THE DEPARTMENT SHALL DISCLOSE THE
3 CONFLICT OF INTEREST BEFORE THE DEPARTMENT OR COMMISSION OF
4 AGRICULTURE TAKES ANY ACTION WITH RESPECT TO THE MATTER, WHICH
5 DISCLOSURE SHALL BECOME A PART OF THE RECORD OF THE OFFICIAL
6 PROCEEDINGS. A MEMBER OF THE COMMISSION OF AGRICULTURE OR THE JOINT
7 EVALUATION COMMITTEE WITH THE CONFLICT OF INTEREST SHALL REFRAIN
8 FROM DOING ALL OF THE FOLLOWING WITH RESPECT TO THE MATTER THAT IS
9 THE BASIS OF THE CONFLICT OF INTEREST:

10 (A) VOTING IN THE PROCEEDINGS RELATED TO THE MATTER.

11 (B) PARTICIPATING IN THE DISCUSSION OF AND DELIBERATION ON THE
12 MATTER.

13 (C) BEING PRESENT AT THE MEETING WHEN THE DISCUSSION,
14 DELIBERATION, AND VOTING ON THE MATTER TAKE PLACE.

15 (D) DISCUSSING THE MATTER WITH ANY OTHER PEER REVIEW EXPERT.

16 ~~—— (7) A cash match of at least 10% of the grant by the applicant~~
17 ~~or other repayment guarantee with a dedicated funding source is~~
18 ~~required before a grant can be awarded.~~

19 ~~—— (8) An application for a grant submitted under this section~~
20 ~~shall be evaluated and ranked according to selection criteria and a~~
21 ~~scoring or point system approved by the director of the department.~~
22 ~~The selection criteria and the scoring or point system shall be~~
23 ~~reviewed and approved by the commission of agriculture. In~~
24 ~~developing such a system, the department shall seek the assistance~~
25 ~~of the Michigan economic development corporation, Michigan state~~
26 ~~university, the United States department of agriculture rural~~
27 ~~development agency, the rural development council of Michigan, 3~~

1 ~~producers including 1 plant agricultural producer, 1 animal~~
2 ~~agricultural producer, and another producer at large, and other~~
3 ~~industry and professional organizations as determined appropriate~~
4 ~~by the director of the department.~~

5 ~~—— (9) The selection criteria shall give primary consideration to~~
6 ~~the ability of the proposed project to provide sound agricultural~~
7 ~~economic development in a given geographical area of this state~~
8 ~~with demonstrated economic and social benefits and the analysis of~~
9 ~~the proposed project in terms of and relative to risk, business and~~
10 ~~market planning, financial soundness, and credit worthiness.~~
11 ~~Special consideration shall be given to those projects meeting the~~
12 ~~considerations described in this subsection and that demonstrate a~~
13 ~~high level of innovation and initiative for value added~~
14 ~~agricultural processing and related agricultural production~~
15 ~~ventures to benefit producers in this state.~~

16 (8) ~~—(10)—~~ An application for a grant, **LOAN, OR LOAN GUARANTEE**
17 from the fund shall be made on a form or format prescribed by the
18 department. The department may require the applicant to provide
19 information reasonably necessary to allow the department to make a
20 determination required under this section.

21 (9) ~~—(11)—~~ The department shall promulgate rules under the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328, to implement this section.

24 Enacting section 1. This amendatory act does not take effect
25 unless all of the following bills of the 93rd Legislature are
26 enacted into law:

27 (a) Senate Bill No. 1167.

1 (b) Senate Bill No. 1169.