

SENATE BILL No. 1168

March 16, 2006, Introduced by Senators McMANUS, VAN WOERKOM, BIRKHOLZ, HARDIMAN, CROPSEY, JELINEK, BROWN, GILBERT, KUIPERS, BARCIA, ALLEN and GOSCHKA and referred to the Committee on Agriculture, Forestry and Tourism.

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 to certain private and governmental entities for ~~environmental~~ **CERTAIN** purposes; to provide for certain powers

1 and duties for certain private entities, state agencies,
2 commissions, and departments; to authorize loans, expenditures, and
3 grants from the funds; and to finance the development of certain
4 programs.

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

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

11 (B) **"AGRICULTURE DEVELOPMENT REVIEW COMMITTEE" MEANS A**
12 **COMMITTEE SELECTED BY THE COMMISSION OF AGRICULTURE WITH**
13 **APPROPRIATE EXPERTISE TO CONDUCT AN INDEPENDENT, UNBIASED,**
14 **OBJECTIVE, AND COMPETITIVE EVALUATION OF ACTIVITIES FUNDED.**

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

20 (D) ~~(b)~~ "Department" means the Michigan department of
21 agriculture.

22 (E) ~~(e)~~ "Fund" means the agricultural development fund
23 created in ~~this~~ section 2A.

24 (F) **"INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF**
25 **HIGHER EDUCATION OR A COMMUNITY OR JUNIOR COLLEGE DESCRIBED IN**
26 **SECTION 4, 5, 6, OR 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF**
27 **1963 OR AN INDEPENDENT NONPROFIT DEGREE-GRANTING INSTITUTION OF**

1 POSTSECONDARY EDUCATION IN THIS STATE THAT IS APPROVED BY THE STATE
2 BOARD OF EDUCATION.

3 (G) "SPECIALTY CROPS" MEANS ANY AGRICULTURAL CROP EXCEPT
4 WHEAT, FEED GRAINS, OIL SEEDS, COTTON, RICE, PEANUTS, AND TOBACCO.

5 (H) ~~(d)~~ "Value-added" means the enhancement or improvement
6 of the overall value of an agricultural commodity or of an animal
7 or plant product into a product of higher value. The enhancement or
8 improvement includes, but is not limited to, marketing,
9 agricultural processing, transforming, or packaging.

10 ~~———— (2) The agricultural development fund is created within the~~
11 ~~department of treasury to be administered by the department. Money~~
12 ~~in the fund at the close of the fiscal year shall remain in the~~
13 ~~fund and shall not lapse to the general fund. The department may~~
14 ~~utilize up to 5% of the fund for administrative purposes. The state~~
15 ~~treasurer shall credit to the fund money from the following~~
16 ~~sources:~~

17 ~~———— (a) Appropriations.~~

18 ~~———— (b) Money or other assets from any source for deposit into the~~
19 ~~fund, including federal money, other state revenues, gifts,~~
20 ~~bequests, donations, as well as money from any other source~~
21 ~~provided by law.~~

22 ~~———— (3) The department of treasury shall deposit not less than~~
23 ~~\$5,000,000.00 of the revenue available within the Michigan clean~~
24 ~~air fund under section 3(2) into the agricultural development fund~~
25 ~~under section 2(2).~~

26 (2) ~~(4)~~ The department shall ~~use the fund to make grants to~~
27 ~~qualified grantees who apply for such grants and who submit~~

~~1 proposals demonstrating feasibility for development of value added
2 agricultural processing and agricultural production ventures
3 consistent with the purposes described in this act. Grantees may
4 include individuals, farmer owned cooperatives, partnerships,
5 limited liability companies, private or public corporations, and
6 local units of government for projects designed to establish,
7 retain, expand, attract, or develop value added agricultural
8 processing and related agricultural production operations in this
9 state. Grant money shall be used only for land, buildings,
10 equipment, and property acquisition and assembly, demolition, site
11 development, utility modifications and improvements, transportation
12 improvements, infrastructure improvements, telecommunications
13 infrastructure, technical assistance, marketing research, business
14 plan development, and utilization of technology designed to
15 establish, retain, expand, attract, or develop value added
16 agricultural processing and related agricultural production
17 operations in this state. ESTABLISH AND ADMINISTER AN AGRICULTURAL
18 VALUE-ADDED GRANT AND REVOLVING LOAN PROGRAM. THE COMMISSION ON
19 AGRICULTURE SHALL AWARD GRANTS AND LOANS FROM THE FUND CREATED IN
20 SECTION 2A ONLY FOR THE COMMERCIALIZATION OF AGRICULTURAL VALUE-
21 ADDED PRODUCTS, PROCESSES, AND SERVICES. THE AGRICULTURE
22 DEVELOPMENT AND REVIEW COMMITTEE SHALL PROVIDE RECOMMENDATIONS TO
23 OR ASSIST THE COMMISSION ON AGRICULTURE IN IDENTIFYING HIGH-QUALITY
24 PROJECTS FOR FUNDING THAT ARE LIKELY TO RESULT IN THE
25 COMMERCIALIZATION OF AGRICULTURAL VALUE-ADDED PRODUCTS, PROCESSES,
26 AND SERVICES. THE RECOMMENDATIONS SHALL INCLUDE ALL MATERIALS AND
27 DECISION DOCUMENTS USED BY THE AGRICULTURE DEVELOPMENT AND REVIEW~~

1 COMMITTEE IN MAKING THE RECOMMENDATIONS. THE COMMITTEE SHALL
2 INCLUDE AT LEAST 3 PRODUCERS, INCLUDING 1 PLANT AGRICULTURAL
3 PRODUCER, 1 ANIMAL AGRICULTURAL PRODUCER, AND ANOTHER PRODUCER AT
4 LARGE.

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

7 (A) ESTABLISH A COMPETITIVE PROCESS TO AWARD GRANTS AND MAKE
8 LOANS FOR THE COMMERCIALIZATION OF AGRICULTURAL VALUE-ADDED
9 PRODUCTS, PROCESSES, AND SERVICES. THE COMPETITIVE PROCESS SHALL
10 INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

11 (i) A PROVISION THAT THE APPLICATIONS MUST BE REVIEWED BY THE
12 AGRICULTURE DEVELOPMENT REVIEW COMMITTEE. SCIENTIFIC AND TECHNICAL
13 MERIT, COMMERCIAL MERIT, AND THE ABILITY TO LEVERAGE ADDITIONAL
14 FUNDING SHALL BE GIVEN EQUAL WEIGHT IN THE REVIEW AND SCORING
15 PROCESS.

16 (ii) A PREFERENCE FOR PROPOSALS THAT DEMONSTRATE A HIGH LEVEL
17 OF INNOVATION FOR VALUE-ADDED AGRICULTURAL PROCESSING AND RELATED
18 AGRICULTURAL PRODUCTION VENTURES TO BENEFIT PRODUCERS IN THIS
19 STATE.

20 (iii) A PREFERENCE FOR PROPOSALS THAT ARE ATTEMPTING TO SECURE A
21 LICENSE FOR AGRICULTURAL VALUE-ADDED TECHNOLOGY THROUGH MICHIGAN
22 STATE UNIVERSITY.

23 (iv) A PROVISION THAT THE PROGRAM WILL UTILIZE CONTRACTS WITH
24 MEASURABLE MILESTONES, CLEAR OBJECTIVES, PROVISIONS TO REVOKE
25 AWARDS FOR BREACH OF CONTRACT, AND REPAYMENT PROVISIONS FOR LOANS
26 GIVEN TO QUALIFIED BUSINESSES THAT LEAVE MICHIGAN WITHIN 3 YEARS
27 AFTER THE EXECUTION OF THE CONTRACT OR OTHERWISE BREACH THE TERMS

1 OF THE CONTRACT.

2 (v) A PROVISION THAT THE APPLICANT LEVERAGE OTHER RESOURCES AS
3 A CONDITION OF THE GRANT OR LOAN.

4 (vi) LIMIT OVERHEAD RATES FOR RECIPIENTS OF GRANTS AND LOANS TO
5 REFLECT ACTUAL OVERHEAD BUT NOT GREATER THAN 15% OF THE GRANT OR
6 LOAN.

7 (vii) A PROVISION THAT GRANTS CAN ONLY BE AWARDED TO MICHIGAN
8 INSTITUTIONS OF HIGHER EDUCATION, MICHIGAN NONPROFIT RESEARCH
9 INSTITUTIONS, AND MICHIGAN NONPROFIT CORPORATIONS.

10 (viii) A PREFERENCE FOR PROPOSALS THAT FORECAST REVENUES WITHIN
11 2 YEARS OR HAVE OUTSIDE INVESTMENTS FROM INVESTORS WITH EXPERIENCE
12 AND MANAGEMENT TEAMS WITH EXPERIENCE IN THE AREA TARGETED BY THE
13 PROPOSAL, OR BOTH.

14 (B) ~~—(5) The director of the department shall have final~~
15 ~~approval of grants made under this act. The department shall~~
16 ~~prepare~~ PREPARE a request for proposals on at least an annual
17 basis for grants AND LOANS from the fund. Grants AND LOANS are
18 contingent upon the availability of funds.

19 (4) IN APPROVING A GRANT OR LOAN UNDER THIS SECTION, THE
20 COMMISSION OF AGRICULTURE SHALL STATE THE SPECIFIC OBJECTIVE
21 REASONS SUPPORTING THE SELECTION OF THE APPLICANT OVER COMPETING
22 APPLICANTS.

23 (5) SUBJECT TO SUBSECTION (3) (A) (i), AN APPLICATION FOR A GRANT
24 OR LOAN, OR BOTH, SUBMITTED UNDER THIS SECTION SHALL BE EVALUATED
25 AND RANKED ACCORDING TO SELECTION CRITERIA AND A SCORING OR POINT
26 SYSTEM APPROVED BY THE DIRECTOR OF THE DEPARTMENT. THE SELECTION
27 CRITERIA AND THE SCORING OR POINT SYSTEM SHALL BE REVIEWED AND

1 APPROVED BY THE COMMISSION OF AGRICULTURE. IN DEVELOPING SUCH A
2 SYSTEM, THE DEPARTMENT SHALL SEEK THE ASSISTANCE OF THE MICHIGAN
3 ECONOMIC DEVELOPMENT CORPORATION, MICHIGAN STATE UNIVERSITY, THE
4 UNITED STATES DEPARTMENT OF AGRICULTURE--RURAL DEVELOPMENT AGENCY,
5 THE RURAL DEVELOPMENT COUNCIL OF MICHIGAN, 3 PRODUCERS, INCLUDING 1
6 PLANT AGRICULTURAL PRODUCER AND ANOTHER PRODUCER AT LARGE, AND
7 OTHER INDUSTRY AND PROFESSIONAL ORGANIZATIONS AS DETERMINED BY THE
8 DIRECTOR OF THE DEPARTMENT.

9 (6) THE COMMISSION OF AGRICULTURE SHALL ENSURE THAT A
10 RECIPIENT OF A GRANT OR LOAN UNDER THIS SECTION AGREES THAT, AS A
11 CONDITION OF RECEIVING THE GRANT OR LOAN, THAT RECIPIENT SHALL NOT
12 USE THE MONEY FOR THE DEVELOPMENT OF A CASINO REGULATED UNDER THE
13 MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996,
14 MCL 432.101 TO 432.226, A CASINO REGULATED UNDER THE INDIAN GAMING
15 REGULATORY ACT, PUBLIC LAW 100-497, 102 STAT. 2467, OR ANY OTHER
16 GAMING ENTERPRISE.

17 (7) ~~(6)~~ The director of the department may impose fiduciary
18 obligations upon a recipient of a grant OR LOAN, including
19 performance bonding, and may impose conditions upon the receipt and
20 expenditure of the grant OR LOAN money. FOR PURPOSES OF THIS
21 SECTION, THE COMMISSION OF AGRICULTURE SHALL DISCHARGE THE DUTIES
22 OF THE POSITION IN A NONPARTISAN MANNER, IN GOOD FAITH, IN THE BEST
23 INTERESTS OF THIS STATE, AND WITH THE DEGREE OF DILIGENCE, CARE,
24 AND SKILL THAT A FIDUCIARY WOULD EXERCISE UNDER SIMILAR
25 CIRCUMSTANCES IN A LIKE POSITION. IN DISCHARGING DUTIES OF THE
26 OFFICE, THE COMMISSION OF AGRICULTURE WHEN ACTING IN GOOD FAITH MAY
27 RELY UPON THE REPORT OF THE AGRICULTURE DEVELOPMENT REVIEW

1 COMMITTEE OR UPON FINANCIAL STATEMENTS OF THE DEPARTMENT
2 REPRESENTED TO THE COMMISSION OF AGRICULTURE BY THE OFFICER HAVING
3 CHARGE OF ITS BOOKS OR ACCOUNTS OR STATED IN A WRITTEN REPORT BY
4 THE AUDITOR GENERAL. A MEMBER OF THE COMMISSION OF AGRICULTURE OR
5 THE AGRICULTURE DEVELOPMENT REVIEW COMMITTEE SHALL NOT MAKE OR
6 PARTICIPATE IN MAKING, OR IN ANY WAY ATTEMPT TO USE HIS OR HER
7 POSITION TO INFLUENCE, A MATTER BEFORE THE DEPARTMENT REGARDING A
8 LOAN, GRANT, OR OTHER EXPENDITURE UNDER THIS ACT. A MEMBER OF THE
9 COMMISSION OF AGRICULTURE OR THE AGRICULTURE DEVELOPMENT REVIEW
10 COMMITTEE SHALL NOT HAVE ANY FINANCIAL INTEREST IN A RECIPIENT OF
11 PROCEEDS UNDER THIS ACT AND SHALL NOT ENGAGE IN ANY CONDUCT THAT
12 CONSTITUTES A CONFLICT OF INTEREST. IN SUCH CASE, A MEMBER OF THE
13 COMMISSION OF AGRICULTURE OR THE AGRICULTURE DEVELOPMENT REVIEW
14 COMMITTEE SHALL IMMEDIATELY ADVISE THE COMMISSION OF AGRICULTURE IN
15 WRITING OF THE DETAILS OF ANY INCIDENT OR CIRCUMSTANCES THAT MAY
16 PRESENT THE EXISTENCE OF A CONFLICT OF INTEREST WITH RESPECT TO THE
17 PERFORMANCE OF HIS OR HER DUTY UNDER THIS ACT. A MEMBER OF THE
18 COMMISSION OF AGRICULTURE OR THE AGRICULTURE DEVELOPMENT REVIEW
19 COMMITTEE HAVING A CONFLICT OF INTEREST RELATED TO ANY MATTER
20 BEFORE THE DEPARTMENT SHALL DISCLOSE THE CONFLICT OF INTEREST
21 BEFORE THE DEPARTMENT OR COMMISSION OF AGRICULTURE TAKES ANY ACTION
22 WITH RESPECT TO THE MATTER, WHICH DISCLOSURE SHALL BECOME A PART OF
23 THE RECORD OF THE OFFICIAL PROCEEDINGS. A MEMBER OF THE COMMISSION
24 OF AGRICULTURE OR THE AGRICULTURE DEVELOPMENT REVIEW COMMITTEE WITH
25 THE CONFLICT OF INTEREST SHALL REFRAIN FROM DOING ALL OF THE
26 FOLLOWING WITH RESPECT TO THE MATTER THAT IS THE BASIS OF THE
27 CONFLICT OF INTEREST:

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

2 (B) PARTICIPATING IN THE DISCUSSION OF AND DELIBERATION ON THE
3 MATTER.

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

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

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

10 ~~—— (8) An application for a grant submitted under this section~~
11 ~~shall be evaluated and ranked according to selection criteria and a~~
12 ~~scoring or point system approved by the director of the department.~~
13 ~~The selection criteria and the scoring or point system shall be~~
14 ~~reviewed and approved by the commission of agriculture. In~~
15 ~~developing such a system, the department shall seek the assistance~~
16 ~~of the Michigan economic development corporation, Michigan state~~
17 ~~university, the United States department of agriculture rural~~
18 ~~development agency, the rural development council of Michigan, 3~~
19 ~~producers including 1 plant agricultural producer, 1 animal~~
20 ~~agricultural producer, and another producer at large, and other~~
21 ~~industry and professional organizations as determined appropriate~~
22 ~~by the director of the department.~~

23 ~~—— (9) The selection criteria shall give primary consideration to~~
24 ~~the ability of the proposed project to provide sound agricultural~~
25 ~~economic development in a given geographical area of this state~~
26 ~~with demonstrated economic and social benefits and the analysis of~~
27 ~~the proposed project in terms of and relative to risk, business and~~

1 ~~market planning, financial soundness, and credit worthiness.~~
2 ~~Special consideration shall be given to those projects meeting the~~
3 ~~considerations described in this subsection and that demonstrate a~~
4 ~~high level of innovation and initiative for value added~~
5 ~~agricultural processing and related agricultural production~~
6 ~~ventures to benefit producers in this state.~~

7 (8) ~~—(10)—~~ An application for a grant **OR LOAN** from the fund
8 shall be made on a form or format prescribed by the department. The
9 department may require the applicant to provide information
10 reasonably necessary to allow the department to make a
11 determination required under this section.

12 (9) ~~—(11)—~~ The department shall promulgate rules under the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328, to implement this section.

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

18 (a) Senate Bill No. 1169.

19

20 (b) Senate Bill No. 1167.

21