

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

926A0040

SENATE BILL NO. 202

Introduced by: Senators Frederick, Hainje, Halverson, Hunhoff, and Symens and
Representatives Crisp, Diedrich, Duxbury, Haley, Jorgensen, Putnam,
Schaunaman, Sperry, and Weber

1 FOR AN ACT ENTITLED, An Act to regulate certain agricultural contracts.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Agricultural commodity," any material produced for use as food, feed, seed, or fiber
5 and includes fiber crops, food crops, oilseeds, seeds, livestock, livestock products,
6 poultry, poultry products, and other farm products or by-products;

7 (2) "Contractor," any person who, in the ordinary course of business, contracts with a
8 producer to grow or raise agricultural commodities in this state; and

9 (3) "Producer," any person who produces an agricultural commodity in a quantity beyond
10 the person's own family use and is able to transfer title to another or who provides
11 management, labor, machinery, facilities, or any other production input for the
12 production of an agricultural commodity.

13 Section 2. A contract for an agricultural commodity between a contractor and a producer
14 shall contain language providing for resolution of contract disputes by mediation. Litigation of
15 a contract dispute may not begin until mediation has failed. Either party to a contract may initiate

1 mediation and the mediation process shall be completed within forty-five days, or the parties shall
2 be released. The cost of mediation shall be shared equally between the parties. Any mediation
3 or litigation to resolve contract disputes shall take place in South Dakota.

4 Section 3. If a contractor is the subsidiary of another corporation, limited liability company,
5 limited partnership, limited liability partnership, partnership, or association, the parent
6 corporation, limited liability company, limited partnership, limited liability partnership,
7 partnership, or association is liable to a producer for the amount of any unpaid claim or contract
8 performance claim if the contractor fails to pay or perform according to the terms of the
9 contract.

10 Section 4. There is an implied promise of good faith as defined in § 57A-1-201(19), by all
11 parties to any agricultural contract. In any action to recover damages, if the court finds that there
12 has been a violation of this provision, damages, court costs, and attorney fees may be awarded
13 by the court.