

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

926A0040

## SENATE ENGROSSED NO. **SB202** - 2/20/97

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. The term,  
7 agricultural commodity, does not include timber or trees;

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

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

14 Section 2. A contract for an agricultural commodity between a contractor and a producer  
15 shall contain language providing for resolution of contract disputes by mediation. Litigation of

1 a contract dispute may not begin until mediation has failed. Either party to a contract may initiate  
2 mediation and the mediation process shall be completed within forty-five days, or the parties shall  
3 be released. The cost of mediation shall be shared equally between the parties. Any mediation  
4 or litigation to resolve contract disputes shall take place in South Dakota.

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

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

1 **BILL HISTORY**

2 1/29/97 First read in Senate and referred to Agriculture & Natural Resources. S.J. 218

3 2/11/97 Scheduled for Committee hearing on this date.

4 2/13/97 Scheduled for Committee hearing on this date.

5 2/13/97 Deferred to another day. S.J. 437

6 2/18/97 Scheduled for Committee hearing on this date.

7 2/18/97 Agriculture & Natural Resources Do Pass, Passed, AYES 9, NAYS 0. S.J. 506

8 2/19/97 Motion to Amend. S.J. 541

9 2/19/97 Motion to Amend. S.J. 543

10 2/19/97 Motion to Amend. S.J. 543

11 2/19/97 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 544