

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

457A0846

## SENATE BILL NO. 272

Introduced by: Senators Frederick, Brown (Arnold), Ham, Kloucek, and Symens and  
Representatives Crisp, Diedrich, Kazmerzak, Lee, Schaunaman, and Van  
Gerpen

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. The term, agricultural commodity,  
7 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 or causes to be produced an agricultural  
11 commodity in a quantity beyond the person's own family use and is able to transfer  
12 title to another or who provides management, labor, machinery, facilities, or any other  
13 production input for the production of an agricultural commodity.

14 Section 2. Any contract for an agricultural commodity, of more than one year duration,  
15 between a contractor and a producer shall contain language attempting to provide for resolution

1 of contract disputes by mediation. Either party to a contract may initiate mediation services, as  
2 specified in the contract, to facilitate resolution of the dispute. Mediation shall be completed  
3 within forty-five days unless both parties agree to extend the time period, or the parties shall be  
4 released. No party may proceed to litigation until an attempt has been made to mediate the  
5 dispute.

6 Section 3. Any mediation or litigation to resolve a contract dispute shall apply the substantive  
7 contract law of the State of South Dakota.

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