

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

354A0660

SENATE JOINT RESOLUTION NO. 3

Introduced by: Senators Hutmacher, Hunhoff, Kloucek, Reedy, and Symens and
Representatives Weber, Chicoine, Collier, Kazmerzak, Lee, Lockner, and
Schrempp

1 A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election
2 an amendment to Article XVII of the Constitution of the State of South Dakota, relating to
3 certain restrictions on corporate farming in South Dakota.

4 BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE
5 HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

6 Section 1. That at the next general election held in the state, the following amendments to
7 Article XVII of the Constitution of the State of South Dakota, as set forth in sections 2 to 7,
8 inclusive, of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors
9 of the state for approval.

10 Section 2. That Article XVII of the Constitution of the State of South Dakota be amended
11 by adding thereto a NEW SECTION to read as follows:

12 § 21. No corporation or syndicate may acquire, or otherwise obtain an interest, whether
13 legal, beneficial, or otherwise, in any title to real estate used for farming or ranching in this state,
14 or engaged in farming or ranching.

15 Section 3. That Article XVII of the Constitution of the State of South Dakota be amended

1 by adding thereto a NEW SECTION to read as follows:

2 § 22. For purposes of sections 21 to 26, inclusive, the term, corporation, means any
3 corporation organized under the laws of any state of the United States or any country or any
4 partnership of which such corporation is a partner. The term, farming or ranching, means the
5 cultivation of land for the production of agricultural crops, fruit, or other horticultural products,
6 or the ownership, keeping or feeding of animals for the production of livestock or livestock
7 products. The term, syndicate, means any limited partnership organized under the laws of any
8 state of the United States or any country, other than limited partnerships in which the partners
9 are members of a family, or a trust created for the benefit of a member of that family, related to
10 one another within the fourth degree of kindred according to the rules of civil law, or their
11 spouses, at least one of whom is a person residing on or actively engaged in the day to day labor
12 and management of the farm or ranch, and none of whom are nonresident aliens. This shall not
13 include general partnerships.

14 Section 4. That Article XVII of the Constitution of the State of South Dakota be amended
15 by adding thereto a NEW SECTION to read as follows:

16 § 23. These restrictions do not apply to:

17 (1) A family farm or ranch corporation. A family farm or ranch corporation is a
18 corporation engaged in farming or ranching or the ownership of agricultural land, in
19 which the majority of the voting stock is held by members of a family, or a trust
20 created for the benefit of a member of that family, related to one another within the
21 fourth degree of kindred according to the rules of civil law, or their spouses, at least
22 one of whom is a person residing on or actively engaged in the day to day labor and
23 management of the farm or ranch and none of whose stockholders are nonresident
24 aliens and none of whose stockholders are corporations or partnerships, unless all of
25 the stockholders or partners of such entities are persons related within the fourth

- 1 degree of kindred to the majority of stockholders in the family farm corporation;
- 2 (2) Nonprofit corporations;
- 3 (3) South Dakota Indian tribal corporations;
- 4 (4) Agricultural land, which, as of the date when this amendment is certified is being
5 farmed or ranched, or which is owned or leased, or in which there is a legal or
6 beneficial interest in title directly or indirectly owned, acquired, or obtained by a
7 corporation or syndicate, so long as such land or other interest in title shall be held in
8 continuous ownership or under continuous lease by the same such corporation or
9 syndicate, and including such additional ownership or leasehold as is reasonably
10 necessary to meet the requirements of pollution control regulations. For the purposes
11 of this exemption, land purchased on a contract signed as of the certification date of
12 this amendment is considered as owned on the effective date of this amendment;
- 13 (5) A farm or ranch operated for research or experimental purposes, if any commercial
14 sales from such farm or ranch are only incidental to the research or experimental
15 objectives of the corporation or syndicate;
- 16 (6) Agricultural land operated by a corporation for the purpose of raising poultry;
- 17 (7) Agricultural cooperatives;
- 18 (8) Land leases by alfalfa processors for the production of alfalfa;
- 19 (9) Agricultural land operated for the purpose of growing seed, nursery plants, or sod;
- 20 (10) Mineral rights on agricultural land;
- 21 (11) Agricultural land acquired or leased by a corporation or syndicate for immediate or
22 potential use for nonfarming or nonranching purposes. A corporation or syndicate
23 may hold such agricultural land in such acreage as may be necessary to its nonfarm
24 or nonranch business operation, but pending the development of such agricultural land
25 for nonfarm or nonranch purposes, not to exceed a period of five years, such land may

1 not be used for farming or ranching except under lease to a family farm or ranch
2 corporation or a nonsyndicate and noncorporate farm or ranch;

3 (12) Agricultural lands or livestock acquired by a corporation or syndicate by process of
4 law in the collection of debts, or by any procedures for the enforcement of a lien,
5 encumbrance, or claim thereon, whether created by mortgage or otherwise. Any lands
6 so acquired shall be disposed of within a period of five years and shall not be used for
7 farming or ranching before being disposed of, except under a lease to a family farm
8 or ranch corporation or a nonsyndicate and noncorporate farm or ranch;

9 (13) A bona fide encumbrance taken for purposes of security;

10 (14) Custom spraying, fertilizing, or harvesting; and

11 (15) Livestock futures contracts, livestock purchased for slaughter, or livestock purchased
12 and resold within two weeks.

13 Section 5. That Article XVII of the Constitution of the State of South Dakota be amended
14 by adding thereto a NEW SECTION to read as follows:

15 § 24. If a family farm corporation, which has qualified under all the requirements of a family
16 farm or ranch corporation, ceases to meet the defined criteria, it shall have fifty years, if the
17 ownership of the majority of the stock of such corporation continues to be held by persons
18 related to one another within the fourth degree of kindred or their spouses, and their
19 landholdings are not increased to either re-qualify as a family farm corporation or dissolve and
20 return to personal ownership.

21 Section 6. That Article XVII of the Constitution of the State of South Dakota be amended
22 by adding thereto a NEW SECTION to read as follows:

23 § 25. The secretary of state shall monitor corporate and syndicate agricultural land purchases
24 and corporate and syndicate farming and ranching operations, and notify the attorney general of
25 any possible violations. If the attorney general has reason to believe that a corporation or

1 syndicate is violating this amendment, the attorney general shall commence an action in district
2 court to enjoin any pending illegal land purchase, or livestock operation, or to force divestiture
3 of land held in violation of this amendment. The court shall order any land held in violation of
4 this amendment to be divested within two years. If land so ordered by the court has not been
5 divested within two years, the court shall declare the land escheated to the State of South
6 Dakota. If the secretary of state or attorney general fails to perform the duties directed by this
7 amendment, South Dakota citizens and entities shall have standing in circuit court to seek
8 enforcement.

9 Section 7. That Article XVII of the Constitution of the State of South Dakota be amended by
10 adding thereto a NEW SECTION to read as follows:

11 § 26. The South Dakota Legislature may enact by general law, further restrictions prohibiting
12 certain agricultural operations that the Legislature deems contrary to the intent of this section.