

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

359B0421

SENATE BILL NO. 172

Introduced by: Senators Frederick, Drake, Ham, and Johnson (William) and Representatives
Duxbury, Crisp, Diedrich, Lee, and Weber

1 FOR AN ACT ENTITLED, An Act to establish a sheep checkoff program.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Assessment," a per head fee collected on the sale of all varieties of sheep in South
5 Dakota;

6 (2) "Council," the South Dakota Sheep Enhancement Council;

7 (3) "Participating seller," any person who owns or operates an agricultural producing or
8 growing facility for sheep and shares in the profits and risks of loss from such
9 operation, and who produces sheep in South Dakota during the current or preceding
10 marketing year, and has not requested a refund from the payment of assessments on
11 sheep production under this Act for a particular year;

12 (4) "Purchaser," any person who buys, accepts for shipment, accepts for consignment,
13 brokers, order buys, or otherwise acquires sheep from a grower;

14 (5) "Secretary," the secretary of the Department of Agriculture.

15 Section 2. There is hereby established the South Dakota Sheep Enhancement Council. The

1 council shall be composed of five members who shall be participating sellers. The initial members
2 shall be appointed by the secretary from a list of recommendations provided by South Dakota
3 sheep producers. The terms of members are three years; the initial appointments shall be for
4 staggered terms. The secretary is an ex officio, nonvoting member of the council.

5 Section 3. Each successor to the initial members shall be elected by the participating sellers
6 under rules promulgated pursuant to chapter 1-26 by the council.

7 Section 4. If a member of the council ceases to be a participating seller or resigns from office
8 before the expiration of the member's term, the secretary shall appoint a successor for the
9 balance of the term of office vacated.

10 Section 5. The council shall annually elect a chair and a vice chair. A majority of voting
11 members constitutes a quorum. All meetings of the council shall be called by the chair except that
12 special meetings may be called by three members of the council. The council shall adopt
13 procedures for the calling of special meetings.

14 Section 6. The council may:

- 15 (1) For purposes related to the sheep industry, enter into contracts, including loans and
16 grants, and cooperate with any person, any local, state, or national organization,
17 whether public or private, or with any governmental department or agency for the
18 discovery, promotion, development, and expansion of domestic and export markets
19 and industries and for research, protection, education, transportation, and health
20 issues;
- 21 (2) Expend the funds collected pursuant to this Act and appropriated for its
22 administration;
- 23 (3) Appoint, employ, discharge, fix compensation for, and prescribe the duties of such
24 personnel as it may deem necessary;
- 25 (4) Accept donations of funds, property, services, or other assistance from public or

1 private sources for the purpose of furthering the objectives of the council;

2 (5) Lease, purchase, own, maintain, operate, and dispose of equipment and supplies
3 necessary to carry out the provisions of this Act.

4 Section 7. The council shall promulgate rules pursuant to chapter 1-26 concerning:

5 (1) The procedures for obtaining a declaratory ruling;

6 (2) The procedures for assessments collected for sheep sold to a purchaser;

7 (3) The procedures for obtaining a refund of the assessment;

8 (4) The procedures for collecting delinquent assessments and assessing penalties;

9 (5) The record-keeping and reporting requirements of purchasers.

10 Section 8. An assessment of twenty cents per head is imposed by the council upon all sheep
11 sold in the state by a South Dakota resident. However the council may enter into reciprocal
12 agreements with other states that also have a sheep checkoff fee to remit the assessment to the
13 state where the sheep were grown.

14 Section 9. Any purchaser of sheep shall collect the assessment imposed by this Act by
15 deducting the assessment from the purchase prices of all sheep subject to the assessment.

16 Section 10. Moneys collected from checkoff fees shall be deposited in a special revolving
17 fund created in the state treasury and are continuously appropriated to the council.

18 Section 11. Any purchaser shall keep a permanent record for three years of all purchases of
19 sheep, which may be examined by the council at any reasonable time. Every purchaser shall
20 report to the council stating the seller and quantity of sheep. The report and remittance of the
21 assessment shall be made at the times and in the manner prescribed by the council pursuant to
22 rules promulgated by the council pursuant to chapter 1-26.

23 Section 12. If a purchaser disputes an assessment made under this Act, the purchaser may
24 appeal to the council, which shall conduct a hearing and resolve the matter pursuant to the
25 contested case provisions of chapter 1-26. If a purchaser fails to remit the assessment provided

1 in this Act, the council may enforce collection in any appropriate court within this state.

2 Section 13. Within sixty days following the assessment, any seller subject to the assessment
3 provided in this Act may apply to the council for a refund of the assessment. The refund
4 application shall be accompanied by a copy of the record of the assessment on the sale. The
5 council shall refund the amount of the assessment collected within sixty days of receiving a valid
6 refund application.

7 Section 14. The council, to inform the seller, shall develop and disseminate information and
8 instructions relating to the purpose of the sheep assessment and manner in which refunds may
9 be claimed, and to this extent shall cooperate with government agencies, state and federal, and
10 private businesses engaged in the purchase of sheep.