

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

561R0368

HOUSE BILL NO. 1120

Introduced by: Representatives Vanneman, Brunner, Cronin, Dennert, Fargen, Feickert, Greenfield, Hoffman, Hunt, Jensen, Juhnke, Kopp, Krebs, Noem, Olson (Betty), Pitts, Putnam, Rausch, Schlekeway, Sorenson, Street, Turbiville, and Verchio and Senators Hansen (Tom), Bartling, Bradford, Fryslie, Garnos, Knudson, Merchant, Peterson, and Rhoden

1 FOR AN ACT ENTITLED, An Act to revise certain provisions and assessments related to the
2 South Dakota Oilseeds Council.

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

4 Section 1. That § 38-27-1 be amended to read as follows:

5 38-27-1. Terms used in this chapter mean:

6 (1) "Council," the South Dakota Oilseeds Council;

7 (2) "First purchaser," any person who initially places sunflowers, safflowers, canola, or
8 flax, whether as an owner, agent, or otherwise, into the channels of trade and
9 commerce, or who is engaged in the processing of sunflowers, safflowers, canola, or
10 flax into any form. ~~A grower selling his unharvested sunflowers, safflowers, canola,~~
11 ~~or flax or delivering his sunflowers, safflowers, canola, or flax from the farm on~~
12 ~~which they are produced to storage facilities, packing shed, or processing plant,~~
13 ~~within the state, is not a first purchaser;~~



- 1 (3) "Grower," any person who plants, raises, and harvests sunflowers, safflowers, canola,
- 2 or flax from more than ten acres;
- 3 (4) "Hundredweight," a one hundred pound unit or a combination of packages making
- 4 a one hundred pound unit or any one hundred pound shipment of sunflowers,
- 5 safflowers, or canola based on invoices or bills of lading records;
- 6 (5) "Oilseeds," any ~~and all varieties~~ variety of sunflowers, safflowers, canola (rapeseed),
- 7 or flax marketed or harvested within the state;
- 8 (6) "Participating grower," a grower who has not requested a refund from the payment
- 9 of assessments on sunflower, safflower, canola, or flax production under this chapter
- 10 for a particular year in the last three calendar years, including the current calendar
- 11 year;
- 12 (7) "Secretary," the secretary of the South Dakota Department of Agriculture.

13 Section 2. That § 38-27-2 be amended to read as follows:

14 38-27-2. There is hereby established a South Dakota Oilseeds Council. The council is

15 composed of ~~five~~ seven members who shall be participating growers of ~~sunflowers, one~~

16 oilseeds. One member who shall be a participating grower of safflowers, one member who shall

17 be a participating grower of canola, and one member who shall be a participating grower of flax

18 canola, or flax. All members shall be appointed by the secretary of agriculture. One member

19 shall reside west of the Missouri River. The secretary of agriculture is an ex officio, nonvoting

20 member.

21 Section 3. That § 38-27-4 be amended to read as follows:

22 38-27-4. The term of the members shall be for a period of four years, provided that the initial

23 appointments shall be for staggered terms. ~~Not all members shall be of the same political party.~~

24 If a member ceases to be a participating grower, the secretary of agriculture shall declare the

1 member's office vacant, and the secretary shall appoint a successor for the balance of the term
2 of the office vacated.

3 Section 4. That § 38-27-9 be amended to read as follows:

4 38-27-9. This chapter ~~shall not be construed to~~ does not abrogate or limit in any way the
5 rights, powers, duties, and functions of the Department of Agriculture or any other agency of
6 the state, but ~~shall be~~ is supplementary ~~thereto to~~ and in aid and cooperation ~~therewith~~ with such
7 rights, powers, duties, and functions.

8 Section 5. That § 38-27-11 be amended to read as follows:

9 38-27-11. An assessment at the rate of ~~three~~ four cents per hundredweight shall be levied
10 and imposed upon all sunflowers, safflowers, and canola grown in the state or sold to a first
11 purchaser, and an assessment at the rate of one cent per bushel shall be levied and imposed upon
12 all flax grown in the state or sold to a first purchaser. The assessment is due upon any
13 identifiable lot or quantity of sunflowers, safflowers, canola, or flax.

14 Section 6. That § 38-27-13 be amended to read as follows:

15 38-27-13. Any first purchaser of sunflowers, safflowers, canola, or flax shall file an
16 application or affidavit with the oilseeds council on forms prescribed and furnished by the
17 council ~~which~~. The application or affidavit shall contain the name under which the first
18 purchaser is transacting business within the state, ~~his~~ the first person's place of business, and the
19 location of loading places of the first purchaser.

20 Section 7. That § 38-27-14 be amended to read as follows:

21 38-27-14. Any first purchaser shall keep ~~as a part of his permanent records~~ a permanent
22 record of all purchases by the first purchaser of raw sunflowers, safflowers, canola, or flax,
23 which may be examined by the oilseeds council at any reasonable time. The first purchaser shall
24 report to the council stating the quantity of sunflowers, safflowers, canola, or flax received by

1 ~~him~~ the first purchaser. The report and remittance of the assessment shall be made at the times
2 and in the manner prescribed by the council pursuant to rules promulgated pursuant to chapter
3 1-26.

4 Section 8. That § 38-27-18 be repealed.

5 ~~— 38-27-18. If fifteen percent of the participating growers, as disclosed by the records of the~~
6 ~~oilseeds council for the preceding year, petition the council, the council shall conduct a~~
7 ~~referendum among the participating growers of the state to determine whether they wish the~~
8 ~~Legislature to raise or lower the assessment imposed by this chapter. The referendum shall be~~
9 ~~conducted only among participating growers who have paid all assessments pursuant to this~~
10 ~~chapter for the preceding year, and the ballots shall be prepared by the council and mailed to~~
11 ~~each participating grower at least thirty days prior to the last date for filing ballots. In addition,~~
12 ~~each ballot shall be accompanied by a notice to each participating grower:~~

13 ~~— (1) — Of the date of the filing of the petition by the growers for the referendum and the~~
14 ~~number of signatures contained thereon;~~

15 ~~— (2) — Of the date and place where the council will open and tabulate the ballots, which date~~
16 ~~may be not less than five days after the last date for filing the ballots;~~

17 ~~— (3) — Of the last date upon which ballots may be filed with the council, or postmarked if~~
18 ~~delivered to the council by mail; and~~

19 ~~— (4) — That any participating grower may attend the meeting of the council at the time the~~
20 ~~ballots are opened and the votes tabulated.~~

21 ~~— If a majority of the participating growers voting upon the question are in favor of the~~
22 ~~proposed change, the council shall certify the result to the secretary with the request that the~~
23 ~~secretary prepare a bill to submit to the next legislative session to modify this chapter~~
24 ~~accordingly. The results of the referendum are advisory only, and the Legislature is not obligated~~

1 ~~to adopt legislation enacting the proposals contained in any referendum.~~