

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

744X0158

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1094** - 03/01/2016

Introduced by: Representatives Qualm, Campbell, Craig, Duvall, Feickert, Harrison, Klumb, Marty, McCleerey, Mickelson, Otten (Herman), Peterson (Kent), Schaefer, Schoenfish, Schrempp, Verchio, and Wiik and Senators Tidemann, Cammack, Ewing, Frerichs, Hunhoff (Bernie), Olson, Otten (Ernie), Peterson (Jim), Rusch, Vehle, and White

1 FOR AN ACT ENTITLED, An Act to increase the commercial fertilizer inspection fee for
2 purposes of fertilizer-related research and education and to create the Nutrient Research and
3 Education Council to promote such research and education.

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

5 Section 1. That § 38-19-10 be amended to read:

6 38-19-10. ~~There is paid~~ Each licensed distributor of commercial fertilizer shall pay to the
7 secretary of agriculture for all commercial fertilizer distributed in this state an inspection fee of
8 up to twenty-five cents per ton in accordance with the provisions of § 38-19-12, not to exceed
9 seventy-five cents per ton. The secretary of agriculture shall promulgate rules pursuant to
10 chapter 1-26 to establish the inspection fee.

11 Section 2. That ARSD 12:44:06:01 be amended to read:

12 12:44:06:01. Commercial fertilizer tonnage inspection fee. The commercial fertilizer
13 tonnage inspection fee is ~~fifteen~~ sixty-five cents a ton, except the fee is ~~five~~ fifty-five cents a ton



1 on products that are made up entirely of manipulated animal manure.

2 Section 3. That § 38-19-14 be amended to read:

3 38-19-14. Fees collected pursuant to this chapter shall be deposited with the state treasurer
4 in a special revenue fund known as the fertilizer fund. This fund shall consist of moneys from
5 public and private sources including legislative appropriations, federal grants, gifts, and the fees
6 received pursuant to this chapter. The fund shall be maintained separately and be administered
7 by the department in order to defray the expenses of all activities associated with administering
8 the fertilizer program and to provide funding for fertilizer-related, nutrient-related, and water
9 quality-related research and education-related purposes as provided in section 4 of this Act.

10 Expenditures from the fund shall be appropriated through the normal budget process.

11 Unexpended funds and interest shall remain in the fund until appropriated by the Legislature.

12 Section 4. That chapter 38-19 be amended by adding a NEW SECTION to read:

13 From each fee collected pursuant to § 38-19-10, fifty cents shall be deposited into the
14 nutrient research and education fund created in section 7 of this Act. The nutrient and education
15 fund shall be disbursed as follows:

16 (1) The Agriculture Experiment Station may use an amount not to exceed five percent
17 of the revenue deposited in the fund for administrative expenses necessary to carry
18 out the functions of this Act;

19 (2) The balance of the fund shall be used for fertilizer-related, nutrient-related, and water
20 quality-related research and education purposes in conjunction with the Nutrient
21 Research and Education Council; and

22 (3) Beginning in fiscal year 2020, a minimum of ten percent of the fund shall be used to
23 support water quality projects.

24 Section 5. That chapter 38-19 be amended by adding a NEW SECTION to read:

1 The Nutrient Research and Education Council is hereby established. The council shall
2 consist of nine voting members, including three representing the fertilizer industry, two
3 representing grower organizations, one representing the state's largest commodity organization,
4 one representing the specialty fertilizer industry, one representing the certified agronomy
5 association, and one farmer member of the State Conservation Commission. The council shall
6 also include five nonvoting members: two representing environmental organizations, one
7 representing the director of the South Dakota Agricultural Experiment Station, one representing
8 the secretary of the Department of Agriculture, and one representing the secretary of the
9 Department of Environment and Natural Resources. The certified agronomy association and any
10 association or organization representing the fertilizer industry, growers, and the environment
11 may submit nominations to the secretary of agriculture for their respective members. The
12 secretary shall select from these nominations the members of the council. Members of the
13 council may receive no compensation, but members may be reimbursed for travel and
14 subsistence expense in accordance with rules promulgated by the State Board of Finance. The
15 council shall meet at least twice each year. The council shall be administered under the direction
16 and supervision of the South Dakota Agricultural Experiment Station, but retains the respective
17 quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary
18 functions as defined in § 1-32-1 otherwise vested in the council. The council shall exercise those
19 functions independently of the South Dakota Agricultural Experiment Station.

20 Section 6. That chapter 38-19 be amended by adding a NEW SECTION to read:

21 The Nutrient Research and Education Council established in section 5 of this Act, acting in
22 cooperation and conjunction with the South Dakota Agricultural Experiment Station, shall:

- 23 (1) Prioritize nutrient research, water quality research, and education proposals and
24 solicit research proposals to generate findings and make recommendations to the

1 council based on the findings;

2 (2) Evaluate the proposed budget for each research project and make recommendations
3 as necessary;

4 (3) Arrange for peer review of all research proposals for scientific merit and methods;

5 (4) Disseminate the findings of all research projects to the appropriate agricultural sector
6 in the manner deemed most effective; and

7 (5) Cooperate with other programs with similar goals, if practicable.

8 The council shall publish an annual financial and activities report, including the amount of
9 funds collected and expenditures for nutrient programs.

10 Section 7. That chapter 38-19 be amended by adding a NEW SECTION to read:

11 There is hereby created a nutrient research and education fund for the purpose of advancing
12 fertilizer-related, nutrient-related, and water quality-related purposes as provided in section 4
13 of this Act. Any money in the nutrient research and education fund is continuously appropriated
14 to the Agriculture Experiment Station. The state may accept and expend for the purposes of this
15 Act funds obtained from appropriations or any other source. Interest earned on money in the
16 fund shall be deposited into the fund. Any money deposited into and distributed from the fund
17 shall be set forth in an informational budget as described in § 4-7-7.2.