

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

400Z0529

HOUSE BILL NO. 1050

Introduced by: The Committee on Commerce and Energy at the request of the Bureau of
Administration

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the prompt payment
2 act.

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

4 Section 1. That § 5-26-3 be amended to read:

5 5-26-3. ~~Proper invoices~~ Any proper invoice not paid within forty-five days shall accrue
6 interest beginning on the thirtieth day after receipt of property or service and receipt of the
7 invoice covering the delivered items or services. Interest shall accrue and be charged on
8 ~~payments~~ any payment overdue under § 5-26-2 at ~~one and one-half~~ four percent per ~~month~~ year
9 or at the rate specified by contract. Any interest accrued under this chapter shall toll upon the
10 filing of any action disputing the amount due or alleging failure to comply with the terms of the
11 contract.

12 ~~— Interest which is unpaid at the end of each sixty-day period or at the end of any specified~~
13 ~~period provided by contract shall be added to the principal amount of the debt and shall~~
14 ~~thereafter accumulate interest.~~

15 Section 2. That § 5-26-5 be amended to read:



1 5-26-5. ~~This~~ No interest accrues under this chapter ~~is not applicable~~ if an agency's failure
2 to timely pay interest required by § 5-26-3 is the result of a dispute between the agency and the
3 business over the amount due or over compliance with the contract. In case of dispute, the
4 agency shall, within ~~ten~~ thirty days of receipt of property or services and receipt of invoice, give
5 written notice to the business of disagreement with property or services. The notice shall include
6 the reasons for and other pertinent details of the dispute and a copy of the notice shall be ~~timely~~
7 ~~filed with the state auditor or treasurer or finance officer of~~ kept on file with the agency.

8 Section 3. That § 5-26-6 be amended to read:

9 5-26-6. Upon payment by an agency, a business ~~which~~ that has acquired under contract,
10 property or services in connection with ~~its~~ the business's contract with ~~such~~ the agency from a
11 subcontractor or supplier, shall pay the subcontractor or supplier within thirty days after
12 receiving payment from the agency. Interest at the rate of ~~one and one-half~~ four percent per
13 ~~month~~ year shall accrue and is due any subcontractor or supplier who is not paid within thirty
14 days after the business receives payment from the agency, unless otherwise provided by contract
15 between the business and the subcontractor or supplier. Interest begins to accrue on the
16 thirty-first day at the rate specified in this section. Payment ~~shall be~~ is due when the
17 subcontractor or material supplier ~~have~~ has satisfied the terms of ~~their~~ the contract or material
18 delivery agreement.