Approved ____________________
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Senator Paul Hess at
Chairperson

2:30 ~~a.m.~~/p.m. on March 21, 1983, 19__ in room 123-S of the Capitol.

All members were present except:
Senator Harder

Committee staff present:
Research Department: Marlin Rein, Sherry Brown, Mary Galligan, Louis Chabira
Revisor's Office: Norman Furse
Committee Office: Mark Skinner, Doris Fager

Conferees appearing before the committee:
Gary Howland, Budget Division
Art Griggs, Attorney, Department of Administration
David Ross, Farmers Insurance Group
Bud Cornish, Kansas Association of Property & Casualty Insurance Companies
Mark Bennett, American Insurance Association
Representative Lawrence Wilbert
Dan Morgan, Associated General Contractors of Kansas, Inc.
Jim Yonally, National Federation of Independent Businessmen
Ron Gaches, Kansas Association of Commerce and Industry
Larry Woodson, Department of Agriculture
Dr. Lois Rich Scibetta, Kansas State Board of Nursing
Jerry Sloan, Office of Judicial Administrator

HB 2063 - Appropriations, Judicial Department and Related Agencies, FY 1984
HB 2135 - Supplemental Appropriations, FY 1983

HB 2063, Section 2 - Judicial Council

Senator Doyen presented the subcommittee report on Section 2, and committee members were given opportunity to question him.

HB 2063, Section 3 - Board of Indigents' Defense Services

Following Senator Doyen's explanation of the subcommittee report on this section, there was discussion about rates of compensation for assigned counsel.

HB 2135, Section - Judicial Branch

Senator Doyen presented the subcommittee report on this section, and committee members had opportunity to question him.

HB 2063, Section 4 - Judicial Branch

Following Senator Doyen's explanation of the subcommittee report on Section 4, there were questions regarding data processing time used by the Judicial Branch. Senator Hein asked about Senate Subcommittee Recommendation No. 2, and questioned the need for such a service both in the Attorney General's budget and in the Judicial Branch budget. Senator Gaines said it costs about $4,000 or $5,000 to put a terminal in place, and there is no need for one anywhere except in the Law Library. He suggested that, in the Attorney General's budget, there will be need to determine the cost of purchasing time on the computer.

Senator Talkington indicated that he had a letter from Justice Herd concerning a budget item of $40,000, which the Justice suggested the committee restore for FY 1984 data processing. The letter indicated this is needed for modification of the data base required by new legislation--redistricting, etc. Mr. Sloan gave a brief explanation of the need, and noted that the Senate subcommittee's recommended restoration of $10,000 would be within minimal needs.

HB 2063, Section 5 - Crime Victims Reparations Board

Following Senator Doyen's explanation of the subcommittee report on this section, committee members were given opportunity to ask questions.

Motion was made by Senator Doyen and seconded by Senator Gaines to adopt the subcommittee reports on HB 2063. The motion carried by voice vote.

Motion was made by Senator Doyen and seconded by Senator Talkington to report HB 2063 as amended favorably for passage. The motion carried by roll call vote.

SB 411 - Civil Service of the State of Kansas

Mr. Howland distributed a memorandum from the Secretary of Administration explaining SB 411. (Attachment A) He noted that the Department of Administration would prefer this bill not be passed.

Senator Hein indicated that he had talked to Mr. Howland before the committee meeting, and he said that the list has been longer than that in Attachment A. Senator Hein said he appreciated that the Secretary of Administration is trying to correct the situation. He noted that the subcommittee was concerned about possible abuses by some agencies of what was supposed to be a statute for temporary appointments; and that the idea was not to hamstring someone. According to Senator Hein, staff members had indicated there was a problem with people getting appointed under this statute and becoming full time employees. He said he did not think that was the intent of the original legislation.

When asked by Senator Hess why some positions couldn't be considered permanent, or regular employees, Mr. Howland said part of the problem is in the area of construction work. When construction work is completed, superintendents can be terminated. If they are hired in classified service, there is a problem with layoffs, etc. According to Mr. Howland, the purpose of the statute is to provide positions which are temporary but not necessarily short-term in nature. In answer to a question from Senator Steineger, Mr. Howland said there is no pension liability for these people, and health insurance is provided in only a few selected cases.

There were discussions concerning sending Legislative Research Department copies of the appointments, or having them subject to Finance Council approval. It was suggested by committee members that some positions in Attachment A should be permanent. Mr. Howland indicated that some of the positions were added by the Legislature last year in unclassified service. There was no independent authority to put them there except the statute under consideration. He said he felt the subcommittee report for SB 109 this year corrected that problem.

Senator Steineger suggested that there might be an interim study on the subject so that the Legislature can be sure there is a problem.

There was no action on SB 411.

SB 412 - Levy paid by fire insurance companies for maintenance of office of the fire marshal

Senator Werts indicated that the bill was introduced at the request of his subcommittee on SB 92. He said that the Fire Marshal must borrow from the State General Fund each year because fees do not meet the needs of the department. He reminded the committee that the subcommittee report had been adopted which suggested that $100,000 of that money be forgiven.

Senator Gaines asked about the effects of this bill on retaliatory insurance, and Senator Werts said that it seemed to be minimal.

SB 412 - Continued

Mr. Cornish appeared to express his concern about SB 412. He said he understands the problem in raising funds for the Fire Marshal's office. He said his concern is one of retaliatory nature. There are three domestic fire insurance companies in the state--Western, Farmers Alliance and Cimarron. Western feels that their retaliatory tax would increase to about $240,000 if the rate were increased to 1.75%. He suggested the Insurance Department might be able to give the committee a fiscal note.

Mr. Ross said the retaliatory tax is a problem with his company. There would be an additional payment of $37,000 in Kansas and $22,000 in the State of Missouri. He stressed that he is pleased with the efforts of the Fire Marshal's office, and understands the funding problem. There were questions from committee members. Mr. Ross said he will find out if the additional tax can be passed on to policy holders.

Mr. Bennett stated that the people he represents understand the problem but do not particularly like the bill. He said the increase of over 100% is a problem. He suggested that if the rate were 1.25% instead of 1.75% it would less of a problem.

No action was taken on SB 412.

HB 2303 - Prompt payment of certain amounts owed by state and local government agencies

Representative Wilbert presented his written testimony (Attachment B). He also distributed a paper entitled "A Survey of Prompt Payment Laws and Regulations in the States." (Attachment C) Committee members were given opportunity to question him following his testimony.

Mr. Morgan said the Associated General Contractors of Kansas and the national association supported the prompt payments act on the federal level and would like to appear in support of similar legislation in Kansas.

Mr. Yonally said that his organization has 9,000 members in Kansas, and the membership voted 87% to support this type of legislation. He said he would like to see the interest penalty reinserted in the bill.

Mr. Gaches said the Kansas Association of Commerce and Industry endorses HB 2303, since they would like to have the state pay its bills on time. He said this legislation was mentioned several times by members of KACI when the state was discussing acceleration of withholding and sales tax payments by its members to the state. He suggested it is only fair that the state give businesses the same favor.

No action was taken on HB 2303.

Mr. Griggs distributed a memorandum concerning reporting requirements of HB 2303. (Attachment D) There were questions from committee members and an extended discussion concerning the additional work required under HB 2303.

No action was taken on HB 2303.

HB 2533 - State Board of Agriculture fees

Mr. Woodson explained that this bill was recommended by the State Board of Agriculture, and that all information is in the fiscal note. It was noted that there has been no opposition from the Kansas Meat Processors. This was relayed by telephone from Bernie Hanson. He said he had also checked with the Federal Government and they do not consider the $200 fee out of line.

There was a brief discussion concerning this measure. No action was taken on HB 2533.

HB 2535 - Legal services for State Board of Nursing

There was a brief discussion concerning HB 2535. It was noted that the bill makes legal what is now being practiced. Dr. Scibetta said her organization has no objection.

No action was taken on HB 2535.

SB 307 - Alteration of renewal cycle of license plates

Motion was made by Senator Talkington and seconded by Senator Hein to report SB 307 without recommendation. The motion carried by roll call vote.

The meeting was adjourned by the Chairman.

STATE OF KANSAS
DEPARTMENT OF ADMINISTRATION
JOHN CARLIN, Governor
PATRICK J. HURLEY, Secretary of Administration
Room 263-E, Capitol Building
(913) 296-3011

MEMORANDUM

TO: Senate Ways and Means Committee

FROM: Patrick J. Hurley, Secretary of Administration PJH

DATE: March 18, 1983

SUBJECT: S.B. 411

BACKGROUND

The proposed bill would delete statutory language which gives the executive branch, specifically the Governor, authority to appoint special project employees in the unclassified service, pursuant to K.S.A. 75-2935(1)(i). These special project employees are temporary in nature. Under the civil service statutes there are two types of temporary employees: those within the classified service, the appointment may not exceed 90 days; and those in the unclassified service, under the statute at issue here. In the latter case, the guidelines which are followed in making these unclassified temporary appointments are:

1. The employee is working on a special study or project, usually something which is not a part of the routine or day-to-day functions of the employing agency;
2. The job or project is of limited duration, i.e., it has a foreseeable expiration date.

All special project requests are submitted by the appointing authority of the agency to the Governor through the Secretary of Administration. Each request is reviewed by two divisions of the Department of Administration: Division of Personnel Services, for appropriateness of salary; Division of the Budget, for availability of funding and for consistency with legislative actions. After this review, the Secretary of Administration makes a recommendation and forwards the request to the Governor for his approval.

While the statute refers generally to any competent appointing authority it is in fact the Governor who controls any special project appointment. The Governor's authority to set salaries for all unclassified positions, temporary or otherwise, includes the authority to deny any salary whatsoever, or to establish such other conditions as he deems to be

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appropriate. For example, by policy, the Governor has generally restricted any special project appointment to a term of one year so that it will be reviewed annually as to continued need and appropriateness. He may impose other conditions as well. A major advantage of the special project statute is that it allows the Governor to make case-by-case decisions.

CURRENT STATUS

Currently, there are 48 employees who have been appointed under the special project statute. A detailed listing is attached.

The majority of special project employees have been in the Department of Social and Rehabilitation Services (SRS) because the employees are working on federal grant projects that have a limited duration. At the present time, there are 24 such appointments in SRS. Positions which will extend beyond FY 1983 have either been included in the budget request for SRS as classified positions or, when deemed appropriate, have been continued as special project positions. For example, the appointments in the IndoChinese Refugee Program have been extended.

In other agencies, some of the positions include: Construction Superintendents who are supervising state prison construction work being performed by inmate labor; part-time Hearing Examiners for the Civil Rights Commission; Data Entry/clerical operators who are compiling the water rights data base in the Department of Agriculture; and specialized professional positions in the Corporation Commission.

RECOMMENDATIONS

The present statute authorizing these appointments should remain unchanged. It provides the necessary and appropriate flexibility that enables the Executive branch of state government to respond to unique needs and circumstances. Examples to support this are:

Last year, the Legislature added three positions to the State Corporation budget: a nuclear engineer, a petroleum engineer, and a geologist/hydrologist. The committee report of the Senate Ways and Means Committee specified that these three positions should be in the unclassified service. However, no specific statutory language was included in any bill authorizing such unclassified appointments. Consequently, the special project statute was utilized to carry out the Legislature's intent until this problem could be corrected by the 1983 Legislature.

The program to help resettle Vietnamese refugees is funded by a special federal grant to SRS. The six employees in the IndoChinese Refugee Assistance Program are required to speak Vietnamese and know their culture. The special project statute was used because of this highly selective language and cultural knowledge requirement, and the fact that the positions will terminate when the federal grant expires.

The Department of Agriculture is working on a water rights project that will be of two to three years duration. They have appointed several part time data entry/clerical employees to create the data base necessary for the project. Once the data base is established, the positions will be abolished.

I would urge this committee to reject any proposed change to the present statute. It is an effective management tool in the operation of state government that provides the authority and flexibility to deal with unique needs and problems on a case-by-case basis. I do not believe that this flexibility is being abused, and in fact over the last year further steps were taken to assure that this did not occur. Each proposed special project position was, and is, closely reviewed, and appointments are made only by the Governor.

CY	TITLE	CLASS HIRE (Start-End)	RANGE	STEP		SALARY
Corrections						
Joseph Ruskowitz	Special Project Worker	2/18/83-2/17/84	30	E		32,796
KSP						
Arthur Atkinson	Const. Supt.	11/18/82-6/17/84	28	A		23,580
Edwin Andler	Const. Supt.	2/18/83-6/17/84	28	A		23,580
Raymond Kessler	Renov.Proj.Mgr.	3/29/82-6/17/84	35	A		36,756
Division of Mental Health & Ret. Services						
Community Support Program Administrator						
Sherry McGowan		9/1/82-9/17/83	30	A		25,500
Social & Rehabilitation Services						
Cynthia Ryan	Program Eval II	11/18/83-8/17/83*	24	A		19,968
Dyogga Lewis	Clerk Typist II	1/18/83-6/17/83**	7	A		9,264
Kathryn Taylor	Community Program Con. I	10/1/82-9/30/83*	21	1	(50%)	18,012
Laurie Pierre	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Norma Phillips	Community Program Con. II	2/5/83-6/17/83**	24	1		20,616
Joyce Minor	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Sherry Lynch	Community Program Con. I	10/1/82-6/17/83**	21	A		17,484
Judith Lemaster	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Grace Kurtz	Program Worker I	1/18/83-6/30/83*	8	A		9,720
Yvette Harris	Manpower Specialist	10/1/82-6/17/83**	18	A		15,324
JoEvelyn Gaskin	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Gladys Dooley	Program Worker I	1/18/82-6/30/83*	8	A		9,720
Lerlene Carter	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Ethel Bjorgaard	Attorney A	1/18/83-6/30/83*	27	A	(50%)	22,656
Ceolia Belcher	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Betty Allen	Program Worker I	1/18/83-6/30/83*	8	A	(50%)	9,720
Randy Todd	Clerk Typist I	7/1/82-6/30/83**	4	A		7,992
IndoChinese Refugee Assistance Program:						
Douangmala Vilaythong	Special Project Worker	6/18/82-6/17/83	18	A		15,324
Hung Phi Tran	Special Project Worker	6/18/82-6/17/83	18	A		15,324
Lee Her	Special Project Worker	10/18/82-10/17/83	18	A		15,324
Bich Tahch Dao	Special Project Worker	6/18/82-6/17/83	18	A		15,324
Vicki Carty	Special Project Worker	10/18/82-10/17/83	18	A		15,324
Chu Van Luu	Special Project Worker	1/18/83-1/17/84	18	1		15,780

*[illegible]l not be renewed after ending date.
* [illegible]luded in FY 1984 budget as classified.

A Y	TITLE	CLASS HIRE (Start-End)	RANGE	STEP	SALARY
Corporation Commission					
Denise Marie Roth	Attorney A-Conservation Div.	1/31/83-6/17/83	24	A	19,968
James Schoof	Director, Underground Injection Control & Field	6/11/82-6/17/83	37	1	34,812
Rosemary O'Leary	Attorney A	6/18/82-6/17/83	24	1	20,616
David Nickel	Admin. Asst.	8/16/82-8/17/83	24	A	19,968
C. Michael Estes	Nuclear Eng.	8/31/82-7/30/83**	43	B	45,648
Richard Claytor	Geol./Hydro.	5/25/82-6/18/83**	23	A	19,092
Chan Yeuk-Loong	Petroleum Eng.	6/18/82-6/17/83**	28	1	24,348
A. Breipohl	Electrical Eng.	8/18/82-8/17/83	44	E	226.88/day, 1 day/week
Kent Foerster	Admin. Asst.	6/18/82-6/17/83	24	A	19,968
Board of Agriculture					
Water Rights Informational Data Entry Project-2-3 year duration until data base completed. (Data Entry Operators - Classified-Unclassified students)					
Debra Atherly	Clerk Typist II	6/18/82-6/17/83	7	A	4.45/hr
Judith Butler	Clerk Typist II	6/18/82-6/17/83	7	A	4.45/hr
Juanita Gonzalez	Clerk Typist II	6/18/82-6/17/83	7	A	4.45/hr
Bonnita Rudolph	Clerk Typist II	6/18/82-6/17/83	7	A	4.45/hr
Economic Development					
Scott Spellerberg	Special Project Worker	12/18/82-3/17/83	24	A	19,968
James Murphy	Special Project Worker	7/12/82-7/17/83	33	1	29,688
Loren Medley	Special Project Worker	6/18/82-6/17/83	24	B	21,264

**Included in FY 1984 budget as classified.

NCY	TITLE	CLASS HIRE (Start-End)	RANGE	STEP	SALARY
Human Resources					
Loretta Fallon	Pub.Info.Off.I	11/9/82-9/30/83	22	A	18,276
Water Resources Board					
Clark Duffy	Special Project Worker	7/10/82-7/9/83	27	B	24,144
Martha Walker	Special Project Worker	6/18/82-6/17/83	27	A	22,656
Commission on Civil Rights					
G. Edmond Hayes	Pro Tem Hearing Examiner	2/21/83-6/17/83			30/hr

Testimony of Representative Lawrence J. Wilbert before the Senate Ways & Means Committee on House Bill No. 2303 as amended.

March 21, 1983

Good afternoon Mr. Chairman and members of the committee. I am here today to introduce HB 2303, referred to as the Kansas Prompt Payment Act. Very simply the purpose of the bill is to require all state agencies and local subdivisions of this state to pay for goods and services provided by vendors within the usual business period of thirty days.

You may not be aware that the Federal Congress enacted such a law effective last October. Furthermore, a total of 14 states have now enacted similar bills, and the list is growing yearly. I have attached a copy of the Federal Act and a chart showing other states' action to my testimony.

You may wonder why we should consider such a bill at a time when revenue is short. The answer is that it is exactly at these times that we should take such action to restore the confidence of businessmen in dealing with government in this state. There are many advantages to the State of Kansas in adopting this Legislation. 1). Many firms dislike doing business with government because of excessive bureaucracy and slow payment. As payment becomes more regular, more firms should be willing to become bidders, which should reduce prices. 2). Many firms give reductions for prompt payment in the private sector, which should reduce costs of doing business even with the same firms. 3). The state will be forced to reevaluate bill paying procedures and may be able to reduce in an amount of in-house paper work, at a savings of overhead. 4). Late payment is often an early indication of poor

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management practices.

There of course are many bureaucratic arguments which can be made against this legislation. The most common are the following: 1). We will have to hire more people in order to get our bills paid on time. The simple answer is that it does not take more people to pay within 30 days but better management. 2). There will be more fraud and mistakes if we have to hurry up our examination of invoices and inspection of goods. The answer is that 30 days is the standard in all of the private sector. Why should government always take longer to do everything. Thirty days is a very adequate time, and more time does not guarantee there won't be mistakes. 3). If payments were speeded up, the state would lose interest on its earnings. The answer is that it is outrageous for government to be permitted to borrow interest-free from its vendors. It is also very expensive in the long run, since as stated above it has driven many businesses away from providing goods and services to government.

The House Ways & Means Committee amended HB 2303 substantially. The major amendment was the removal of all interest penalty language. The committee supports the concept of prompt payment of accounts, but felt the unknown fiscal note was a problem in this year of revenue shortfalls. Mr. James Cobler, director of the Division of Accounts & Reports suggested the amendment, noting that prompt payment would still be the law and that we had his full cooperation in seeing it carried out. He will report back to the committee next session on whether or not voluntary agency compliance is working, so that we could consider at that time if an interest penalty is necessary.

The other amendments were offered by the Revisor and are technical in nature. The amendment clarifies the acceptability of partial or full payment before the due date.

In conclusion, I call upon you today to take action this year to pass this Legislation. I hope you will adopt HB 2303. We certainly do not want Kansas and its sub-divisions to be considered less efficient that the Federal Government.

I will, of course, be happy to answer any questions.

X

A SURVEY
of
PROMPT PAYMENT LAWS AND REGULATIONS IN THE STATES

Sponsored by
The National Audio-Visual Association
3150 Spring St.
Fairfax, Virginia 22031
703 273-7200

AHC 3-21-83

INTRODUCTION

The purpose of this study was to determine the laws and regulations that exist on the state level in regard to prompt payment to state contractors and to determine pending or recent legislative activity on prompt payment.

Officials in various state departments and agencies in all 50 states and the District of Columbia were contacted by telephone and asked specific questions on state prompt payment laws and regulations. The following questions were asked:

1. Are there any state laws that require a state agency to pay bills "on time"? If so, what is the time period set?
2. Does this law also apply to recipients of state grants-in-aid, i.e., municipalities, private colleges, or other organizations?
3. If there is not a state law, are there rules, regulations, directives, policy statements, or governor's orders that require a state agency to pay bills on time? If so, what is the standard of payment set?
4. Does the law or regulation require or authorize payment of late payment interest charges when invoices are paid late?

Although departments and agencies contacted varied from state to state, officials in the following departments were typically contacted:

- Department of Administration
- Department of Finance
- State Comptroller
- Department of Purchasing
- Office of State Treasurer
- Department of Accounting
- Office of Budget
- Department of General Services
- Office of Attorney General
- Office of Legislative Services

OVERVIEW

Many more states than previously expected have enacted prompt payment legislation, or have had bills introduced and defeated or not acted on. There are also several states that have statutes that exclusively cover certain types of contracts but no overall legislation.

11 states have legislation:

Arizona	Illinois	Oregon
California	Louisiana	South Carolina
Florida	=*Nebraska	Washington
Hawaii	*North Carolina	

* Does not include interest penalties
= Later found unconstitutional

Six states have had legislation introduced within the past few years but it was defeated or not acted on:

Alabama	Kansas	New York
Delaware	Maryland	Rhode Island

Three states have statutes that exclusively cover certain types of contracts but no overall legislation:

Alaska	Indiana	Massachusetts

Three states have regulations or administrative provisions:

*Maryland	Virginia	West Virginia

* Does not include interest penalties

One state has legislation pending:
Pennsylvania

The remaining 27 states and the District of Columbia have no legislation/regulations, have had no legislation introduced within the past few years, and have no statutes exclusively covering certain types of state contracts. They are:

Arkansas	Michigan	Ohio
Colorado	Minnesota	Oklahoma
Connecticut	Mississippi	South Dakota
District of Columbia	Missouri	Tennessee
	Montana	Texas
Georgia	Nevada	Utah
Idaho	New Hampshire	Vermont
Iowa	New Jersey	Wisconsin
Kentucky	New Mexico	Wyoming
Maine	North Dakota	

Many of these states, however, do issue informal memorandums or directives urging state agencies to pay vendors promptly.

CONCLUSION

Prompt payment legislation is an emerging issue on the state level. Prompt payment bills were enacted into law in six states in 1981 and 1982. Legislation is pending in one state and prompt payment bills were introduced but not acted upon in three additional states during 1982. Rhode Island's state legislature passed a prompt payment bill in 1982, but it was vetoed by Governor J. Joseph Garrahy.

A number of other states seemed to recognize that slow pay to state contractors is a problem and have issued informal memorandums to state agencies urging timely payment of invoices.

Given the increased activity and passage of prompt payment legislation in many states, increased recognition and sensitivity to the problem by state officials, and enactment of "The Prompt Payment Act of 1982" on the federal level, NAVA believes that great opportunities exist for further successful prompt payment legislation at the state level.

APPENDIX A

Chart of States with Prompt Payment Statutes or Regulations

STATE	STATUTE/ REGULATION	YEAR ENACTED	CONTRACTS COVERED	STANDARD OF PAYMENT	INTEREST	APPLICATION OF STATUTE/REGULATION
ALASKA	STATUTE	1982	construction	30-day	10.5% annually	Any state or political subdivision of the state
ARIZONA	STATUTE	1982	ALL	30-day	10.0% annually	Any state agency, school district, or office or agency established by a county
CALIFORNIA	STATUTE	1982	ALL	30-day	.25% per day	All state agencies
FLORIDA	STATUTE	1974	ALL	45-day	1% per month	All state agencies
HAWAII	STATUTE	1977	ALL	60-day	1% per month	Any agency of the state or any county
ILLINOIS	STATUTE	1975	ALL	60-day	1% per month	Any state official or agency authorized to provide payment from state funds
INDIANA	STATUTE	1933	highway	180-day	1% per month	State Highway Department
MARYLAND	REGULATION		ALL	35-day construction 45-day non-construction	NONE	All state agencies
MASSACHUSETTS	STATUTE	1977 ...... 1961	utility .... construction	55-day 65-day	NONE **	State, city, town or political subdivision
NEBRASKA*	STATUTE	1975	ALL	30-day	NONE	All state agencies
NORTH CAROLINA	STATUTE	1931	ALL	30-day	NONE	All state agencies
OREGON	STATUTE	1979	ALL	45-day	.67% per month	All state agencies
SOUTH CAROLINA	STATUTE	1981	ALL	30-day	15.0% annually	All agencies and institutions of the state
VIRGINIA	REGULATION	1979	ALL	60-day	1% per month	All state agencies
WASHINGTON	STATUTE	1981	ALL	30-day	1% per month	Every state agency and unit of local government
WEST VIRGINIA	REGULATION		ALL	90-day	6.0% annually	All state agencies
LOUISIANA	STATUTE	1982	ALL	30-day***	.5% per day	All state agencies

* Later found to be unconstitutional.

** Construction statute provides for payment of interest penalties on late payments at a daily rate of three percentage points above the rediscount rate then charged by the Federal Bank of Boston.

*** Except, a 45-day standard of payment for Entitlement Programs

Prepared and distributed by the National Audio Visual Association, 3150 Spring St., Fairfax, Virginia 22031; 703/273-7200.

ALABAMA

Legislation was introduced several years ago but was never acted upon. When the bill was introduced, the Director of Finance asked for a delay, figuring that he would be able to remedy the situation from his office without having to enact legislation.

The Finance Department issues statements to state agencies encouraging prompt payment and has set up a standard of 25 days—10 days from receipt of materials/services to send invoice to Finance Department, and 15 days for the Finance Department to pay the invoice.

No further legislation has been introduced. Alabama cannot pay late interest penalties.

ALASKA

Legislation (A.S. 36) passed this past legislative session and took effect July 1, 1982. This bill covers only "contractors" defined as, "the contractor including subcontractors performing work necessary to facilitate public construction." The bill makes the State or a political subdivision of the state liable to a contractor.

This legislation sets a 15-day standard of payment after invoice has been received. If invoice has not been paid within 30 days, interest starts to accrue at a rate of 10.5% annually.

(BILL ENCLOSED)

ARIZONA

Legislation (House Bill 2483) passed this past legislative session. This bill took effect July 24, 1982. This legislation sets a 30-day standard of payment. If payment has not been made by the 31st day, interest must be paid at the prescribed rate in Section 44-1201 (10.0% per annum) until the account is paid in full. The bill covers any state agency, school district, or office or agency established by a county or a county board of supervisors.

(BILL & INTEREST STATUTE ENCLOSED)

ARKANSAS

No legislation has been introduced within the past few years. There are some statements issued within each agency encouraging prompt payments but there is not authorization for interest on late payments.

CALIFORNIA

Legislation passed on March 2, 1982 to take effect January 1, 1983. Legislation sets a 30-day standard of payment and authorizes the payment of an interest penalty on late payments accruing at the rate of .25% of amount due per day, from the 31st day. Comptroller will pay the penalty out of the agency's budget.

(BILL ENCLOSED)

COLORADO

No legislative activity on prompt pay. Directives urging payment within 30 days are periodically issued by the Division of Purchasing and the State Comptroller. Late payment interest charges can be assessed if contained in

CONNECTICUT

No legislation. Administrative letters are sent from the State Comptroller's Office to state agencies encouraging prompt payments. Connecticut will not pay interest penalties.

DELAWARE

Legislation was introduced and passed by the Senate on June 2, 1982. Bill was then tabled by the House and was not acted upon before the session was adjourned for the year. Bill will have to be reintroduced next session.

The bill set a 30-day standard of payment and authorized interest penalties to accrue at a rate of annual interest equal to two percentage points above the discount rate charged by Federal Reserve Banks on the first day of the previous month, prorated at the rate of 1/360th of said annual interest for each day the indebtedness continues beyond 30 days.

(BILL ENCLOSED)

DISTRICT OF COLUMBIA

No legislation and no known directives sent out urging prompt payments.

FLORIDA

Legislation was enacted in 1974. (S.9, Art. XII, ch. 215.422.) Bill establishes a 45-day standard of payment after which interest will start to accrue at a rate of 1% per month.

GEORGIA

No legislation. Uses departmental directives to urge prompt payments. Georgia will not pay interest penalties on late payments.

HAWAII

Legislation enacted in 1977. The law sets a 60-day standard of payment after which time an interest penalty of 1% per month starts to accrue on the unpaid amount. The bill covers any agency of the State or any county. If the time of payment is contingent upon receipt of Federal funds, or Federal approval, the solicitation of bids for contracts must explain that provision.

(BILL ENCLOSED)

IDAHO

No legislation. Letters are sent within state agencies encouraging prompt payments but no standard is set. Will not pay interest.

ILLINOIS

Legislation effective July 1, 1976. Bill sets a 60-day standard of payment—30 days to approve invoice, 30 days to pay invoice. After 60 days, 1% of any amount approved and unpaid shall be added for each month or fraction thereof, after the end of this 30- or 60-day period, whichever is applicable, until final payment is made. Bill covers any state official or agency authorized to provide payment from state funds.

INDIANA

No overall legislation, but there exists a statute covering highway contracts. Highway statute explains that the state must pay within 180 days of acceptance of project; if unpaid by the 181st day, interest starts to accrue at 1% per month.

No overall legislation introduced within the past few years.

(COPY OF HIGHWAY CONTRACT STATUTE ENCLOSED)

IOWA

No legislation. Unwritten policy within agencies—payment within five working days after receipt of invoice, but no interest penalty if not paid unless provision is in initial contract.

There is a code requirement that a vendor must bill the State within three months.

(CODE REQUIREMENT ENCLOSED)

KANSAS

Legislation introduced in 1979 but never made it out of committee. Bill would have set a 30-day standard of payment and authorized an interest penalty of 1.5% per month.

Letters are now sent out from State Comptroller's Office encouraging payment within 30 days; counseling is conducted with agencies that are habitually late with their payments.

(COPY OF DEFEATED LEGISLATION ENCLOSED)

KENTUCKY

No legislation. Policy statements are sent to agencies by the Department of Finance and Administration to encourage prompt payments in order to take advantage of special discounts. If bill is not paid by the end of the fiscal year, the agency must go before the General Assembly for approval of payment.

The Purchasing Department operates under a model procurement law (1976) which sets up how to purchase and price contracts.

LOUISIANA

Legislation (House Bill No. 918) passed 1982 session. The bill sets a 30-day standard of payment for most state agencies and a 45-day standard for entitlement programs. The legislation provides for an interest penalty of 0.5% of the amount due per day, not to exceed 10% of the total outstanding balance due. If a state agency claims that payment is late due to "reasonable" cause that claim is disputed by the contractor, the Joint Legislative Committee on the Budget shall decide the claim.

(BILL ENCLOSED)

MAINE

No legislation. Commissioners of each state agency issue statements encouraging payment within 30 days. Interest can be paid if within the initial contract.

MARYLAND

Legislation was introduced in the 1982 session but not acted on. There are provisions within Maryland State Procurement Regulations that require payment of non-construction bills within 25 days and construction bills within 35 days. These regulations do not authorize interest payments.

(COPIES OF DEFEATED LEGISLATION & MARYLAND STATE PROCUREMENT REGULATIONS ENCLOSED)

MASSACHUSETTS

No overall legislation. Do have statutes covering state, city, town, or political subdivision's utility and construction contracts. Utilities have a 55-day standard of payment and construction has a 65-day standard of payment. Construction statute provides for payment of interest penalties on late payments at a daily rate of three percentage points above the rediscount rate then charged by the Federal Bank of Boston.

(STATUTES ENCLOSED)

MICHIGAN

No legislation. General statements encouraging prompt payments for discount purposes were issued throughout the agencies. Interest penalties can be paid if provision is within the initial contract.

Bill Buckley in the Administrative Services Department stated that late payments have not been a major problem but that there had been some talk of legislation enforcing prompt payments this past session. Some legislators stated that if such legislation is introduced, a counter-statute should apply to outside firms, requiring prompt payments to the state and interest penalties for late payments.

MINNESOTA

No legislation. Statements encouraging prompt payments for discount purposes were issued within agencies. Will not pay interest penalties.

MISSISSIPPI

No legislation. Cannot pay interest penalties.

MISSOURI

No legislation. Slow pay to contractors has been a problem, but the state has more of a problem with cash flow. Can pay interest penalties if specified in initial contract but usually does not allow such a contract.

MONTANA

No legislation. Uses in-house directives encouraging prompt payments. Cannot pay interest penalties.

NEBRASKA

In a 1975 special session of the legislature, Revised Statutes of Nebraska, 1943, Chapter 81, Section 1111.01 through 1111.03 was passed. This statute set up a 30-day standard of payment. No late interest payment was authorized.

There is currently no enforcement of this statute. The Attorney General has indicated that it is unconstitutional because it was passed during a special session of the legislature when the issue was not on the agenda for the special session. There has been no further action.

(COPY OF STATUTE ENCLOSED)

NEVADA

No legislation, but officials in the Department of General Services admit there is the problem. Interest penalty payments are forbidden by state statutes.

NEW HAMPSHIRE

No legislation. Deputy Comptroller Ralph Brickett says there is a problem, but New Hampshire also has a problem with cash flow. The government does urge state agencies to pay within 30 days through directives sent out to state agencies.

NEW JERSEY

No legislation. Payment within 30 days is encouraged for discount purposes. There has been a slow pay problem, but it is more a problem of the agencies not getting their invoices to the Comptroller's Office on time than with the Comptroller delaying payment (stated by the Supervisor of the Purchasing Bureau). No legislation introduced within the past few years.

NEW MEXICO

No legislation as of yet. Policy statements are sent out from the Department of Finance to "New Mexico State Agencies, Departments, Commissions, Institutions, Boards, and Local Public Bodies allowed by Law" pushing for prompt payments. The Director of the Purchasing Division, Joe Bacca, is very supportive of a prompt payment concept and sees the need for legislation.
(ENCLOSED ARE COPIES OF STATEMENTS SENT OUT FROM FINANCE DEPARTMENT)

NEW YORK

Legislation was introduced this past session (1982) but is still pending. One bill, introduced on March 22, 1982, by New York State Assemblyman Bill Larkin, would have set up a 45-day standard of payment; the other, introduced on March 30, 1982, would have set up a 30-day standard of payment (business days)—20 days for state agencies to send invoice to Comptroller's Office and 10 days for Comptroller to pay the invoice. Interest penalties were set at 0.5% per month.

Although there is a possibility that the legislature will be called in a special session later this year, they will deal primarily with budgets. It is doubtful that they will act on either of these bills.
(COPIES OF DEFEATED LEGISLATION ARE ENCLOSED)

NORTH CAROLINA

Existing legislation was passed in 1931. Legislation sets a 30-day standard of payment but does not authorize payment of interest penalties for late payments. North Carolina will not pay interest on late payments.

NORTH DAKOTA

No legislation, but there has been encouragement from vendors for such legislation. Currently, policy statements encouraging prompt payments are sent out from the Central Accounting Office.

OHIO

No legislation and no authorization to pay interest on late payments. Officials in the Office of the A[illegible] of the State seemed to think that the problem had to do with individual state agencies; for example, the Highway Department was very prompt with payment of bills; the Mental Health Department was habitually late with their payment of bills.

OKLAHOMA

No legislation, but it has been discussed within the legislature. A government in-house Executive Task Force has been appointed to do a preliminary study of all state agencies with the goal of determining how to improve agency's performance. This study will include the Accounting and Purchasing Departments and may lead to the awareness and introduction of slow pay legislation.

The Governor urges prompt payment of bills during meetings with the heads of the departments, and the Comptroller's Office sends out policy statements urging prompt payment. Interest will not be paid on late payments. Officials in the Division of the Budget seemed to think that there would be support for slow pay legislation.

OREGON

Legislation passed in 1979 session, effective July 1, 1980. Chapter 406, OL 1979, (House Bill 2257). The bill sets a 45-day standard of payment and authorizes interest penalties on late payments at a rate not to exceed 0.67% per month or 8% per annum.
(BILL ENCLOSED)

PENNSYLVANIA

Legislation pending to amend The Fiscal Code of 1929, (P.L. 343, No. 176). Slow pay legislation was introduced once before. The bill sets a 30-day standard of payment and authorizes interest on late payments of 1.50% per month. Legislation is not expected to be voted on this session, which ends in November.
(PENDING LEGISLATION ENCLOSED)

RHODE ISLAND

The bill was introduced this past session, passed the House and Senate, but was vetoed by Governor J. Joseph Garrahy. (This is the second time the Governor has vetoed prompt payment legislation within the past few years.) The bill would have set a 60-day standard of payment and authorized interest on late payments of 12% per annum.
(VETOED LEGISLATION ENCLOSED)

SOUTH CAROLINA

A permanent amendment to H. 3711—General Appropriations Bill was passed in the 1981 session, effective January 1983. The amendment sets a 30-day standard of payment and authorizes payment of an interest penalty on late payments not to exceed 15% per annum from the funds available to the agency which is late in their payment. The bill covers all agencies and institutions of the state.
(COPY OF AMENDMENT ENCLOSED)

SOUTH DAKOTA

No legislation. The rules and regulations manual encourages a 30-day standard of payment. South Dakota will not pay interest.

TENNESSEE

No legislation. Policy statements have been issued from the Division of Accounts encouraging prompt payments. Does not authorize payment of late interest charges.

TEXAS

No legislation yet. Slow pay is a recognized problem and legislation has been discussed. (Enclosed is a copy of February 16, 1976, newspaper article on the subject of slow pay.) Director of Purchasing C.M. Walton says there would be support for such legislation.

UTAH

No legislation. Can pay interest and has on several occasions when payments have been very, very late, but this is not the rule. The Director of Finance thinks legislation would be supported.

VERMONT

No legislation, but there have been vendor complaints. Prompt payments are encouraged through administrative bulletins. They can pay interest if the provision is in the initial contract, but such provisions are unusual.

VIRGINIA

No legislation, but a regulation exists in the *Vendors Manual*, put out by the Purchasing and Supply Department, that allows for a penalty of 1% per month after 60 days.
(COPY OF VENDORS MANUAL REGULATION ENCLOSED)

WASHINGTON

Legislation passed in the 1981 session, effect. July 1, 1982. The bill sets a 30-day standard of payment and authorizes an interest payment of 1% per month on amounts due on written contracts. The bill applies to every state agency and unit of local government, except as provided in Section 2 of this act.
(BILL ENCLOSED)

WEST VIRGINIA

No legislation. Does have a provision that is included in all state contracts that makes the state liable for 6% interest per annum on all debts that remain unpaid over 90 days.
(PROVISION ENCLOSED)

WISCONSIN

No legislation but there has been discussion of it among the vendors. The Department of Administration has unwritten guidelines of a 30-day standard of payment, but nothing is mandated. No authorization of late payment of interest charges.

WYOMING

No legislation. Directives have been issued from the Administration and Fiscal Control Office encouraging prompt payments for discount purposes. No authorization for interest payments, but the Administrator of Purchasing and Property Control said that this may be an added incentive to pay bills promptly.

·GETTING THE STATES TO PAY THEIR BILLS PROMPTLY

With this report, we begin the second stage in our campaign to get all governments to pay bills on time.

The first stage of our campaign was completed with the enactment of the Prompt Payment Act (Public Law 97-177). This act was signed by President Reagan on May 21, 1982, and became effective on October 1, 1982.

This act requires Federal agencies to pay all bills within 30 days. Meat and meat products must be paid for within seven days and fresh fruit and vegetables must be paid for within ten days. Agencies failing to pay promptly must automatically pay interest penalties. The interest rate is set by the Secretary of the Treasury every January and July.

Under the act, agencies are penalized for taking discounts after the discount period has expired. Agencies must make partial payments for partial deliveries.

The act calls for improvements in information carried on invoices and receiving reports. If a vendor's invoice has an error or there is an apparent discrepancy in the job done, the act requires that the vendor be notified within fifteen days.

In signing the bill, President Reagan declared that the government should not be a "deadbeat."

The Slow Pay Coalition

The bill was supported by the 42 trade associations of the Slow Pay Coalition (1979-1982). The Coalition was formed by the National Audio-Visual Association. As you will see from the list below, the Coalition represents a wide cross section of the small business community. In addition to the Coalition, other supporters included the U.S. Chamber of Commerce, the National Federation of Independent Business, and the American Council of Consulting Engineers.

The Second Stage

During the first stage, many businesses complained that state governments are often as bad as Federal agencies. Businesses reported that over a third of the bills they are owed by state governments are paid late.

The Boston Globe, in an article titled "The Buck Stops, Bills Go Unpaid," reported late payments by the Commonwealth of Massachusetts almost bankrupted one firm. Others suffered.

The House and Senate reports on the Prompt Payment Act contain examples of state governments paying late. One small business witness told the House Government Operations Committee that late payments by Kansas and Missouri forced him to refuse to do business with these states. Had the House and Senate focused on the state problem, far more examples would have appeared in the hearing records.

States Must Improve

The National Audio-Visual Association concludes that the states must improve their payment practices, just as the Federal government is now doing.

The advantages to the states are:

- *More Competition for State Business.* Firms which now shun state business because of delinquent payments will be willing to bid when payments become dependably prompt. More competition will give states more responsible firms to choose from.
- *Better Prices.* When the Federal agencies began to pay more promptly, some firms immediately reduced prices. When the cost of carrying government accounts is reduced, these cost savings can be passed on to government.
- *Improved Image.* Most businesspeople dislike doing business with governments because of the red tape, bureaucracy, and erratic payments. A state prompt payments statute will improve the integrity of the state's business practices, making the state a more desirable business partner. The statute will earn the state some respect.
- *Savings for the Taxpayer.* More competition, better prices, better image, more desirability as a business partner, and improved integrity add up to savings for the taxpayer.
- *Reduced Paperwork and Bureaucracy.* To make payments on time, state agencies must reduce the paperwork associated with paying bills. Many states have inherited age-old bill processing systems which rely on excessive use of paper, documents, vouchers, and multiple copies. Further, these states process invoices, receiving reports, and vouchers by hand, making bill payment a highly labor-intensive job. Modern technology—computers, wire transfers, telephone approvals, micrographics, and facsimile transmitters—can reduce the labor intensiveness of the job and, in doing so, improve efficiency. For example, reducing to half the number of people who review each invoice will result in substantial savings in some states.

Interest Penalties

Some have worried that interest penalties will end up costing the state a lot of money. Their reasoning is based on the view that "the state will never straighten out its payment problems." They fear that if no improvements are made, the state will be saddled with lots of interest penalties and will pay dearly for the inefficiency of their payment system.

In the case of the Federal government and in other states which have prompt payment statutes, however, interest penalties have been kept to a minimum because top management geared up to reduce sloppy payment practices.

Certainly, if a state adopts a statute without instituting an[illegible]nges in the way payments are made, interest pe[illegible] will be paid. But, the interest penalties are a proven way to force agencies to improve. Interest penalties are the single most powerful weapon your state legislature has to encourage on-time payments.

As a weapon, the threat of interest penalties works this way:

- Agencies must report on their late payments, including announcing the interest they have paid. Such reports generate unfavorable publicity for the agency, causing top agency officials to call for improvements to avoid the problem in the future.
- Agencies hate to lose program money, particularly when tax revenues are forcing legislatures to pare back appropriations. Interest penalties mean lost program money. Lost in the worst possible way—due to poor management practices. Therefore, interest penalties will be avoided at all costs by managers who prefer to spend their money in a positive way rather than waste it.
- With interest penalties, vendors have leverage in getting bills paid up. Without interest penalties, vendors have no way of applying pressure other than threatening to refuse future business.

  Agencies rarely are concerned about threats to refuse future business because the agencies always count on another firm taking over.

  Small businesspeople sometimes phone their governor or state legislator to get a particular bill paid. But, with some agencies, using "politics" backfires—blacklists and retaliations result.

  In essence, without interest penalties, the vendor has no leverage. In contrast, for sales outside government, interest penalties are common. All citizens and businesses face the threat of interest penalties for late payments. Only government has managed to escape interest penalties.

  As an incentive to make on-time payments, interest penalties work in private business. They work with the Federal government. Therefore, they will work in your state.

Future of the Movement

The third stage of the prompt payment movement will take place in city and county governments and school districts. Small businesses report that they have been forced to put hundreds of cities and school districts on "credit hold" with cash-on-delivery required for every purchase. Local governments have ignored the need for prompt payment. Some cities have compounded their precarious financial condition with incredibly bad payment records. It is only a matter of time before concerned citizens, local politicians, and small business leaders insist that local governments become prompt bill payers.

Step-By-Step

But, in the meantime, we recommend that small businesses concentrate limited political and volunteer resources on state governments. By forcing each state to set a good example, we will strengthen our case for local reform.

In the proposed statute, we recommend that [illegible]tate establish payment standards for all state ins[illegible]ns, including hospitals, universities, and other state-[illegible] projects. Furthermore, on-time payments should be required wherever state funds are being used by local governments. After all, every dime spent is state money and the state has every right to expect all managers of state dollars to pay on time or face interest penalties.

Legislative Action

The goal of your legislative campaign should be to convince your state that it is in the state's own best interests to pay its bills on time. Your main enemy will probably be bureaucrats who dislike the idea of changing procedures. State employees will use arguments like:

- We don't have enough people to get all our bills paid on time. This will mean we have to hire more people.

  Your reply: They assume they will be doing things just the same after passage of the act. In fact, they must change their procedures—streamline payments, cut paperwork, eliminate red tape. In most cases, the job can be done by *fewer* people at *less cost.*
- There will be more fraud and abuse if we have to hurry up our examination of invoices we receive.

  Your reply: Thirty days is quite long enough in which to ensure that no fraud or abuse has occurred. More time does not guarantee vigilance. But, more efficient management does. Agencies don't need more time; rather, they need better management.
- We're already strapped for funds. Where are we supposed to come up with all the money to pay these interest penalties?

  Your reply: This statement assumes payments will be made as usual—late! The purpose of the proposed statute is to force agencies to modernize and streamline so as to stop making late payments. As soon as late payments are eliminated, there will be no interest penalties paid. Any state agency that wants to avoid paying penalties should institute better management in bill paying.
- It will never work. Government isn't like business. Penalties are no incentive in government because government doesn't have to make a profit.

  Your reply: Prompt payment legislation does work. Government agencies hate public criticism. Agencies which pay penalties for overdue bills will be criticized by the news media, by the public, and by the state legislature. To avoid criticism, agencies will speed up payments.
- We need a lot more than 30 days to inspect construction, open boxes shipped, and receive and evaluate acceptance papers.

PROPOSED STATUTE TO REFORM & IMPROVE STATE PAYMENT PRACTICES AND TO STOP THE LATE PAYMENT OF BILLS

(1) It is the policy of this state or commonwealth that all bills will be paid on time.

(2) All bills shall be paid within 30 days of receipt of invoice, except as provided in (3).

(3) Where the state or commonwealth, or a project sponsored by state or commonwealth funds, purchases meat and meat products, bills shall be paid within 7 days. Payments for groceries, vegetables, fresh fruit, and other perishables shall be made within 10 days. For other industries with common payment practices of less than 30 days, the state or commonwealth shall comply with industry terms.

(4) Interest penalties must be paid automatically when bills become overdue. It shall be up to each state or commonwealth agency, and each project administering state or commonwealth funds, to calculate and pay interest automatically at the time payment is made on the principal. Interest payments shall accompany payment of net due for goods and services. Agencies shall not require companies to petition, invoice, bill, or wait any additional days to receive interest due.

(5) Partial payment shall be made on partial deliveries. Each complete item or service must be paid for within 30 days or in accordance with (3) above.

(6) All proper deliveries and completed services shall be received or accepted promptly and proper reports shall be forwarded to payment offices within 3 days.

(7) Payment shall be due on the date on which the agency actually receives the invoice or receives the goods or services, whichever is later. The 30-, 10-, and 7-day periods shall be considered as "grace periods" during which all proper invoices shall be paid.

(8) The rate of interest paid by the state or commonwealth shall be the one commonly charged to all the vendor's customers. The rate of interest charged by the vendor to the state or commonwealth may be equal to the vendor's cost of short-term money, but not higher.

(9) Unpaid interest penalties owed to vendors shall compound every month.

(10) These rules shall apply to all purchases, leases, rentals, and contracts for services including construction and remodeling. No state or commonwealth agency, or project supported by the state or commonwealth, shall be exempt from the provisions of this statute.

(11) No discount shall be taken by the state or commonwealth, or by a project manager administering a state- or commonwealth-supported project, unless full payment is made within the discount period. In the event a discount is taken later, interest shall accrue on the unpaid balance from the day the discount offer expired.

(12) Interest shall be paid from funds already appropriated to the offending agency or granted to the state- or commonwealth-supported project. No interest shall be charged directly back to the state or commonwealth treasury.

(13) In instances where an invoice is filled out incorrectly, or where there is any defect or impropriety in an invoice submitted, the state or commonwealth agency, or state- or commonwealth-supported project, shall contact the vendor in writing within 10 days. An error on the vendor's invoice, if corrected by the vendor within 5 business days of being contacted by the agency, shall not result in the vendor being paid late.

(14) Checks will be mailed or transmitted on the same day for which the check is dated.

(15) This statute authorizes no new appropriation to cover interest penalties. State or commonwealth agencies, and state- or commonwealth-supported projects, shall not seek to increase appropriations for the purpose of obtaining funds to pay interest penalties.

(16) Interest penalties are not required when payment is delayed because of disagreement between the agency and the vendor. However, in the event of a dispute, the dispute shall be settled within 30 days after interest penalties could begin to be assessed. At the resolution of any dispute, vendors shall automatically receive interest on all proper invoices not paid for within 30 days (or within 7 days in the case of meat and meat products, or within 10 days for groceries, vegetables, and other perishables).

(17) On small purchases of $500 or less, the state, commonwealth, or state- or commonwealth-supported project, shall, wherever possible, (A) make payment

by cash-on-delivery, or (B) make payment by 10 days after receipt or acceptance of the goods.

(18) [This] statute shall in no way be construed to pro[h]ibit the state or commonwealth from making advanced payments, progress payments, or from prepaying where circumstances make such payments appropriate. All such payments shall be made promptly and are subject to interest penalties when payment is late.

(19) Each agency head is responsible for prompt payments. In all instances where a payment is made late, the head of the state or commonwealth agency shall submit to the proper committee of the state or commonwealth legislature an explanation of why the bill is paid late and what is being done to solve the late payment problem.

(20) Whenever a vendor brings formal administrative action or judicial action to collect interest due under this act, should the vendor prevail, the state is required to pay any reasonable attorney fees.

(21) State or commonwealth agencies making purchases for projects using Federal funds shall make [p]ur-chases without final assurance of Federal [funds] to cover cost of purchases. Where the time of payment is contingent on the receipt of Federal funds or Federal approval, the solicitation of bids for contracts and any contracts awarded shall clearly state that payment is contingent on such conditions.

(22) The state or commonwealth legislature requires that each January (or at the beginning of each fiscal year) the Governor shall submit a report summarizing the state's payment record for the preceding year. Included in the report shall be the number and dollar amount of late payments by the agency, the amounts of interest paid, and specific steps being taken to reduce the incidence of late payments.

(23) This statute shall be effective at the beginning of the next fiscal year and shall apply to all payments due on or after that date.

October, 1982
Released by the
National Audio-Visual Association
3150 Spring St.
Fairfax, VA 22031
Contact: Kenton Pattie
Senior Staff Vice President
(703) 273-7200

WHAT YOU CAN DO TO GET A STATE LAW

As a businessperson who wants to see action in your state, here are the steps you should take:

1. Gather all available ammunition:
   - Are there any payment rules in your state that *aren't working* or are *being ignored* by agencies?
   - *How late* are the state agencies in paying bills? Make up a table based on your company's accounts receivable. *How much do you lose* by lending to state agencies? See sample table and questionnaire.
   - Use answers when you meet with legislators. They will appreciate the factual way you present your case for action.
2. Ask your state Chamber of Commerce and other business organizations you support to go to work on this issue. Use the ammunition from (1) (above) to make your case. You are not the only business-person who is being paid late—they all are, from wax to wrenches, from gasoline to gravel.
3. Get everyone to agree on the 23 key provisions needed in the new state statute. See "Proposed Statute to Reform & Improve State Payment Practices and to Stop the Late Payment of Bills."
4. Meet in person with your state Representative and state Senator. Tell them:
   - How the problem is being solved in other states. Several states already have passed laws requiring interest penalties on all late payments.
   - About the Prompt Payment Act (Public Law 97-177) President Reagan signed May 21, 1982.
   - How your company is being hurt.
   - Why you want action in your state.
5. Contact your national trade association or the National Audio-Visual Association (NAVA), 3150 Spring St., Fairfax, VA 22031, (703) 273-7200. NAVA has agreed to be a national clearinghouse and catalyst for state action to stamp out slow pay. NAVA can provide you with (1) some useful information, and (2) contacts at other national, regional, state, or metropolitan associations which are working on this problem.
6. Share your story with the daily newspaper and trade news editor. Publicity is one of your best weapons. You'll find other vendors, eager to help, will contact you once they read about your efforts in the paper.

WHEN PRESENTING YOUR CASE FOR LEGISLATION, INCLUDE ANSWERS TO THESE QUESTIONS:

1. Are there any state agencies you refuse to do business with because of tardy and sloppy payment practices?
2. What percent of your business is with state agencies?
3. Would the percent in Question 2 increase if state agencies would be prompt payers?
4. State agencies don't pay interest penalties, but do you charge other customers who are late? If so, what interest rate do you receive?
5. Summarize your attempts to get bills paid by state agencies. What have been some of your worst experiences?
6. How many letters do you write and phone calls do you make to get bills paid by the state?
7. What excuses do they use?
8. How often are you asked to resubmit the entire invoice because the original is lost or misplaced?
9. Do the procurement or buying officials communicate with the payment officials, or is there a communications gap?
10. Do you believe state agencies will speed up payments if they are threatened by interest penalties?
11. Do you believe the threat of interest penalties will force a reduction in the excessive paperwork and paper shuffling going on in the procurement and bill-paying offices of state agencies?
12. Do you believe the state keeps its funds invested, collecting interest while you are waiting to be paid?
13. If the state paid consistently on time, could the state get better prices and more competition?
14. Can you name any company which refuses to do business with state agencies?
15. Can you name any company that has been hurt badly by delinquent state payments?

Your reply: In the commercial sector, 30 days is the standard. Why should we accept the argument that it takes the government longer to do everything! Through this statute, the business community is insisting on more efficiency. We are no longer condoning a double standard in which government is always forgiven for its lateness and inefficiency. The proposed statute sets a new standard of efficiency.

- Since all the state's payments will have to be speeded up, the state will lose a lot of interest it should be earning. Instead of investing its money, the state will have to spend it on the prompt payment of bills. The state will lose needed income.

  Your reply: It is outrageous for the government to make businesses wait while the state invests money that should be used to pay bills. In effect, state government is borrowing interest-free from small business. The practice is wrong.

  This statute will have the effect of righting a long-standing wrong. And, in doing so, the state will have a change in its cash flow. But the change will be temporary. [illegible] a couple of quarters, the change in payment practices will be absorbed by the state's cash flow system.

  The temporary change in state cash flow is a small price to pay for decades of irresponsible late payments to small businesses.

- We should merely ask all the agencies to improve their payment practices. The legislation is not needed—just tell them to shape up.

  Your reply: This has been tried. But the truth is, agencies have shown little enthusiasm for voluntary reform. Under some governors, state agencies have improved, only to slide back under other governors. In the Federal government some agencies made improvements which lasted only until new management took over. Experience in other states and in Washington proves that only the threat of interest penalties works.

  The proposed statute is a *permanent* solution, a lasting incentive to get the job done rather than a quick, but temporary, fix.

THE SLOW PAY COALITION
1979-1982

Organizations Which Urged the Congress and the Executive Branch to Resolve the Slow Pay Problem

- National Audio-Visual Association (NAVA)
- National Office Products Association (NOPA)
- National Micrographics Association (NMA)
- National Association of Wholesaler-Distributors (NAW)
- Independent Media Producers Association (IMPA)
- Association of Reproduction Materials Manufacturers (ARMM)
- Coalition for Common Sense in Government Procurement (CCSGP)
- Media Educational Sales Association (MESA)
- National Meat Association (NMA)
- American Logistics Association (ALA)
- Business Products Council Association (BPCA)
- Business and Institutional Furniture Manufacturers Association (BIFMA)
- Association of Editorial Businesses, Inc. (AEB)
- National Association of Manufacturers (NAM)
- American Meat Institute (AMI)
- Association of the Wall & Ceiling Industries—International (AWCII)
- Associated General Contractors (AGC)
- National Broiler Council (NBC)
- Latin American Manufacturers Association (LAMA)
- Automotive Service Industry Association (ASIA)
- Automotive Parts Rebuilders Association (APRA)
- Professional Services Council (PSC)
- United Fresh Fruit & Vegetable Association (UFFVA)
- National Association of Meat Purveyors (NAMP)
- American Association of Nurserymen (AAN)
- National Independent Dairies Association (NIDA)
- Council of Smaller Enterprises (CSE)
- The National Small Business Association (NSBA)
- Smaller Business Association of New England (SBANE)
- Door and Hardware Institute (DHI)
- Small Business United (SBU)
- Mid-Continent Small Business United (MSBU)
- Independent Business Association of Wisconsin (IBAW)
- Chicago Association of Commerce & Industry (CACI)
- National Moving & Storage Association (NMSA)
- National Tooling & Machining Association (NTMA)
- Utah Council of Small Business (UCSB)
- National Association of Small Government Contractors (NASGC)
- American Subcontractors Association (ASA)
- National Association of Plumbing, Heating, Cooling Contractors (NAPHCC)
- National Association of Credit Management (NACM)
- National Association of Electrical Distributors (NAED)

For information, call or write: Kenton Pattie
National Audio-Visual Association
3150 Spring Street, Fairfax, VA 22031
(703) 273-7200

"Prompt Pay" regulations issued; should improve government market for W-Ds

Legislation mandating prompt payment of government bills goes into effect this month. The action represents achievement of a major 1982 NAW legislative priority. The Association had lobbied heavily for the bill all year.

The new Prompt Pay Law (PL 97-177) requires all Federal agencies to pay their bills on time or pay interest for late payments. NAW sought enactment of such legislation to insure timely payment of bills to wholesaler-distributors who sell to the Federal Government, or pay interest on overdue bills, as is the case with other customers.

OMB Regulations

The new law, implemented via final regulations issued by the Office of Management and Budget (OMB), holds the federal government to paying its bills within 45 days, or be subject to interest charges retroactive to day 31.

NAW believes this law and the implementing regulations will result in better government-wholesaler-distributor relations and will *begin* to mold the government into being a better partner for business. Consequently, a more viable sales market for wholesaler-distributors should evolve.

Coupled with the overall reform, simplification and standardization of the entire Federal procurement system, this prompt pay law will go a long way toward that goal.

Provisions

The key provisions of the regulation are:

- *All* Federal agencies and their *instrumentalities*, domestic and foreign-based (such as military post exchanges, commissaries), are subject to the law and the regulations.

"NAW believes the new Prompt Pay law will begin to mold the government into being a better partner for business. Consequently, a more viable sales market for wholesaler-distributors should evolve."

- Interest rates for late payment penalties are set by the Treasury Department semi-annually, published in the Federal Register, and are pegged to the T-bill rate.
- Separate payment dates for partial payment/delinquencies are authorized.
- Time for payment begins upon receipt of *proper* invoice at proper payment office, or date the agency accepts property. *Cautionary note:* Opt for the "when invoice is received" version; agencies can take a long time in "accepting" property.
- Payment time for perishable goods (agricultural products) is ten days (7 days for meat products) after delivery date rather than 30 days, as with other goods.
- Interest payments are not required if payment amount or other contract/purchase order provision is in dispute.
- Interest penalities begin to accrue from day 31 if payment not received 15 days after due date for non-perishable goods (3 days for meats and 5 days for other perishables).
- Recipients of Federal grants assistance are *not* required to pay interest penalties unless it is specifically stated in the contract with the vendor. In any case, that obligation will not be one of the United States.
- Interest penalties are payable for contracts issued on or after October 1, 1982.

There are other technical provisions relating to what constitutes a proper invoice and contract, etc., so before one undertakes contracting with the Federal Government, a copy of this regulation and those of the implementing agencies should be obtained.

NAW has prepared an analysis of the Prompt Pay regulations. For a single copy, send a letterhead request to: National Association of Wholesaler-Distributors, 1725 K St. N.W., Washington, D.C., 20006.

Help Make Government Pay Bills Promptly

By Mark Schultz

In these times of high inflation and high-interest rates, operating capital is hard to come by.

Although most businesses pay their bills in 30 days or less, 39 percent of the federal government's bills are paid late.

When businesses are late in paying taxes or other fees owed to the government, interest is demanded.

However, when small firms attempt to charge the government interest for late payment, the interest charge often is refused.

Small Business Affected

In effect, the federal government is unfairly borrowing up to $11 billion per year from business firms by not paying its bills on time.

Because 90 percent of the everyday commercial products bought by the government come from small distributors and manufacturers, the biggest burden of the slow-pay problem falls on small businesses.

In times of high-interest rates, this can place a severe strain on small concerns.

A representative of the U.S. meat industry recently testified before Congress that, at the end of 1980, his company had military accounts totaling almost $1.3 million — almost one-third of which went unpaid for more than 30 days.

In an industry in which the receipt of raw materials requires almost immediate cash payment, in which payments on invoices are expected within seven days and in which sellers rely on a low rate of profit, a 30-day overdue account can wipe out a sale's entire profit.

Legislation Needed

Because small businesses prefer to receive payment on time rather than receive interest on overdue accounts, legislation is needed to develop consistent cash-management habits for the government.

Delinquent payment costs small businesses and the government additional time and money in tracking unpaid bills. Also, late payment discourages many businesses from dealing with the federal government.

In addition, outstanding bills reduce the government's opportunity to benefit from discounts available when payment is made on time.

Currently, government procurement regulations and standard contract-payment clauses neither specify when payment is due nor provide for interest paid on accounts more than 30 days in arrears.

Therefore, legislation is needed to provide built-in incentives to force agencies to become more efficient and improve their cash management, with any interest charges coming directly from their own operating budgets and not from Treasury funds.

Bill Would End Obstacles

Sens. John Danforth (R-Mo.) and Lowell Weicker (R-Conn.) have introduced such legislation — the Delinquent Payments Act of 1981 (S. 1131).

This legislation would require the federal government to pay interest on overdue accounts.

Under S. 1131, interest must be paid by the offending agency and cannot be charged back to the Treasury.

The penalty would be paid out of funds already appropriated. The bill authorizes no new appropriations.

S. 1131 represents an important step toward eliminating the obstacles and financial burdens on small companies that do business with the government by supplying needed products or services.

The Senate Governmental Affairs Federal Expenditures Subcommittee, of which Danforth is chairman, has held hearings on S. 1131 and soon will begin marking up the bill.

Similar bills have been introduced in the House by Reps. Robert Lagomarsino (R-Calif.) and Glenn English (D-Okla.).

Those measures, H.R. 2036 and H.R. 3494, respectively, have been referred to the Government Operations Committee.

Government Operations Committee Chairman Jack Brooks (D-Texas) is contemplating holding hearings on this important small-business oriented measure, but no hearings have been scheduled yet.

It is important that you write to your senators and representative right away, urging that they cosponsor this legislation.

When you write to your representative, ask him or her to request immediate House Government Operations Committee hearings on H.R. 2036 and H.R. 3494.

Payments Made More Than 30 Days After Invoice Date•

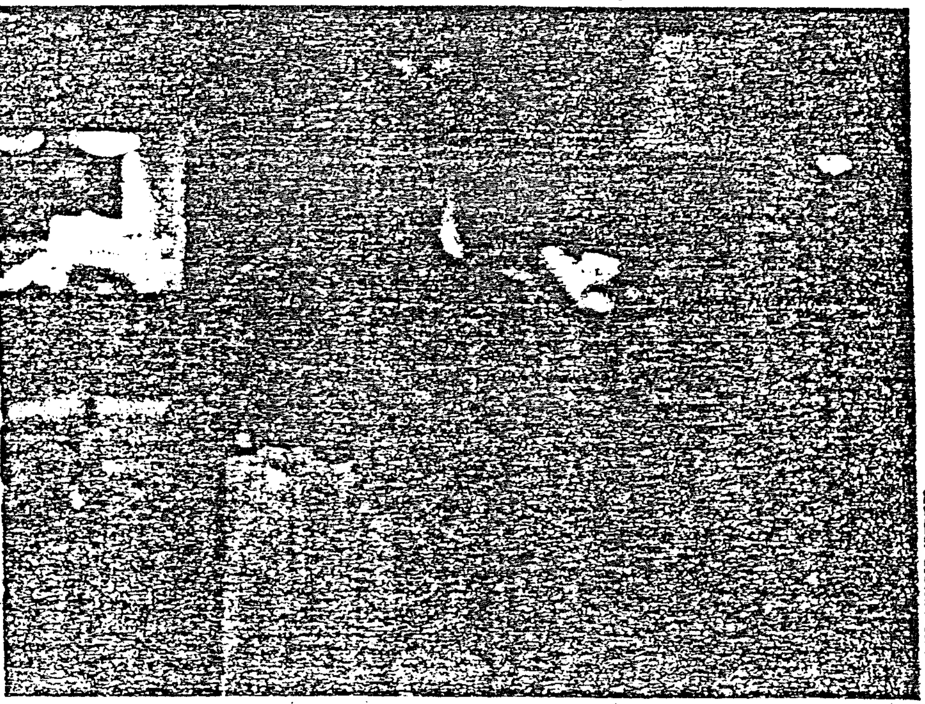
Federal department or agency••	Percent of invoices paid more than 30 days late	Percent of dollars paid more than 30 days late
Commerce	23.1	70.5
Interior	30.4	43.6
Environmental Protection Agency	33.1	35.8
Housing & Urban Development	33.3	36.8
Army	34.9	15.9
Transportation	62.6	74.4
H.E.W.	68.4	75.0
Civil Service Commission	69.6	33.6
General Services Administration	73.6	56.3

• Does not include cases in which a reason was identified as to why payment was not extended within 30 days.

•• Based on sample of 58 payment centers, 3,163 invoices worth $5.6 million.

—Extracted from GAO Report FGMSD-78-3, Feb. 24, 1978

Payroll Issues on Congress' Agenda



Should there be a two-tier minimum wage, with a lower rate for teen-agers who hold jobs like those in fast-food restaurants? Congress may decide.

There aren't any blockbusters looming, but Congress will consider a variety of issues important to small business in coming months.

Most often mentioned by small business groups and legislative insiders is a compromise on Social Security funding that won't raise the payroll tax.

Small firms are often more labor-intensive than bigger businesses, so "they bear a disproportionate burden," says Eamonn McGeady, president of Martin G. Imbach, Inc., of Baltimore, and legislative chairman for the Small Business Council of the U.S. Chamber of Commerce. "A continued escalation of the tax base and tax rate, as is being considered, makes even the employment of one additional person a major decision," McGeady says.

Some other subjects likely to get congressional attention:

- A dual minimum wage that would allow businesses to pay teen-agers less than the current federal floor of $3.35 an hour.
- A federal procurement bill that would help boost small business' share of a $100 billion market for goods and services.
- The Regulatory Flexibility Act. A [illegible] surveillance of federal agencies' compliance with the 1980 law. Some agencies, notably Defense, are moving very slowly toward the legislative goal of tailoring regulations to make it easier for small firms to comply.

The U.S. Does Better At Paying Its Bills

The federal government has shown "vast improvement" in paying its bills on time since the Prompt Payment Act took effect in October, says Kenneth Munro, spokesman for the coalition that pushed the act through Congress. Now a new coalition of associations, corporations and business representatives has made slow-paying state governments the targets for similar legislation.

Munro, who is also spokesman for the new coalition, says many states are worse than the federal government used to be (it paid late about 40 percent of the time). Among the slowest states, he says, are New York and Pennsylvania.

The Prompt Payment Act requires the federal government to pay its bills within [illegible] with day 31. About 90 percent of government contracts are with small distributors, manufacturers and service firms. When the government pays late, these firms are forced to borrow—sometimes hefty amounts—just to stay alive. The Coalition for State Prompt Pay has a base to build from: Munro says 11 states have some kind of prompt pay law and several more have statutes that cover certain kinds of contracts.

Regulators Vow To Make Life Simpler

"Regulation [of business] should be the exception, and the forces of competitive free markets and free consumer choice should be the norm. Government regulations should be as efficient, clear, simple and rational as possible."

These aren't the words of a beleaguered entrepreneur but rather a statement of deregulatory purpose made by an informal group of 14 independent federal agencies, the Council of Independent Regulatory Agencies.

Small business will be a prime beneficiary as agencies like the Federal Communications Commission, the Federal Maritime Commission and the Federal Home Loan Bank Board try to reduce what a recent council report calls "unnecessary and undesirable" regulations. Among initiatives expected soon are Securities and Exchange Commission moves to further simplify regulation of financial markets.

The council report cites among recent successes:

- The SEC has exempted most stock offerings up to $5 million from costly Securities Act registration.
- The Consumer Product Safety Commission has delayed the effective date of a standard governing CB antennae so that small manufacturers can comply without undue expense.
- A bus deregulation act allows carriers—most of whom operate five or fewer buses—the long-sought freedom to raise and lower fares without Interstate Commerce Commission approval.

And since the agencies aren't churning out new rules, their budgets—already squeezed by limitations in the overall federal budget—have grown only marginally since 1980. The agencies' work force has shrunk nearly 10 [illegible]

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Now Uncle Sam can't be a deadbeat

Over the years, Andy Scarborough had become resigned to notoriously slow payment—anywhere from three to four months—from most of his government customers for school supplies and audio-visual equipment. Thus, Scarborough, sales manager of Stone's Southern School Supply Co. in Raleigh, N. C., was surprised when a federally funded school for military dependents in that state not only paid a bill for more than $10,000 within a mere two months at the end of October but also paid an additional $7,000 within 10 days.

The reason is the recently implemented Prompt Payment Act, which requires federal agencies to pay their bills within 45 days or pay interest on the overdue balance. "I guess their financial officers suddenly realized, 'my God, this is federal money, we better do something about it,' " Scarborough observes.

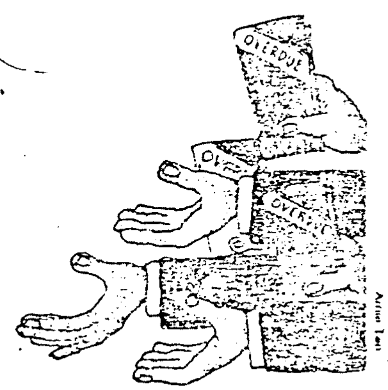
The quick effect of the Prompt Payment Act is doubly satisfying to Scarborough. As a director of the National Audio-Visual Assn., Scarborough was on the ground floor of a 10-year effort by government contractors to lobby such legislation through Congress. Forty-two business groups, allied as the Slow-Pay Coalition (SPC), finally won that battle last spring, and implementing regulations issued by the Office of Management & Budget took effect on Oct. 1.

Setting the rate. Under the OMB rules, agencies must pay bills within 30 days, plus a 15-day grace period. After that they must pay penalty interest on overdue bills. The rate, set semiannually by the Treasury, currently is 15.5%. The OMB, however, also urged agencies to hold off paying as long as possible, to keep Treasury balances up.

In its lobbying, the SPC had argued that the legislation would make government a more desirable business partner, help agencies obtain better prices, and renew interest in sales to the government among companies that have dropped out because of sloppy payment practices. Kenton Pattie, senior staff vice-president of the audiovisual association and the organizer of the SPC, says it is too early to tell whether agencies are beginning to comply: Nov. 15 was the first day interest penalties would have gone into effect. But Pattie says some companies indicate that the new rules "have already resulted in a quickening of payments."

Pattie believes some suppliers may resume bidding for government contracts. Because of Washington's paperwork demands, slow payment, and insistence on low prices, Pattie says, roughly half the 400 members of his audiovisual group either refused to sell to the government or did so only in desperation.

Five-year wait. The worst example Pattie cites is an office products and communications equipment dealer in Albuquerque that is still waiting for its money from the Bureau of Indian Affairs five



Under a new law, the government must pay bills promptly—or pay interest.

years after it shipped the goods. But slow-payment complaints are not limited to any particular agencies. In a survey last year, the American Consulting Engineers' Council (ACEC) found that payments for the average federally funded construction project took close to three months, with federal grant recipients requiring as long as a year. An exception is the Defense Dept., which pays for certain products in 5 to 20 days.

The "most troublesome" clients included the Environmental Protection

Public Law 97-177
97th Congress

An Act

To require the Federal Government to pay interest on overdue payments, and for other purposes.

May 21, 1982
[S. 1131]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Prompt Payment Act

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act". 31 USC 1801 note

INTEREST PENALTIES ON LATE PAYMENTS

SEC. 2. (a)(1) In accordance with regulations prescribed by the Director of the Office of Management and Budget, each Federal agency which acquires property or services from a business concern but which does not make payment for each such complete delivered item of property or service by the required payment date shall pay an interest penalty to such business concern in accordance with this section on the amount of the payment which is due. 31 USC 1801.

(2) Such regulations—

(A) shall specify that the required payment date shall be—

(i) the date on which payment is due under the terms of the contract for the provision of such property or service; or

(ii) thirty days after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract;

(B)(i) in the case of any acquisition of meat or of a meat food product, as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3)), shall specify a required payment date which is not later than seven days after the date of delivery of such meat or meat food product; and

(ii) in the case of any acquisition of a perishable agricultural commodity, as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4)), shall specify a required payment date consistent with requirements imposed pursuant to such Act;

(C) shall specify separate required payment dates for contracts under which property or services are provided in a series of partial executions or deliveries, to the extent that such contract provides for separate payment for such partial execution or delivery; and

(D) shall require that, within fifteen days after the date on which any invoice is received, Federal agencies notify the business concern of any defect or impropriety in such invoice which would prevent the running of the time period specified in subparagraph (A)(ii).

(b)(1) Interest penalties on amounts due to a business concern under this Act shall be paid to the business concern for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if payment for the complete delivered item of property or service concerned is made on or before (A) the third day after the required payment date, in the case of meat or a meat food product described in subsection (a)(2)(B)(i); (B) the fifth day after the required payment date, in the case of an agricultural commodity described in subsection (a)(2)(B)(ii); or (C) the fifteenth day after the required payment date, in the case of any other item. Interest shall be computed at the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary of the Treasury shall publish each such rate in the Federal Register.

Interest rate computation.

Publication in Federal Register.

Unpaid interest penalty.

(2) Any amount of an interest penalty which remains unpaid at the end of any thirty-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

(c) This section does not authorize the appropriation of additional funds for the payment of interest penalties required by this section. A Federal agency shall pay any interest penalties required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred.

Interest penalty payments.

(d)(1) Any recipient of a grant from a Federal agency may provide in a contract for acquisition of property or services from a business concern for the payment of interest penalties on amounts overdue under such contract, except that—

(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant.

(2) Such interest penalty payments shall be made under such terms and conditions as agreed to by the grant recipient and the business concern, consistent with the grant recipient's usual business practices and applicable State and local law.

LIMITATION ON DISCOUNT PAYMENTS

31 USC 1802.

SEC. 3. (a) If a business concern offers a Federal agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the Federal agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each agency which violates subsection (a) shall pay an interest penalty on any amount which remains unpaid in violation of such subsection. Such interest penalty shall accrue on such unpaid amount in accordance with the regulations prescribed pursuant to section 2, except that the required payment date with respect to such unpaid amount shall be the last day of the specified period of time described in subsection (a).

STATE OF KANSAS
DEPARTMENT OF ADMINISTRATION
JOHN CARLIN, Governor
PATRICK J. HURLEY, Secretary of Administration
Room 263-E, Capitol Building
(913) 296-3011

MEMORANDUM

TO: Members of the Senate Ways and Means Committee

FROM: Arthur H. Griggs AG Chief Attorney

DATE: March 21, 1983

SUBJECT: Reporting Requirements of House Bill 2303

Section 5 of the bill requires the number, amount and frequency of late payments for goods and services to be reported to the Director of Accounts and Reports by each state agency. Likewise, that section requires the Director of Accounts and Reports to prepare a report to the Legislative Coordinating Council and the Ways and Means Committees which summarizes each state agency report, analyzes the agency reports and analyzes the progress towards reducing late payments.

The following steps would need to be carried out in order to fulfill the reporting requirements of Section 5:

1. Record receipt of goods or service date.

2. Record receipt of invoice date.

3. Determine payment date.

4. Determine whether No. 1 or No. 2 is the later date.

5. Determine whether payment date was within thirty days of No. 4 determination.

6. If Step 5 answer is no, see if contract provided for a later payment time.

7. If answer to No. 6 is no, record in report log.

8. For each late payment, determine the reason for late payment and record reason.

9. For annual report to director of accounts and reports, determine the number and amount of late payments; also, determine the frequency of late payments.

AHD 3-21-83

10. Annually, the Director of Accounts and Reports summarizes and analyzes each agency report, and reports progress towards reducing number of late payments.

The state pays for goods and services on "miscellaneous" state warrants. For the FY82 period there were 1,333,343 miscellaneous warrants written. It is estimated that over 100,000 of these warrants were for travel payments to which House Bill 2303 does not apply. If 1,200,000 warrants were for goods and services and it takes one minute apiece to perform the above steps, the total clerical time involved would be 20,000 hours (1,200,000 divided by 60). This would equate to 10 full time positions (20,000 divided by 2,000).

AHG:ca