



# 2026 South Dakota Legislature

## House Bill 1230

Introduced by: **Representative Lems**

1 **An Act to modify requirements for payment of the employer's investment in South**  
 2 **Dakota's future fee.**

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

4 **Section 1. That § 61-5-29 be AMENDED:**

5 **61-5-29.** Employers required by this title to pay contributions, except employers  
 6 pursuant to chapter 61-5A, that reimburse the unemployment compensation trust fund  
 7 for benefits paid in lieu of contributions, shall, unless opting out pursuant to section 2 of  
 8 this Act, also pay an employer's investment in South Dakota's future fee, hereinafter  
 9 referred to as the investment fee, on wages as defined by this title. The investment fee  
 10 rate for employers subject to this section, not eligible for experience rating, as provided  
 11 for in § 61-5-24, ~~must be~~ is seventy-hundredths percent through calendar year 2006 and  
 12 fifty-five hundredths percent on and after January 1, 2007. If an employer subject to this  
 13 section is eligible for experience rating, the employer's reserve ratio must be determined  
 14 pursuant to § 61-5-25.3 through calendar year 2017, pursuant to § 61-5-25.4 for calendar  
 15 years 2018 and 2019, pursuant to § 61-5-25.5 for calendar year 2020 through calendar  
 16 year 2023, pursuant to § 61-5-25.6 for calendar year 2024 through calendar year 2025,  
 17 and pursuant to § 61-5-25.7 for calendar year 2026 and each year thereafter, and the  
 18 employer's investment fee rate must be the rate appearing in column "A" on the same  
 19 line the employer's reserve ratio appears in column "B" of the following rate schedule:

	Column "A"	Column "B"
	Investment Fee Rate	Reserve Ratio
22	0.53%	Less than 1.00%
23	0.50%	1.00% and Less than 1.20%
24	0.40%	1.20% and Less than 1.30%
25	0.30%	1.30% and Less than 1.40%

Underscores indicate new language.  
 Overstrikes indicate deleted language.

1	0.20%	1.40% and Less than 1.50%
2	0.10%	1.50% and Less than 1.60%
3	0.00%	1.60% and Over

4           ~~The~~ Notwithstanding section 2 of this Act, the terms and conditions of this title that  
5 apply to the payment and collection of contributions also apply to the payment and  
6 collection of the investment fee. The department shall deposit the proceeds from the  
7 investment fee in the clearing account of the unemployment compensation fund for  
8 clearance only. The proceeds may not become part of the fund. After clearance, the  
9 department ~~must~~ shall deposit the money derived from the investment fee payments, less  
10 refunds made pursuant to the provisions of this title, in the employer's investment in  
11 South Dakota's future fund, as provided for in § 61-5-29.1. No investment fee payment  
12 may be credited to the employer's experience-rating account, nor may the payment be  
13 deducted in whole or in part by any employer from the wages of individuals in its employ.

14           The investment fee rate may not be increased over the applicable 1987 investment  
15 fee rate for any employer with a positive balance in the employer's experience-rating  
16 account on the computation date, as established in rules promulgated by the secretary of  
17 labor and regulation, in accordance with chapter 1-26, for the current year and the year  
18 preceding the current year.

19           The investment rates provided in this section apply to and are retroactive to taxable  
20 wages paid on and after January 1, 1993.

21 **Section 2. That a NEW SECTION be added to chapter 61-5:**

22           The department shall develop a form for opting in to or out of paying the employer's  
23 investment in South Dakota's future fee created by § 61-5-29. The form must fit on one  
24 sheet of paper no bigger than 8.5 inches by eleven inches.

25           The department shall publish the form on its website and distribute at the beginning  
26 of each calendar quarter a physical copy of the form to each employer subject to § 61-5-  
27 29, until the employer submits a completed form to the department. The department shall  
28 provide methods for submitting the form either physically or electronically.

29           The department shall deem all employers that have not opted in to paying the fee  
30 as having opted out, regardless of whether they have submitted a completed form. An  
31 employer that has opted out of paying the fee is not required to pay the fee and is not  
32 subject to the terms and conditions of this title that apply to the payment and collection

1 of the fee. If an employer opts out of paying the fee, the department may not impose any  
2 penalty or other consequence on the employer for nonpayment of the fee.

3 If any employer opts in to paying the fee, the employer is then subject to the terms  
4 and conditions of this title that apply to the payment and collection of the fee at the  
5 beginning of the following calendar quarter after the department receives the form  
6 indicating the employer has opted in.

7 If an employer that has opted in wants to subsequently opt out, the employer must  
8 submit a new form to the department. An employer that previously opted in is no longer  
9 required to pay the fee, and is no longer subject to the terms and conditions of this title  
10 that apply to the payment and collection of the fee, at the beginning of the following  
11 calendar quarter after the department receives the form indicating the employer has opted  
12 out.