

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1322

Introduced by

Representatives Keiser, Clark

Senators Cook, Potter

1 A BILL for an Act to create and enact a new section to chapter 32-12.2 of the North Dakota
2 Century Code, relating to indemnification and insurance provisions in state contracts.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 32-12.2 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Indemnification and insurance requirements in state contracts.**

- 7 1. The director of the office of management and budget shall establish guidelines for
8 indemnification and insurance provisions in contracts that may be entered by an
9 executive branch state agency. The director shall consult with representatives of
10 executive branch state agencies, the insurance industry, and the business
11 community to establish and revise the guidelines and provisions. The guidelines
12 must establish procedures for determining the appropriate indemnification and
13 insurance provisions in contracts.
- 14 2. If a contract for services requires a provision for indemnification, the contract must
15 require the contractor to indemnify the state and its agencies, officers, and
16 employees for vicarious liability, but may not require indemnification for the
17 contributory negligence, comparative degree of fault, sole negligence, or
18 intentional misconduct of the state or its agencies, officers, and employees, unless
19 the director of the office of management and budget or the director's designee
20 determines a more stringent indemnification provision is appropriate. If
21 indemnification is required, the contract must require that the state be endorsed on
22 the contractor's commercial general liability policy as an additional insured or must
23 require an equivalent form of protection for the state.

- 1 3. This section does not apply to a contract between an executive branch state
- 2 agency and another person that is the owner of private property that is being used
- 3 to accommodate a state construction project.
- 4 4. The failure to comply with subsection 2 does not void any part of a contract.