

**FIRST ENGROSSMENT  
with Senate Amendments**

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 of the state to comply with subsection 2 does not void any part of a
- 5           contract.