

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2250

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2250

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2250

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-02-05

Tape Number	Side A	Side B	Meter #
1	xxx		2200-end
1		xxx	0-863
2	xxx		0
Committee Clerk Signature <i>Lisa Van Berkom</i>			

Minutes: **Chairman Mutch** opened the hearing on SB 2250. All Senators were present.

SB 2250 is for an Act to authorize agencies to limit the liability to the state of certain contracting parties and to permit ratification of certain existing agreements limiting liability to the state.

Senator Trenbeath introduced the bill.

Senator Trenbeath: This bill is being introduced by request of the Attorney General. This will help resolve certain contracting problems that we are having in the state. The present law places restrictions on the state's ability to assume liability in contracts. This can operate to the detriment of good government. The state is negotiating multi million dollar contracts with large vendors, especially with computer software and hardware. SB 2250 establishes a process to assess the state's risk and allows the Office of Management and Budget and the Attorney General together, to determine whether it is acceptable for the state to assume some of the risk associated with these large contracts.

There were no questions from the committee.

Curt Wolfe, ITD Dept., Chief Information officer for North Dakota, spoke in support of the bill.

Curt: Line 6, it talks about the fact that the Attorney General and the Director of the Office of Management and Budget, would have some discretion to look at where limitations do logically apply and how it affects the interest of the state and the agency that is trying to contract with a third party. On line 10, we talk about specifically, information technology leases, software communications, electronic equipment. Section 2, speaks to an employee or officer of an agency who enters into a contract prior to the effective date of this particular act that would address the issue of any liability on their part for signing that contract with limitations in that contract for this legislation.

There were no questions from the committee.

Robert Pope, President of Nexus Innovations, spoke in support of the bill. See attached testimony.

Senator Heitkamp : Why would these companies be afraid of liability of their own service?

Robert: To me the issue is not the removal of liability, it is simply limiting that to the proper levels. So if you have the setback two or three times the amount of the contract, it appears to be sufficient to cover those issues.

Senator Heitkamp: The departments would have the ability to go back in and put a lot of that burden back onto the state?

Robert: That's not the way I read it. The liability would still be sufficient and substantial carried by the firm.

Senator Heitkamp: The Attorney General and the Director of the Office of Management and Budget determine that it is in the best interest of the state, an agency may agree to limit the liability of a contractor to the state. So if they limit that amount of liability, obviously that additional risk would go beyond that, would be the burden of the state. What are they afraid of?

Robert: If my company was worth three billion dollars and I was going for a contract with the state for a million dollars, would I be comfortable risking three billion, for a million dollar piece of business? I would want that to be more proportional to the benefit of that contract.

Senator Heitkamp: I understand that. That isn't what this bill says. It says that those individuals, the Attorney General and OMB can determine whatever that amount of liability.

Robert: It leaves significant flexibility.

Jo Zschlomer, Director of the Risk Management Division of OMB, spoke in support of the bill. See attached testimony.

Senator Espgaard: This doesn't mean that the state would have no liability protection, it means that it limits it's liability protection.

Jo: Correct.

Senator Klein: So we are providing a backstop, but only in technology.

Jo: Correct.

Senator Klein: So when ITD is out on a bid process, this is part of the way we do business?

We need to have this backstop is we are going to business with major electronics companies?

Jo: Yes, that is the situation.

Chairman Mutch : But then it would be left to the discretion of the Attorney General and the Director of OMB to determine what liability there could be?

Jo: We would work with them to try to determine the amount.

Senator Espegard : It's not that the company won't accept the liability, it's probably that they want to have some quantified number so that they go to sell their stock, the whole world can't come after them. It makes good sense.

Jo: That is exactly their idea.

Senator Heitkamp: Doesn't this preclude liability?

Jo: They both would have to agree.

Senator Heitkamp : They could waive liability with this open-ended bill.

Jo: I think the reason this was drafted this way was that we wanted to make sure that there was someone analyzing these contracts.

Senator Heitkamp: Small groups of the business world is trying to niche out this protection for themselves, why?

Chairman Mutch: If you have some software you want to get, maybe one supplier would be easier to negotiate the excess liability or excess exposures on the other.

Jo: The industry does this.

Sandy Tabor, Deputy Attorney General, spoke in support of the bill.

Sandy: Our concern all along is that right now we have entered into some contracts that the Attorney General could not sign off on, because it was not statutory. Our concern is that we don't believe anyone was acting outside the scope of their employment when they signed those contracts, but I believe it is arguable that they would because we could not sign off and say that they are legal contracts. This bill provides some flexibility.

Senator Espegard: How many contracts are there?

Sandy: There are two in mind.

Senator Klein: Do we need the emergency clause on this bill?

Sandy: We didn't want to push it, but if the committee would like to do that, it would be fine with us.

Senator Espegard requests to see the contracts.

Senator Fairfield: What other contracts have you limited liability?

Sandy: I'm not sure of any.

Chairman Mutch: Presently when you enter into an agreement, what do you do?

Sandy: We don't have a physical amount.

Senator Heitkamp: You said that the reason you are doing this is because the industry is demanding it. What if the Association of General Contractors came in and said they all got together and they aren't building roads anymore unless you totally waive all liability, is the Attorney General's office going to come in and say we have to do that?

Sandy: If that day comes, we will have to talk about it.

The hearing was closed. No action was taken until the afternoon of Feb. 2, 2005.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2250

Hearing Date 2-02-05

The committee reconvened in the afternoon to vote on the bill.

(Tape 2)

Senator Krebsbach moved to amend the bill.

Senator Klein seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent.

Senator Krebsbach moved a DO PASS AS AMENDED.

Senator Espegard seconded.

Roll Call Vote: 5 yes. 1 no. 1 absent.

Carrier: Senator Krebsbach.

Date: 2-2-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2250

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Add Emergency Clause

Motion Made By Krebsbach Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	A	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2250

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Krebsbach Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	X
Senator Klein, Vice Chairman	X		Senator Heitkamp	A	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 5 No 1

Absent 1

Floor Assignment Krebsbach

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2250: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2250 was placed on the Sixth order on the calendar.

Page 1, line 2, after "state" insert "; and to declare an emergency"

Page 1, after line 19, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2005 HOUSE JUDICIARY

SB 2250

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2250

House Judiciary Committee

☐ Conference Committee

Hearing Date 3/8/05

Tape Number	Side A	Side B	Meter #
1	xx		42.8-end
1		xx	0-13.3
2		xx	8.6-10.4
Committee Clerk Signature <i>Naun Penrose</i>			

Minutes: 12 members present, 2 members absent (Reps. Charging and Onstad).

Chairman DeKrey: We will open the hearing on SB 2250.

Curt Wolff, Chief Information Officer for the State, and Director of ITD: Support, explained bill. The bill is intended to allow for putting limitations on liability on state contracts, so when we look at the bill, I specifically refer to line 6, that says that the AG and the director of OMB, determines that in the best interests of the state, the agency may agree to limit the liability of a contractor to the state. If you go on to line 10, it specifically focuses on the purchase or lease of software, communications or electronic equipment. Certainly it is IT directed, although that may or may not be broad enough in the future.

Chairman DeKrey: The lines aren't matching up to the bill we have.

Curt Wolff: I may have an old bill. That first reference to the Attorney General is on line 7 and the purchase and lease of equipment is on line 11. The second section of the bill, as a retroactive nature, in terms of ratifying contracts where an employee of an agency has signed a

contract for the sum limit on liability. I know of one of those that has occurred. Finally, in the Senate they added the emergency clause featured to this bill as well. Let me give a couple of examples where this was an issue this year. Last summer we went through an RFP process, we were upgrading the state's radio network from analog to digital. We had a lot of money from homeland security that we could apply to this process. We ended up selecting Motorola, as the company to come in and do this upgrade to the state radio network system. That company, when they reviewed our contract provisions, which required unlimited direct and indirect liability for the contractor, they were unwilling to sign that contract. They felt that it would put their whole company at risk. They would have to have a footnote to their financial statement that would have to be filed with the FCC, so they were unwilling to sign that agreement. We didn't want to lose the homeland security dollars, this was a very important project to the state of ND, we wanted to find some way to come up with an agreement on this particular contract. So we worked with the AG's office, and Risk Management, we spent a lot of time negotiating with the company to try and come up with something we felt limited the risk of the state, and at the same time address their concern. We ended up with an agreement to limit their liability to 3x the size of the contract. This was a \$7 million dollar contract so the liability limit was \$21 million dollars which we felt was sufficient, given the risk which is very small, in terms of any damages and doubted that it would ever exceed \$21 million dollars. So the Division of Emergency Management went ahead and did sign that agreement and we entered into a Lease/Purchase agreement with them over an 8 year period to finance this and pay it back to homeland security dollars, which worked out to be a very good thing and the project is underway as we speak. That's the first example. The second example, it references an organization, a not-for-profit

organization called the American Registry for Internet Numbers. This is a group that we go to get blocks of Internet numbers for Internet protocol assignments, as far as our statewide network. This group is a nonprofit organization responsible for the registration, administration and conservation of Internet protocol address base within North America. Organization's who desire to communicate over the Internet, need to order their Internet protocol addresses from this particular organization. They are the sole provider of IP addresses in North America. This company will not accept any alterations to their service agreements. One of the agreement clauses, clarifies this indemnification and states, that they will not identify any organization for any reason. Keep in mind that this company just gives us addresses, they don't reside in the state, they aren't doing business here, they just give us those blocks of addresses. For the next generation of the Internet, which is called IP version 6, we need a block of IP addresses, but we can't currently sign this agreement in its present form because of the fact they won't accept unlimited liability, in terms of what the current law requires in ND. We have not executed an agreement there, but this is something we need to do and we need to be able to sign those kinds of agreements, for those kinds of situations like that, where the risk of liability is almost nonexistent. My final point is that this is not just a unique issue with the state of ND, this has become a real national issue. The National Association of State CIO's, a group of which I am a member of, recently had a working group, chaired by the CIO from the state of Maine, talked about this whole issue and tried to address this issue because every IT company I'm aware of today, in terms of any kind of contract requirement, does want some sort of reasonable limitation on liability. They issued a brief paper that talks to this issue. They came up, in their discussions with the private sector, as well as among other states, that the general principle of procurement,

committee recognizes that both states and vendors work to determine the true risks that are associated with state IT procurement contracts, and then allow the states to protect themselves against those true risks as opposed to drafting IT contracts with unlimited liability for IT vendors. They go on to say in another section, it talks about this issue of limiting liability, vendor liability should be limited according to the risk associated with the contract. Opinions vary as to the generally accepted amount of liability in relation to the value of the contract, although 2x the value of the contract appears to be a high end amount. However, liability limitations, in excess of 2x the amount of the contract, could be warranted for high risk contracts, such as contracts for state IT systems that involve public safety, or homeland security. The Motorola contract I referenced earlier, is an example of that kind of an agreement, and we ended up with 3x, of the limited liability in that particular contract. So this is a national issue, certainly not unique to our state, but certainly important to us as well. We have a number of contracts, IT processes underway as we speak that would be impacted by this whole issue of limitations of liability. We're looking for some flexibility here, but certainly this will be a collaboration between the AG's office, Risk Management and certainly ITD; we're involved in the contracting process and we're looking for some flexibility here. Certainly if Risk Management or the AG's office says that the risk is too great, you need to have unlimited liability, that's what we would ask for. Where limits are reasonable, then we would look for some limitations on this liability as well.

Chairman DeKrey: We will take Sen. Trenbeath's testimony.

Sen. Tom Trenbeath: Support.

Chairman DeKrey: Thank you.

Representative Meyer: In case there is a loss, that is approved by the AG and it just comes out of the Risk Management Fund?

Curt Wolff: Yes, that's right.

Representative Klemin: Limiting the liability from what you've talked about, that would limit the amount of the potential liability, and is it correct to say here that you're not talking about other kinds of limitations, for example where the contracting party would not be responsible at all for some negligence.

Curt Wolff: Yes, that's exactly the point. We would certainly not limit that kind of liability when their negligence causes the damages, they would be totally responsible for that.

Representative Klemin: So really we're talking about a maximum amount of damages, rather than some other kind of limitation, a dollar limitation.

Curt Wolff: I think that's exactly correct.

Chairman DeKrey: Thank you.

Sandi Tabor, Deputy Attorney General: Our office has worked on writing this bill to try and rectify what's really, what has become a very difficult issue. In the case of the state radio contract, our office had to tell the IT group that we could not sign off on a contract because we believed that it was outside the scope of what the law provided. What that means, to take it to its furthest extreme, is that the people who signed that contract, could possibly be outside the scope of their employment, which is a pretty extreme circumstance. The fact of the matter is, is that no one here believes that they were outside the scope of their employment, because in fact this contract is important to the state, something that everyone in the room agreed needed to happen. The concern was, however, that the limitations in the state statute. The issue here is actually how

much of their negligence are we willing to accept, because all of these contracts, when we're talking about the limitation of liability and the indemnification, we're really talking about where we draw the line in the sand. In the case of the radio contract, it was 3x the contract value. Well, if there was a suit where damages were 4x, the issue then would be a) were they negligent and b) how much of their negligence are we going to be willing to pay. That's why we put in here, some fairly carefully crafted language about the fact that we'll do a risk analysis and Jo will talk a little bit about that because that's what we're talking about when we're looking at contracts. They look at what the potential risks is here, the potential benefit to the state, and then see how far we're willing to go for that. That risk benefit analysis is something we'll all have to work on as a group, to make sure that we're comfortable with it, and arriving at where that line in the sand is. We never really get away from the issue of negligence, because that's what it's really all about.

Representative Klemin: In the civil context, you're talking about limiting liability. Quite often it has to do with whether you are liable at all, and everything I've heard so far, has to do with the amount of damages, which is to me a different context. It's not really limiting liability, it's limiting the damages.

Sandi Tabor: I don't think that you're wrong, but I think though that we have to approach it, is starting from what happens last and that is the amount of damages that there are, and looking backwards into, let's do an assessment of what the potential liabilities are, and where we're willing to go with that.

Representative Klemin: I'm looking at this on line 8, it says limit the liability, maybe it should say it limits the amount of liability, it would be consistent with what I've heard from testimony.

Sandi Tabor: I think that you're not wrong. I think the bottom line here is that what we're trying to do is capture how much risk we're willing to take, and risk often, as you know, is defined by the amount of liability, the damages.

Representative Klemin: Is the statute you're talking about, is that in chapter 32-12.2.

Sandi Tabor: Yes. It's 32-12.2-02, sub 3(p). Provides, in part, that the state cannot be held liable under the chapter for a claim for the liability under the contract.

Representative Klemin: We have another statute, somewhere, and I can't tell you exactly what it is, something to the effect that you can't have a contract that exonerates you from your own negligence, it's something going against public policy, I don't remember what that is now, but I can find it, but that would be, we're not intending to supersede that are we?

Sandi Tabor: To the extent that this language will supersede it, I think actually we would be superseding it. I don't remember the exact phrasing and I know which one you are talking about.

Representative Klemin: There is one of those.

Sandi Tabor: But this, of course, would suggest that there is legislative intent to the extent that would have to deal with negligence above and beyond that more general statute, that this would supersede that, I believe.

Representative Klemin: But everything I've heard has to do with dollar amounts, rather than what that statute is intended to apply to, that you can't contract your way out of not being liable at all, that's not here is it.

Sandi Tabor: Our intent is not to contract them out of liability at all; although, maybe Curt can address this, the question that comes to my mind is what will we do the day that the contractor says, you have to indemnify us for whatever. Let me tell you a little story about a contract that exists right now, which happened before the AG went into office in 2001. The Mill and Elevator entered into a contract with Sara Lee, and the indemnification in that contract says, that the state will indemnify Sara Lee for as long as any of the products for which they are using our flour are still on the shelves. Which, of course, makes it a continuing potential liability for us, as far as I know, we're still selling them flour. Now, that contract as I understand it, was entered into with no consultation with the AG's office at the time. We have suggested to them, that at some point, they're going to have to look at that, because it's unacceptable. I think that's getting at the heart of what you're saying, they're entitled to unlimited liability forever. I think we've already done that, it's not making it right, but I think that's part of our problem with all of these contract issues, is what we're trying to do is, through this type of language, at least give us some flexibility and ability to carefully analyze these bigger contracts with these entities, that really do have most of the power in their hands. Because if they don't want to do business with us, they won't. It doesn't make it right, it's not a very comfortable position for us. That's a problem right now.

Representative Klemin: Section 2 of this, are you going to go back and go over these contracts and have to specifically approve or ratify them.

Sandi Tabor: With the exception of the Sara Lee, which I don't think would apply to that one, because it's a soft one. I think we've actually caught, as far as we know, there's two, PeopleSoft and Motorola are the two that we know exist, and I believe that that type of analysis

was done as part of the negotiations, so I think it's already been done. The problem is that perhaps there may not have been statutory authority to do it.

Chairman DeKrey: My questions is, if we did away with sovereign immunity in the state, what authority IT would have had to enter into a contract to say to limit the damages to 3x.

Sandi Tabor: That therein lies the heart of the problem.

Chairman DeKrey: Will this still solve that.

Representative Zaiser: I understand you go through a process, but isn't it rather subjective when you are establishing that dollar amount of what that outstanding risk is. Any time you go through that process, it's very subjective kind of thing.

Sandi Tabor: I'll ask Jo Zschomler to follow up on that question. It may not be as subjective as it seems, because part of this, you can actually look at a risk analysis and project. Now there are certainly some variables involved in that, that are subjective viewpoints, but I think the point is, in fact, it will be a lot better than what it has been; because it will actually be a discussion about what our potential risks might be. That's not uncommon. When we enter bigger contracts, at least our office gets involved, we do try and look at what are the potential risks and that's what Jo's job is, to analyze what the potential risks are. While it may be subjective to some degree, you also have to take into account the training and the knowledge and experience that people like Jo Zschomler bring to the table, too.

Chairman DeKrey: Thank you. Further testimony in support of SB 2250.

Jo Zschomler, Director, OMB Risk Management Division: Support (see written testimony).

One of our tasks is to work to analyze proposed contracts to see what the exposure to risk is to the state. The contracts that pertain to the software, communication or electronic information are

unique in themselves. They have evolved into being a very special type of contract and respond to some of the questions, they specifically address direct and indirect damages resulting from them providing services or equipment. They have excluded the limitation of liability for death and for some other factors. It's not quite as catastrophic a limitation on their damages as it would appear if there were not these exclusions under the contract. Again, we factor all of that in, in the Motorola contract, one of the considerations we made, that would be a part of type of an analysis, was we were dealing with a 30 year old system, that was failing and we were probably not going to be able to support it, so we had to consider whether the risk of liability to the state, if that were to fail and offset that with the fact that we had to agree to limit some of Motorola's exposure. Those are the types of analysis. As was discussed, it's necessary for the other portions of the bill to be a part of your consideration, because there is an exclusion under the tort claims act for the state assuming any liability under contract or funding that liability. We had to find a way to fund it, if there would the extreme exposure to the state.

Representative Klemin: So that we have this in the proper context, I guess what we'd be doing in these contracts would be, we would not be exempting the other parties from their negligence or their liability, but rather we would be delineating the scope of their potential liability. Is that correct.

Jo Zschomler: That is exactly correct.

Chairman DeKrey: Thank you. Further testimony in support of SB 2250.

Robert Pope, President of Nexus Innovations, member of Information Technology Council of ND: Support (see written testimony).

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House Judiciary Committee
Bill/Resolution Number SB 2250
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Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to SB 2250. Representative Klemin has an amendment for that, you wanted to put the amount of liability on lines 8.

Representative Klemin: I think we had it clarified on the record, I think that really what we're talking about is delineating the scope of potential liability and not exempting from liability.

Chairman DeKrey: So it's okay.

Representative Klemin: I move a Do Pass.

Representative Maragos: Seconded.

12 YES 0 NO 2 ABSENT

DO PASS

CARRIER: Rep. Klemin

Date: 3/8/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2250

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Klemin Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	/		Representative Delmore	✓	
Representative Maragos	/		Representative Meyer	✓	
Representative Bernstein	/		Representative Onstad	✓	
Representative Boehning	/		Representative Zaiser	A	
Representative Charging	/				
Representative Galvin	/				
Representative Kingsbury	/				
Representative Klemin	/				
Representative Koppelman	A				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Klemin

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 8, 2005 3:47 p.m.

Module No: HR-42-4449
Carrier: Klemin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2250, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2250 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2250

TESTIMONY BY JO ZSCHOMLER, DIRECTOR

OMB Risk Management Division

Industry, Business and Labor

Senate Bill 2250

February 2, 2005

Chairman Mutch, members of the Industry, Business and Labor Committee, my name is Jo Zschomler. I am the Director of the Risk Management Division of OMB and appear today to provide information concerning Senate Bill 2250.

One function of the Risk Management Division is to provide loss control services to State agencies. That function includes analyzing exposures that present potential for monetary loss to the State, quantifying the exposure, and determining if the exposure should be transferred through contract provisions or the purchase of insurance. We work with the Office of Attorney General and ITD to negotiate contracts including those for software, communication, or electronic equipment.

Adopting SB 2250 would authorize the State to assume liability for software, communication, or electronic equipment contracts if it is determined by the Attorney General and the Director of OMB that it is in the State's best interest to do so and to use the Risk Management Fund to finance that assumption of liability. This authorization is required since N.D.C.C. § 32-12.2-02(3)(p) provides in part that the State cannot be held liable under that chapter for a claim for liability *assumed under contract*. OMB through Risk Management would work with ITD to analyze the exposure presented by a proposed agreement and recommend what level of limit of a vendor's liability would be acceptable, if any.

Testimony of Robert Pope
President, Nexus Innovations, Inc.

on SB 2250
February 2, 2005

*Same given
to House*

Mr. Chairman and members of the Senate Industry, Business and Labor Committee:

For the record, my name is Robert Pope and I am the president of Nexus Innovations in Bismarck. I'm glad to be here today to encourage you to support SB 2250 on behalf the Information Technology Council of North Dakota (ITCND) and Nexus Innovations.

Nexus Innovations provides innovative, results-focused solutions to tough technology and management challenges. Our clients include financial institutions, health care, the energy industry and the public sector. We specialize in writing custom software, system integration, project management and IT consulting services.

Nexus has been a member of ITCND since its inception in 2000, when it was created by North Dakota business, government and university leaders who recognized the need to strengthen the state's information technology infrastructure and reposition the state as a national leader in IT. ITCND has more than 100 member organizations, with representatives from both the public and private sector.

The members of ITCND believe in a stronger North Dakota through information technology excellence and development. We also work to create a favorable IT business climate for private sector businesses, which we believe SB 2250 will do by limiting the liability of software, communication and electronic equipment contractors to the state. This allows for fairer and easier contract opportunities for private sector businesses, including Nexus.

We thank you for your support of business development in the past, and we encourage you to give SB 2250 a DO PASS recommendation as it would simplify the process of contracting with the public sector.

Pope testimony in support of SB 2250.