

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1322
(Representatives Keiser, Clark)
(Senators Cook, Potter)

AN ACT to create and enact a new section to chapter 32-12.2 of the North Dakota Century Code, relating to indemnification and insurance provisions in state contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Indemnification and insurance requirements in state contracts.

1. The director of the office of management and budget shall establish guidelines for indemnification and insurance provisions in contracts that may be entered by an executive branch state agency. The director shall consult with representatives of executive branch state agencies, the insurance industry, and the business community to establish and revise the guidelines and provisions. The guidelines must establish procedures for determining the appropriate indemnification and insurance provisions in contracts.
2. If a contract for services requires a provision for indemnification, the contract must require the contractor to indemnify the state and its agencies, officers, and employees for vicarious liability, but may not require indemnification for the contributory negligence, comparative degree of fault, sole negligence, or intentional misconduct of the state or its agencies, officers, and employees, unless the director of the office of management and budget or the director's designee determines a more stringent indemnification provision is appropriate. If indemnification is required, the contract must require that the state be endorsed on the contractor's commercial general liability policy as an additional insured or must require an equivalent form of protection for the state.
3. This section does not apply to a contract between an executive branch state agency and another person that is the owner of private property that is being used to accommodate a state construction project.
4. The failure of the state to comply with subsection 2 does not void any part of a contract.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1322.

House Vote: Yeas 86 Nays 2 Absent 6

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State