

Industry, Business & Labor Committee

Chairman Rep. Mike Lefor

February 9, 2021

HB 1316

**Testimony of Rod Backman, Covenant Consulting Group
#332 representing, Deloitte Consulting**

rbackman@bis.midco.net

701-400-2076

Chairman Lefor, and members of the committee, my name is Rod Backman. I am here today representing Deloitte Consulting, LLP.

North Dakota's current statute (NDCC 32-12.2-15) with its unlimited liability for direct losses is restricting competition in state contracts. The last sentence of this statute reads:

"A contract under this section may not limit any direct loss to the state or loss resulting from property damage or personal injury."

We are supportive of HB 1316.

We have real life examples of vendors that will not bid North Dakota projects because of the current statute. Currently Deloitte is operating in more than 25 states none of which have the current unlimited liability language we see in North Dakota law.

As we were working on drafting this legislation, staff of the Attorney General's office stated, in the past several years only 3 or 4 vendors have walked away from negotiations when they became aware of the current unlimited liability in ND. That may be true but what we do not know is how many vendors never even bid on the projects because of this statute.

We believe improvements in this language can make the bidding process more competitive and in the long run save the state money on IT service contracts.

I have attached to my written testimony a letter sent last September from CompTIA, the leading IT industry trade association in support of these changes to the Legislative Interim IT Committee. They point out that nationally the state trend is toward best practices of “limitation of liability that is rationally related to the economic benefit of the engagement.” They further stated it, “is in the State’s own direct interest, as it will foster participation by qualified vendors in State solicitations for bids, reduce the length of negotiations, and lower cost to the State.

Mr. Chairman, online to speak in favor of the bill and to add some detail is Mr. Keith Zalaznik, with Deloitte Consulting. Mr. Zalaznik is currently the manager for an IT project Deloitte is doing for the ND Department of Human services.

Mr. Chairman, I would be happy to take any questions you or the committee may have.

Thank You.

Rod Backman