

HB 1316 TESTIMONY
HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE
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Mr. Chairman and members of the committee, my name is Greg Hoffman. I am the Director of Administrative Services within North Dakota Information Technology (NDIT). I am here to express support for House Bill 1316.

One of the many duties of my position, is to oversee the procurement of IT hardware, software and services. At the end of many of these procurements, a contract with a vendor is established and I am the signatory for NDIT. Many procurements are for the delivery of hardware or for the rights to use software. There is no required physical interaction between the vendor and NDIT.

As NDCC 32-12.2-15 is currently written, contracts are not able to limit direct loss to the state or loss resulting from property damage or personal injury. The unintended result of this language has been a reluctance from publicly traded vendors to participate in procurements due to the unknown and potentially unlimited liability. When a publicly traded company takes on unknown or unlimited liability, the company must disclose the liability. Increasing the liability creates a situation for shareholders to react negatively, potentially damaging the share price.

As a result, the best respondent to a procurement may not even submit a response, or in some cases, the State and the vendor are not able to come to an agreement on the contract and a different vendor may be chosen.

The proposed Century Code changes would allow for more flexibility in contract negotiations during the procurement process and could ultimately result in a better overall procurement response.

This concludes my prepared remarks. I would be happy to answer any questions.

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