

Sixty-ninth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1142**

Introduced by

Representatives Pyle, Stemen, M. Ruby, Schauer

Senators Roers, Thomas

1 A BILL for an Act to amend and reenact sections 32-12.1-03 and 32-12.2-02 of the North  
2 Dakota Century Code, relating to the statutory caps for liability of political subdivisions and the  
3 state; and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 32-12.1-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **32-12.1-03. Liability of political subdivisions - Limitations. (Effective through July 31,**  
8 **2027June 30, 2026)**

9 1. Each political subdivision is liable for money damages for injuries when the injuries are  
10 proximately caused by the negligence or wrongful act or omission of any employee  
11 acting within the scope of the employee's employment or office under circumstances  
12 in which the employee would be personally liable to a claimant in accordance with the  
13 laws of this state, or injury caused from some condition or use of tangible property,  
14 real or personal, under circumstances in which the political subdivision, if a private  
15 person, would be liable to the claimant. The enactment of a law, rule, regulation, or  
16 ordinance to protect any person's health, safety, property, or welfare does not create a  
17 duty of care on the part of the political subdivision, its employees, or its agents, if that  
18 duty would not otherwise exist.

19 2. The liability of political subdivisions under this chapter is limited to a total of ~~three-~~  
20 ~~hundred seventy-five thousand~~four hundred sixty-eight thousand seven hundred fifty  
21 dollars per person and one million ~~eight hundred seventy-five thousand~~ dollars for any  
22 number of claims arising from any single occurrence regardless of the number of  
23 political subdivisions, or employees of such political subdivisions, which are involved in  
24 that occurrence. A political subdivision may not be held liable, or be ordered to

indemnify an employee held liable, for punitive or exemplary damages. The liability-  
limits under this subsection must be adjusted annually as follows:

- a. ~~On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars~~  
~~per person and one million six hundred twenty-five thousand dollars for any~~  
~~single occurrence.~~
- b. ~~On July 1, 2024, a total of four hundred thirty-seven thousand five hundred~~  
~~dollars per person and one million seven hundred fifty thousand dollars for any~~  
~~single occurrence.~~
- c. ~~On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty~~  
~~dollars per person and one million eight hundred seventy-five thousand dollars~~  
~~per occurrence.~~
- d. ~~On July 1, 2026, a total of five hundred thousand dollars per person and two~~  
~~million dollars per occurrence.~~

3. A political subdivision or a political subdivision employee may not be held liable under  
this chapter for any of the following claims:

- a. A claim based upon an act or omission of a political subdivision employee  
exercising due care in the execution of a valid or invalid statute or regulation.
- b. The decision to undertake or the refusal to undertake any legislative or  
quasi-legislative act, including the decision to adopt or the refusal to adopt any  
statute, charter, ordinance, order, regulation, resolution, or resolve.
- c. The decision to undertake or the refusal to undertake any judicial or quasi-judicial  
act, including the decision to grant, to grant with conditions, to refuse to grant, or  
to revoke any license, permit, order, or other administrative approval or denial.
- d. The decision to perform or the refusal to exercise or perform a discretionary  
function or duty, whether or not such discretion is abused and whether or not the  
statute, charter, ordinance, order, resolution, regulation, or resolve under which  
the discretionary function or duty is performed is valid or invalid.
- e. Injury directly or indirectly caused by a person who is not employed by the  
political subdivision.
- f. A claim relating to injury directly or indirectly caused by the performance or  
nonperformance of a public duty, including:

- 1                   (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so
- 2                   act regarding compliance with or the violation of any law, rule, regulation, or
- 3                   any condition affecting health or safety.
- 4                   (2) Enforcing, monitoring, or failing to enforce or monitor conditions of
- 5                   sentencing, parole, probation, or juvenile supervision.
- 6                   (3) Providing or failing to provide law enforcement services in the ordinary
- 7                   course of a political subdivision's law enforcement operations.
- 8                   (4) Providing or failing to provide fire protection services in the ordinary course
- 9                   of a political subdivision's fire protection operations.
- 10               g. "Public duty" does not include action of the political subdivision or a political
- 11               subdivision employee under circumstances in which a special relationship can be
- 12               established between the political subdivision and the injured party. A special
- 13               relationship is demonstrated if all of the following elements exist:
- 14                   (1) Direct contact between the political subdivision and the injured party.
- 15                   (2) An assumption by the political subdivision, by means of promises or actions,
- 16                   of an affirmative duty to act on behalf of the party who allegedly was injured.
- 17                   (3) Knowledge on the part of the political subdivision that inaction of the political
- 18                   subdivision could lead to harm.
- 19                   (4) The injured party's justifiable reliance on the political subdivision's
- 20                   affirmative undertaking, occurrence of the injury while the injured party was
- 21                   under the direct control of the political subdivision, or the political
- 22                   subdivision action increases the risk of harm.
- 23               4. This chapter does not obligate political subdivisions for an amount that is more than
- 24               the limitations upon liability imposed by this chapter. Subject to this chapter, any
- 25               payments to persons constitute payment in full of any compromised claim or judgment
- 26               or any final judgment under this chapter.
- 27               5. Notwithstanding this chapter, a political subdivision or its insurance carrier is not liable
- 28               for any claim arising out of the conduct of a ridesharing arrangement, as defined in
- 29               section 8-02-07.
- 30               6. A political subdivision is not liable for any claim based on an act or omission in the
- 31               designation, repair, operation, or maintenance of a minimum maintenance road if that

1 designation has been made in accordance with sections 24-07-35 through 24-07-37  
2 and if the road has been maintained at a level to serve occasional and intermittent  
3 traffic.

4 7. Any party to an action against a political subdivision or a political subdivision employee  
5 acting within the scope of employment as defined in this chapter shall comply with  
6 applicable rules of civil procedure when requesting documents or other information in  
7 the possession or control of the political subdivision.

8 **Liability of political subdivisions - Limitations. (Effective after July 31, 2027June 30,**  
9 **2026)**

10 1. Each political subdivision is liable for money damages for injuries when the injuries are  
11 proximately caused by the negligence or wrongful act or omission of any employee  
12 acting within the scope of the employee's employment or office under circumstances  
13 in which the employee would be personally liable to a claimant in accordance with the  
14 laws of this state, or injury caused from some condition or use of tangible property,  
15 real or personal, under circumstances in which the political subdivision, if a private  
16 person, would be liable to the claimant. The enactment of a law, rule, regulation, or  
17 ordinance to protect any person's health, safety, property, or welfare does not create a  
18 duty of care on the part of the political subdivision, its employees, or its agents, if that  
19 duty would not otherwise exist.

20 2. The liability of political subdivisions under this chapter is limited to a total of ~~two~~five  
21 hundred ~~fifty~~ thousand dollars per person and ~~one~~two million dollars for any number of  
22 claims arising from any single occurrence regardless of the number of political  
23 subdivisions, or employees of such political subdivisions, which are involved in that  
24 occurrence. A political subdivision may not be held liable, or be ordered to indemnify  
25 an employee held liable, for punitive or exemplary damages.

26 3. A political subdivision or a political subdivision employee may not be held liable under  
27 this chapter for any of the following claims:

28 a. A claim based upon an act or omission of a political subdivision employee  
29 exercising due care in the execution of a valid or invalid statute or regulation.

- 1           b. The decision to undertake or the refusal to undertake any legislative or
- 2           quasi-legislative act, including the decision to adopt or the refusal to adopt any
- 3           statute, charter, ordinance, order, regulation, resolution, or resolve.
- 4           c. The decision to undertake or the refusal to undertake any judicial or quasi-judicial
- 5           act, including the decision to grant, to grant with conditions, to refuse to grant, or
- 6           to revoke any license, permit, order, or other administrative approval or denial.
- 7           d. The decision to perform or the refusal to exercise or perform a discretionary
- 8           function or duty, whether or not such discretion is abused and whether or not the
- 9           statute, charter, ordinance, order, resolution, regulation, or resolve under which
- 10          the discretionary function or duty is performed is valid or invalid.
- 11          e. Injury directly or indirectly caused by a person who is not employed by the
- 12          political subdivision.
- 13          f. A claim relating to injury directly or indirectly caused by the performance or
- 14          nonperformance of a public duty, including:
- 15           (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so
- 16           act regarding compliance with or the violation of any law, rule, regulation, or
- 17           any condition affecting health or safety.
- 18           (2) Enforcing, monitoring, or failing to enforce or monitor conditions of
- 19           sentencing, parole, probation, or juvenile supervision.
- 20           (3) Providing or failing to provide law enforcement services in the ordinary
- 21           course of a political subdivision's law enforcement operations.
- 22           (4) Providing or failing to provide fire protection services in the ordinary course
- 23           of a political subdivision's fire protection operations.
- 24          g. "Public duty" does not include action of the political subdivision or a political
- 25          subdivision employee under circumstances in which a special relationship can be
- 26          established between the political subdivision and the injured party. A special
- 27          relationship is demonstrated if all of the following elements exist:
- 28           (1) Direct contact between the political subdivision and the injured party.
- 29           (2) An assumption by the political subdivision, by means of promises or actions,
- 30           of an affirmative duty to act on behalf of the party who allegedly was injured.

1                   (3) Knowledge on the part of the political subdivision that inaction of the political  
2                   subdivision could lead to harm.

3                   (4) The injured party's justifiable reliance on the political subdivision's  
4                   affirmative undertaking, occurrence of the injury while the injured party was  
5                   under the direct control of the political subdivision, or the political  
6                   subdivision action increases the risk of harm.

7           4. This chapter does not obligate political subdivisions for an amount that is more than  
8           the limitations upon liability imposed by this chapter. Subject to this chapter, any  
9           payments to persons constitute payment in full of any compromised claim or judgment  
10          or any final judgment under this chapter.

11          5. Notwithstanding this chapter, a political subdivision or its insurance carrier is not liable  
12          for any claim arising out of the conduct of a ridesharing arrangement, as defined in  
13          section 8-02-07.

14          6. A political subdivision is not liable for any claim based on an act or omission in the  
15          designation, repair, operation, or maintenance of a minimum maintenance road if that  
16          designation has been made in accordance with sections 24-07-35 through 24-07-37  
17          and if the road has been maintained at a level to serve occasional and intermittent  
18          traffic.

19          7. Any party to an action against a political subdivision or a political subdivision employee  
20          acting within the scope of employment as defined in this chapter shall comply with  
21          applicable rules of civil procedure when requesting documents or other information in  
22          the possession or control of the political subdivision.

23          **SECTION 2. AMENDMENT.** Section 32-12.2-02 of the North Dakota Century Code is  
24          amended and reenacted as follows:

25          **32-12.2-02. Liability of the state - Limitations - Statute of limitations. (Effective**  
26          **through July 31, 2027June 30, 2026)**

27          1. The state may only be held liable for money damages for an injury proximately caused  
28          by the negligence or wrongful act or omission of a state employee acting within the  
29          employee's scope of employment under circumstances in which the employee would  
30          be personally liable to a claimant in accordance with the laws of this state, or an injury  
31          caused from some condition or use of tangible property under circumstances in which

the state, if a private person, would be liable to the claimant. No claim may be brought against the state or a state employee acting within the employee's scope of employment except a claim authorized under this chapter or otherwise authorized by the legislative assembly. The enactment of a law, rule, or regulation to protect any person's health, safety, property, or welfare does not create a duty of care on the part of the state, its employees, or its agents, if that duty would not otherwise exist.

2. The liability of the state under this chapter is limited to a total of ~~three hundred seventy-five thousand~~ four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars for any number of claims arising from any single occurrence. The state may not be held liable, or be ordered to indemnify a state employee held liable, for punitive or exemplary damages. Any amount of a judgment against the state in excess of the one million eight hundred seventy-five thousand dollar limit imposed under this subsection may be paid only if the legislative assembly adopts an appropriation authorizing payment of all or a portion of that amount. A claimant may present proof of the judgment to the director of the office of management and budget who shall include within the proposed budget for the office of management and budget a request for payment for the portion of the judgment in excess of the limit under this section at the next regular session of the legislative assembly after the judgment is rendered. ~~The liability limits under this subsection must be adjusted annually as follows:~~

- a. ~~On July 1, 2023, a total of four hundred six thousand two hundred and fifty dollars per person and one million six hundred twenty-five thousand dollars for any single occurrence.~~
- b. ~~On July 1, 2024, a total of four hundred thirty-seven thousand five hundred dollars per person and one million seven hundred fifty thousand dollars for any single occurrence.~~
- c. ~~On July 1, 2025, a total of four hundred sixty-eight thousand seven hundred fifty dollars per person and one million eight hundred seventy-five thousand dollars per occurrence.~~
- d. ~~On July 1, 2026, a total of five hundred thousand dollars per person and two million dollars per occurrence.~~

- 1        3. Neither the state nor a state employee may be held liable under this chapter for any of  
2        the following claims:
- 3        a. A claim based upon an act or omission of a state employee exercising due care  
4        in the execution of a valid or invalid statute or rule.
- 5        b. A claim based upon a decision to exercise or perform or a failure to exercise or  
6        perform a discretionary function or duty on the part of the state or its employees,  
7        regardless of whether the discretion involved is abused or whether the statute,  
8        order, rule, or resolution under which the discretionary function or duty is  
9        performed is valid or invalid. Discretionary acts include acts, errors, or omissions  
10       in the design of any public project but do not include the drafting of plans and  
11       specifications that are provided to a contractor to construct a public project.
- 12       c. A claim resulting from the decision to undertake or the refusal to undertake any  
13       legislative or quasi-legislative act, including the decision to adopt or the refusal to  
14       adopt any statute, order, rule, or resolution.
- 15       d. A claim resulting from a decision to undertake or a refusal to undertake any  
16       judicial or quasi-judicial act, including a decision to grant, to grant with conditions,  
17       to refuse to grant, or to revoke any license, permit, order, or other administrative  
18       approval or denial.
- 19       e. A claim relating to injury directly or indirectly caused by a person who is not  
20       employed by the state.
- 21       f. A claim relating to injury directly or indirectly caused by the performance or  
22       nonperformance of a public duty, including:
- 23           (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so  
24           act regarding compliance with or the violation of any law, rule, regulation, or  
25           any condition affecting health or safety.
- 26           (2) Enforcing, monitoring, or failing to enforce or monitor conditions of  
27           sentencing, parole, probation, or juvenile supervision.
- 28           (3) Providing or failing to provide law enforcement services in the ordinary  
29           course of a state's law enforcement operations.
- 30       g. "Public duty" does not include action of the state or a state employee under  
31       circumstances in which a special relationship can be established between the



1 state and the injured party. A special relationship is demonstrated if all of the  
2 following elements exist:

3 (1) Direct contact between the state and the injured party.

4 (2) An assumption by the state, by means of promises or actions, of an  
5 affirmative duty to act on behalf of the party who allegedly was injured.

6 (3) Knowledge on the part of the state that inaction of the state could lead to  
7 harm.

8 (4) The injured party's justifiable reliance on the state's affirmative undertaking,  
9 occurrence of the injury while the injured party was under the direct control  
10 of the state, or the state action increases the risk of harm.

11 h. A claim resulting from the assessment and collection of taxes.

12 i. A claim resulting from snow or ice conditions, water, or debris on a highway or on  
13 a public sidewalk that does not abut a state-owned building or parking lot, except  
14 when the condition is affirmatively caused by the negligent act of a state  
15 employee.

16 j. A claim resulting from any injury caused by a wild animal in its natural state.

17 k. A claim resulting from the condition of unimproved real property owned or leased  
18 by the state.

19 l. A claim resulting from the loss of benefits or compensation due under a program  
20 of public assistance.

21 m. A claim resulting from the reasonable care and treatment, or lack of care and  
22 treatment, of a person at a state institution where reasonable use of available  
23 appropriations has been made to provide care.

24 n. A claim resulting from damage to the property of a patient or inmate of a state  
25 institution.

26 o. A claim resulting from any injury to a resident or an inmate of a state institution if  
27 the injury is caused by another resident or inmate of that institution.

28 p. A claim resulting from environmental contamination, except to the extent that  
29 federal environmental law permits the claim.

30 q. A claim resulting from a natural disaster, an act of God, a military action, or an act  
31 or omission taken as part of a disaster relief effort.

- 1           r.    A claim for damage to property owned by the state.
- 2           s.    A claim for liability assumed under contract, except this exclusion does not apply
- 3                to liability arising from a state employee's operation of a rental vehicle if the loss
- 4                is not covered by the state employee's personal insurance or by the vehicle rental
- 5                company.
- 6        4.    An action brought under this chapter must be commenced within the period provided
- 7                in section 28-01-22.1.
- 8        5.    This chapter does not create or allow any claim that does not exist at common law or
- 9                has not otherwise been created by law as of April 22, 1995.

10       **Liability of the state - Limitations - Statute of limitations. (Effective after July 31,**  
11 **2027 June 30, 2026)**

- 12        1.    The state may only be held liable for money damages for an injury proximately caused
- 13                by the negligence or wrongful act or omission of a state employee acting within the
- 14                employee's scope of employment under circumstances in which the employee would
- 15                be personally liable to a claimant in accordance with the laws of this state, or an injury
- 16                caused from some condition or use of tangible property under circumstances in which
- 17                the state, if a private person, would be liable to the claimant. No claim may be brought
- 18                against the state or a state employee acting within the employee's scope of
- 19                employment except a claim authorized under this chapter or otherwise authorized by
- 20                the legislative assembly. The enactment of a law, rule, or regulation to protect any
- 21                person's health, safety, property, or welfare does not create a duty of care on the part
- 22                of the state, its employees, or its agents, if that duty would not otherwise exist.
- 23        2.    The liability of the state under this chapter is limited to a total of two hundred fifty-five
- 24                hundred thousand dollars per person and one~~one~~two million dollars for any number of
- 25                claims arising from any single occurrence. The state may not be held liable, or be
- 26                ordered to indemnify a state employee held liable, for punitive or exemplary damages.
- 27                Any amount of a judgment against the state in excess of the one~~one~~two million dollar limit
- 28                imposed under this subsection may be paid only if the legislative assembly adopts an
- 29                appropriation authorizing payment of all or a portion of that amount. A claimant may
- 30                present proof of the judgment to the director of the office of management and budget
- 31                who shall include within the proposed budget for the office of management and budget

1 a request for payment for the portion of the judgment in excess of the limit under this  
2 section at the next regular session of the legislative assembly after the judgment is  
3 rendered.

4 3. Neither the state nor a state employee may be held liable under this chapter for any of  
5 the following claims:

6 a. A claim based upon an act or omission of a state employee exercising due care  
7 in the execution of a valid or invalid statute or rule.

8 b. A claim based upon a decision to exercise or perform or a failure to exercise or  
9 perform a discretionary function or duty on the part of the state or its employees,  
10 regardless of whether the discretion involved is abused or whether the statute,  
11 order, rule, or resolution under which the discretionary function or duty is  
12 performed is valid or invalid. Discretionary acts include acts, errors, or omissions  
13 in the design of any public project but do not include the drafting of plans and  
14 specifications that are provided to a contractor to construct a public project.

15 c. A claim resulting from the decision to undertake or the refusal to undertake any  
16 legislative or quasi-legislative act, including the decision to adopt or the refusal to  
17 adopt any statute, order, rule, or resolution.

18 d. A claim resulting from a decision to undertake or a refusal to undertake any  
19 judicial or quasi-judicial act, including a decision to grant, to grant with conditions,  
20 to refuse to grant, or to revoke any license, permit, order, or other administrative  
21 approval or denial.

22 e. A claim relating to injury directly or indirectly caused by a person who is not  
23 employed by the state.

24 f. A claim relating to injury directly or indirectly caused by the performance or  
25 nonperformance of a public duty, including:

26 (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so  
27 act regarding compliance with or the violation of any law, rule, regulation, or  
28 any condition affecting health or safety.

29 (2) Enforcing, monitoring, or failing to enforce or monitor conditions of  
30 sentencing, parole, probation, or juvenile supervision.

- 1                   (3) Providing or failing to provide law enforcement services in the ordinary  
2                   course of a state's law enforcement operations.
- 3           g. "Public duty" does not include action of the state or a state employee under  
4           circumstances in which a special relationship can be established between the  
5           state and the injured party. A special relationship is demonstrated if all of the  
6           following elements exist:
- 7                   (1) Direct contact between the state and the injured party.
- 8                   (2) An assumption by the state, by means of promises or actions, of an  
9                   affirmative duty to act on behalf of the party who allegedly was injured.
- 10                  (3) Knowledge on the part of the state that inaction of the state could lead to  
11                  harm.
- 12                  (4) The injured party's justifiable reliance on the state's affirmative undertaking,  
13                  occurrence of the injury while the injured party was under the direct control  
14                  of the state, or the state action increases the risk of harm.
- 15           h. A claim resulting from the assessment and collection of taxes.
- 16           i. A claim resulting from snow or ice conditions, water, or debris on a highway or on  
17           a public sidewalk that does not abut a state-owned building or parking lot, except  
18           when the condition is affirmatively caused by the negligent act of a state  
19           employee.
- 20           j. A claim resulting from any injury caused by a wild animal in its natural state.
- 21           k. A claim resulting from the condition of unimproved real property owned or leased  
22           by the state.
- 23           l. A claim resulting from the loss of benefits or compensation due under a program  
24           of public assistance.
- 25           m. A claim resulting from the reasonable care and treatment, or lack of care and  
26           treatment, of a person at a state institution where reasonable use of available  
27           appropriations has been made to provide care.
- 28           n. A claim resulting from damage to the property of a patient or inmate of a state  
29           institution.
- 30           o. A claim resulting from any injury to a resident or an inmate of a state institution if  
31           the injury is caused by another resident or inmate of that institution.

- 1           p.   A claim resulting from environmental contamination, except to the extent that
- 2               federal environmental law permits the claim.
- 3           q.   A claim resulting from a natural disaster, an act of God, a military action, or an act
- 4               or omission taken as part of a disaster relief effort.
- 5           r.   A claim for damage to property owned by the state.
- 6           s.   A claim for liability assumed under contract, except this exclusion does not apply
- 7               to liability arising from a state employee's operation of a rental vehicle if the loss
- 8               is not covered by the state employee's personal insurance or by the vehicle rental
- 9               company.
- 10       4.   An action brought under this chapter must be commenced within the period provided
- 11           in section 28-01-22.1.
- 12       5.   This chapter does not create or allow any claim that does not exist at common law or
- 13           has not otherwise been created by law as of April 22, 1995.