

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1526

Introduced by

Representatives Berg, Boucher, Charging, Vigesaa

Senators Stenehjem, O'Connell

(Approved by the Delayed Bills Committee)

- 1 A BILL for an Act to create and enact a new section to chapter 54-17 of the North Dakota  
2 Century Code, relating to creation of an industrial commission tribal-state guaranty program;  
3 and to provide a continuing appropriation.

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

5 **SECTION 1.** A new section to chapter 54-17 of the North Dakota Century Code is  
6 created and enacted as follows:

7 **Tribal-state guaranty program - Continuing appropriation.**

- 8 1. The industrial commission shall establish a guaranty program for a business  
9 located in the state which contracts with a business located in the state which is  
10 either owned by one of the five North Dakota Indian tribes or which is an American  
11 Indian-owned small business located in this state. The industrial commission shall  
12 establish program guidelines and shall establish program application forms. The  
13 industrial commission shall adopt policies and procedures as necessary to  
14 implement this program. The industrial commission may charge fees to  
15 participants in the program. The industrial commission shall limit participation in  
16 the program so that the cumulative value of the guaranteed portion of the  
17 receivables under the program does not exceed five million dollars at any one  
18 time.
- 19 2. In the case of a payment dispute, the program must provide a participating North  
20 Dakota business with sure and certain payment of receivable owing under the  
21 contract between the North Dakota business and the tribal-owned or Indian-owned  
22 business. Any litigation over a payment dispute must be conducted by the  
23 participating businesses and is not the responsibility of the industrial commission  
24 or this guaranty program. The industrial commission shall establish a guaranty

1 reserve board. The board membership, which may not exceed twelve members,  
2 consists of the attorney general or the attorney general's representative, who  
3 serves as chairman of the board; the president of the Bank or the president's  
4 representative; one representative for each participating tribal government; and  
5 representatives of private business equal to the number of tribal government  
6 representatives serving on the board. Each North Dakota Indian tribe that  
7 participates in the program may appoint one board member to serve a two-year  
8 term. A tribally appointed member serves at the pleasure of the appointing tribal  
9 government. The board members representing private business serve two-year  
10 terms to run concurrently with the corresponding tribally appointed member. The  
11 members of the industrial commission shall take turns appointing the board  
12 members representing private business, in the following order: governor, attorney  
13 general, and agriculture commissioner. Each member representing private  
14 business serves at the pleasure of the industrial commission and any vacant  
15 position must be filled by an individual appointed by the member of the industrial  
16 commission making the original appointment. The board must meet annually, or  
17 more often as may be determined necessary by the chairman, for the purpose of  
18 reviewing participation in the program and conducting the business of the board.

- 19 3. To participate in the program, all parties must agree that for purposes of the  
20 program and related business contract issues any claim or dispute between any of  
21 the parties are governed by the laws of the state of North Dakota and any claim or  
22 dispute between the parties must be brought in Burleigh County district court in  
23 Bismarck or by agreement of the parties may be brought to a mutually  
24 agreed-upon arbitrator. To participate in the program, the business owned by a  
25 North Dakota Indian tribe or the Indian-owned small business must have secured  
26 the pledge of a North Dakota Indian tribe or a tribally approved entity to guarantee  
27 repayment to the guaranty reserve for any payments made due to payment  
28 disputes. This repayment guarantee must be consistent with the policies and  
29 procedures established by the industrial commission to implement this program.
- 30 4. All funds received by the reserve board under this section are appropriated as a  
31 standing and continuing appropriation for the purposes of this section. If the board

1 provides a North Dakota business with a payment due to a payment dispute, as a  
2 guarantor the board is an assignee and as such may seek reimbursement from a  
3 third party or from the North Dakota business for any payment made under the  
4 program.