

**FIRST ENGROSSMENT
with Senate Amendments****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 an expiration date.

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 at the Bank of North Dakota a guaranty
9 program for a business located in the state which contracts with a business located
10 in the state which is either owned by one of the five North Dakota Indian tribes or
11 which is an American Indian-owned small business located in this state. The
12 industrial commission shall establish program guidelines and shall establish
13 program application forms. The industrial commission shall adopt policies and
14 procedures as necessary to implement this program. The Bank of North Dakota
15 may charge fees to participants in the program. The industrial commission shall
16 limit participation in the program so that the cumulative value of the guaranteed
17 portion of the receivables under the program does not exceed five million dollars at
18 any one 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 the Bank of North Dakota, or this guaranty program. The industrial commission

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

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

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

5 **SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2007, and
6 after that date is ineffective.