

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1503

Introduced by

Representatives Charging, Berg, Froelich, Onstad

Senators Marcellais, Warner

1 A BILL for an Act to amend and reenact section 54-17-37 of the North Dakota Century Code,
2 relating to extending the tribal-state guaranty program; to provide an effective date; and to
3 declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 54-17-37 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-17-37. (Effective through ~~June 30, 2007~~ July 31, 2009) Tribal-state guaranty**
8 **program - Continuing appropriation.**

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

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

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