

**FIRST ENGROSSMENT  
with Senate Amendments**

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 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.