

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1526

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1526

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1526

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-9-05

Tape Number	Side A	Side B	Meter #
1		x	0-end
2	x		0-12.6
Committee Clerk Signature <i>Jody Benek</i>			

Minutes:

**Chairman Keiser:** Opened the hearing on HB 1526.

**Rick Berg, Majority Leader:** Appeared in support of the bill and also was a sponsor.

Two years ago we spent quite a bit of time thinking about the two communities we have in North Dakota, we have a non tribal community that has had very positive business growth, very low unemployment has the potential to see substantial increases in their business if they can deal with the labor that they need, then we have another community that represents our tribes, they are high unemployment and a tremendous market to many of the connections and their status, and two years ago we had the business congress one of the main trust of that was how can we tribal and non tribal business working together seeing that there is a tremendous opportunity for both parties. The problem is really related

to barriers for business off of the reservation and not sure how a dispute might be handled as well as American Indian owned business and not sure how a dispute would be handled if they had a problem with a non tribal business. So that really is the formation of this, trying to take the litigation question out of a tribal business and a non tribal business doing business together. I will just go through the top of the sheet with you, the top part really talks about a typical business transaction we have a business and they have a contract with the tribal government or they may have a contract with an American Indian owned business there is a dispute over the payment, this is decided in tribal court this decided in the court off of the reservation, so what the bottom half of the graph (**SEE ATTACHED TESTIMONY**) does is really conceptualize what this bill is all about a business would sign a contract with a tribal government, or American Indian owned business, and that contract, in it would have criteria that would qualify it for tribal state guarantee program. I think part of that agreement would determine that there might be a limited waiver of sovereign immunity to litigate any disputes on that contract, but basically I'll walk through how I would see it from really either side of this table. Let's say a business off the reservation had a contract with the tribal business and lets say that the federal dollars that pay that contract were not forth coming, then the business would go the bank of North Dakota and the bank of ND would pay example that needs to be paid back to them. I would view that this tribal state guaranty program on a regular basis they would meet and then settle up.

**Representative Froseth:** The bank of North Dakota would only come into play if there was a dispute over payment or settlement?

**Rick Berg:** Lets say the IRS has a contract for forms they want printed and the north Dakota tribal government says they are going to go for the contract and they get it, and they work out their agreement and the agreement has language in there that the tribal state guaranty would apply to it, so you deliver the forms and you are owed \$300,000.00 if your contract calls for payment in 30 days and you are not paid, then you would just let the Bank of North Dakota they would cut you that check. Then the tribal guaranty board would be almost like a arbitration board, would then say what are these contracts, what are these liabilities, what is owed, and they would resolve that.

**Chairman Keiser:** Your plan really has provided that any thing that is spent is covered by an agreement with any tribal entity, in your diagram under business, that can be any business, an American Indian business or a non American Indian business.

**Merle Boucher, Minority Leader:** Appeared in support of the bill and also was a sponsor coming from the Turtle Mountains and Rolette County, we have a Native American population somewhere between 12,000 - 15,000 people, that live locally in our enrolled members of the Turtle Mountain Band of Chippewa, and of course it extends way beyond the boundaries of our reservation. On our reservation and surrounding area we have somewhere in the vicinity of about 140 tribally owned

business and about 135 privately owned Native American businesses. This is facilitating a business relationship where we are trying to create up front a mechanism to pay people in a reasonable amount of time.

**Representative Dosch:** What would be the tax status of these businesses?

**Merle Boucher:** When it comes to the issues of what takes place on the reservation, that would apply to this situation, there would be no tax in that regard, Indian businesses off of the reservation, taxation might be an issue, it all depends on what type of arrangements you are going to make locally. Taxation perhaps would be a determination of the tribe and history shows there that it is non tax off reservation becomes a community by community with all due respect.

**Representative Dosch:** The Bank of ND is a state owned institution, it is funded and we run our state and government on tax revenue if we are going to expand business but there is no revenue coming back to the state to run our state to finance the Bank of ND, is that really fair?

**Merle Boucher:** Tax immunity applies to the reservations. Any business off the reservation taxation may apply, it is not an issue with this bill.

**Representative Keiser:** Looking at this from the outside, this would increase my business enhances my tax liability.

**Representative Charging:** Is a sponsor on the bill but is unable to testify because of illness, but wants to be recognized in support of the bill.

**Richard Mayer, CEO, Three Affiliated Tribes:** Appeared in support of the bill and provided a written statement by **Tex Hall, (Chairman, Mandan, Hidatsa,**

**Arikara Nation**) who was unable to attend (SEE ATTACHED TESTIMONY).

**Representative Ruby:** With your entity, if somebody approaches you, you have the people with the expertise to write the bids?

**Richard Mayer:** Yes, our company like Fort Berthold Development Corporation right now, we have 20 million dollars in contract that we are doing on our own, with out a partnership in Washington DC using our AA status, we are doing work for the Smithsonian Institute, The Walter Reed Medical Hospital, Capitol Hill, we have the whole contract to redo the air and duct system of the capital building, we are ready to go, we want to build these relationships. On the tribal guaranty, to me the Bank of North Dakota would be the facilitator and the tribes would be issuing the basic guarantee that would cover the tribal businesses, so if the payment was made the business would have to get the tribal government to guarantee that contract to say it was OK through them, so if dispute did arise the payment was made the tribe would assure the Bank that we would pay it so there is a double guarantee on our side, so the Bank of North Dakota would just be a facilitator of this process.

**Representative Vigesaa:** Appeared in support of the bill, The possibilities I think are very exciting and I urge a DO PASS on HB 1526.

**Austin Gillette:** Appeared in support of the bill, in 1974 when I was first selected to the tribal council, we at Fort Berthold did not have any of these companies, but I was there during the time that the companies were formed

specifically the one in Mandaree, in 1989, last year they had a chance to bid on a 10 million dollar project, but they did not have enough equity to get into it, they needed approximately 3 million dollars, had this bill been in place, it would of allowed Mandaree Enterprise to secure that contract, and they also have companies doing business off of the reservation. Sioux Manufacturing at Fort Totten, right now they are making a jacket for the military and also the armor for the humveys, now that was in 1972 when that started, and they have had a successful business, periodically the have contracts with the defense department.

**Pat Ward:** Appeared in support of the bill.

**Carol Two Eagle:** I am the founder and CEO of an American Indian Business, we are a four profit corporation, I am also a CO founder CEO of a four profit American Indian Cooperative, and I do business consulting for minority businesses, and I support the bill.

**Deanna Weeze, Assistant Executive Director, Information Technology**

**Council of ND:** Appeared in support of the bill, our mission is to strengthen and expand IT industry in North Dakota this bill would help that mission.

**Eric Hardmeyer, President, Bank of ND:** I'm here to answer any questions, let me give you an example of how this program would be used, the American business contracts with a foreign business and contacts bank to provide insurance on receivable, the insurance would cover any political risk, or any commercial risk, and as I look at this risk, that is essentially what this bill would do, is cover any risks. One of the provisions in the agreement might be is that they come and



Page 7

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1526

Hearing Date 3-9-05

use this type of guarantee to protect both parties, so I think this program is out there already, but it is only to protect domestic companies from a foreign receivable, another example might be a performance bond, where a company would go out and acquire a performance guarantee such as equipment, building success or on a contract these types of instruments are out there already I just see this as a continuation.

Hearing closed.

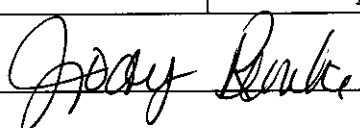
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1526

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-15-05

Tape Number	Side A	Side B	Meter #
3	x		1.3-2.8
3	x		25.7-end
3		x	0-8.7
Committee Clerk Signature 			

Minutes:

**Chairman Keiser:** Reconvened on HB 1526.

**Representative Dosch:** What my amendment does is make as a condition to participate in this program that the business entities will agree to pay ND income tax for that portion of the Indian business which the Indian business and the ND business contract under this section, we are using the Bank of ND which is a state owned institution, owned by the tax payers of North Dakota, this is a program that will benefit any minority business, if we are going to use state funds and state resources to help someone grow and prosper their business, that asking them to pay income tax should not be a bad thing, we all need to support our government, the government needs these funds to provide the infrastructure, human services for the people, so if we are going to use the state to help them grow and prosper in their business, then at least have them contribute like any other business.

**Representative Ekstrom:** I move to ADOPT large amendments on HB 1526.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1526

Hearing Date 3-15-05

**Representative Nottestad:** I SECOND the motion to ADOPT amendments.

Motion carried voice vote

**Representative Dosch:** I move to further ADOPT with the tax amendment on HB 1526

**Representative Ruby:** I SECOND the motion to further ADOPT

**Motion failed voice vote**

**Representative Ekstrom:** I move a DO PASS as AMENDED

**Representative Nottestad:** I SECOND the DO PASS AS AMENDED motion

Motion carried **VOTE: 13-YES 1-NO 0-Absent**

**Representative Froseth will carry the bill on the floor.**

# FISCAL NOTE

Requested by Legislative Council  
04/06/2005

Amendment to:           Engrossed  
                                  HB 1526

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Since an Indian tribe or a tribally approved entity will be providing a guaranty there will be no costs to the General Fund or special funds. The costs for establishing program guidelines and application forms will be paid by the Bank of North Dakota. Staffing costs for the Guaranty Reserve Board will be provided by the Bank of North Dakota as part of their operations.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Eric Hardmeyer	<b>Agency:</b>	Bank Of North Dakota
<b>Phone Number:</b>	328-5674	<b>Date Prepared:</b>	04/06/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/18/2005

Amendment to: HB 1526

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Since an Indian tribe or a tribally approved entity will be providing a guaranty there will be no costs to the General Fund or special funds. The costs for establishing program guidelines and application forms will be paid by the Bank of North Dakota. Staffing costs for the Guaranty Reserve Board will be provided by the Bank of North Dakota as part of their operations.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Karlene K. Fine	<b>Agency:</b>	Industrial Commission
<b>Phone Number:</b>	328-3722	<b>Date Prepared:</b>	03/21/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/04/2005

Bill/Resolution No.: HB 1526

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Since an Indian tribe or a tribally approved entity will be providing a guaranty there will be no costs to the General Fund or special funds. The costs for establishing program guidelines and application forms will be paid by the Bank of North Dakota. Staffing costs for the Guaranty Reserve Board will be provided by the Bank of North Dakota as part of their operations.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Karlene Fine	<b>Agency:</b>	Industrial Commission
<b>Phone Number:</b>	328-3722	<b>Date Prepared:</b>	03/07/2005

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1526

Page 1, line 13, replace "rules" with "policies and procedures"

Page 1, line 13, after "program." insert "The industrial commission may charge fees to participants in the program."

Page 1, line 15, after "payment" insert "of receivables owing"

Page 1, line 16, after "business." insert "Any litigation over a payment dispute must be conducted by the participating businesses and is not the responsibility of the industrial commission or this guaranty program."

Page 1, line 17, remove ", which may borrow"

Page 1, remove lines 18 and 19

Page 1, line 20, remove "payment dispute"

Page 2, line 22, remove "line of credit"

Page 2, line 23, after "disputes." insert "This repayment guarantee must be consistent with the policies and procedures established by the industrial commission to implement this program."

Page 2, line 26, delete "through the line of credit"

Page 2, after line 29, insert:

"5. There is hereby created the tribal-state guaranty fund. The fund is to be administered by the guaranty reserve board and money in it is to be used for payments to businesses participating in the program and who are entitled to payment for receivables due. There is hereby appropriated to the fund an amount up to \$500,000 from the general fund in the state treasury, not otherwise appropriated. No part of this amount, however, may be transferred into the fund unless a matching amount is received and deposited into the fund from tribes participating in the tribal-state guaranty program. Program policies and procedures adopted by the industrial commission must include provisions governing the return of deposits made by a tribe. Once money is deposited into the fund and the program is implemented, the state's total contribution to the fund may not exceed five million dollars, and is subject to future biennial appropriations."

Renumber accordingly

Roll Call Vote #: 1 Date: 3-15-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1526

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt large amendments + deletion

Motion Made By Rep. Ekstrom Seconded By Rep. Nottestad

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

Total (Yes) 14 No 0

Absent -0-

Floor Assignment Rep. Froseth

If the vote is on an amendment, briefly indicate intent:



50831.0201  
Title.

Prepared by the Legislative Council staff for  
Representative Dosch

March 9, 2005

*presented 3-15-05*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1526

*follow after the word "program"*

Page 1, line 13, after the period insert "The industrial commission shall limit participation in the program so that the cumulative value of the guaranteed portion of the ~~contracts~~ *receivable* under the program does not exceed ~~ten~~ <sup>5</sup> million dollars at any one time."

Renumber accordingly

50831.0202  
Title.

*presented 3-15-05*  
Prepared by the Legislative Council staff for  
Representative Dosch  
March 9, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1526

Page 2, line 23, after the period insert "As a condition to participate in the program, the business owned by the North Dakota Indian tribe or the Indian-owned small business shall agree to pay North Dakota income taxes for that portion of the Indian business for which the Indian business and the North Dakota business contract under this section."

Renumber accordingly

Date: 3-15-05  
Roll Call Vote #: 2

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HB 1526

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt tax amendment . 202

Motion Made By Rep. Dosch Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman		X	Rep. B. Amerman		X
N. Johnson-Vice Chairman		X	Rep. T. Boe		X
Rep. D. Clark		X	Rep. M. Ekstrom		X
Rep. D. Dietrich		X	Rep. E. Thorpe		X
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad		X			
Rep. D. Ruby	X				
Rep. D. Vigasaa		X			

Total (Yes) 4 No 10

Absent -0-

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

March 15, 2005

✓R  
3/16/05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1526

Page 1, line 13, replace "rules" with "policies and procedures" and after the period insert "The industrial commission may charge fees to participants in the program. The industrial commission shall limit participation in the program so that the cumulative value of the guaranteed portion of the receivables under the program does not exceed five million dollars at any one time."

Page 1, line 15, after "payment" insert "of receivable owing"

Page 1, line 16, after the period insert "Any litigation over a payment dispute must be conducted by the participating businesses and is not the responsibility of the industrial commission or this guaranty program."

Page 1, line 17, remove ", which may borrow"

Page 1, remove lines 18 and 19

Page 1, line 20, remove "payment dispute"

Page 2, line 22, remove "line of credit"

Page 2, line 23, after the period insert "This repayment guarantee must be consistent with the policies and procedures established by the industrial commission to implement this program."

Page 2, line 26, remove "through the line of credit"

Renumber accordingly

Roll Call Vote #:

Date: 3-15-05

3

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

HIB 1526

House

**INDUSTRY, BUSINESS AND LABOR**

Committee



Check here for Conference Committee

Legislative Council Amendment Number

50831.0203 .0300

Action Taken

Du Pass As Amended

Motion Made By

Rep. Ekstrom

Seconded By

Rep. Nottestad

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch		X			
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total

(Yes)

13

No

1

Absent

-0-

Floor Assignment

Rep. Froseth

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1526: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1526 was placed on  
the Sixth order on the calendar.

Page 1, line 13, replace "rules" with "policies and procedures" and after the period insert "The industrial commission may charge fees to participants in the program. The industrial commission shall limit participation in the program so that the cumulative value of the guaranteed portion of the receivables under the program does not exceed five million dollars at any one time."

Page 1, line 15, after "payment" insert "of receivable owing"

Page 1, line 16, after the period insert "Any litigation over a payment dispute must be conducted by the participating businesses and is not the responsibility of the industrial commission or this guaranty program."

Page 1, line 17, remove ", which may borrow"

Page 1, remove lines 18 and 19

Page 1, line 20, remove "payment dispute"

Page 2, line 22, remove "line of credit"

Page 2, line 23, after the period insert "This repayment guarantee must be consistent with the policies and procedures established by the industrial commission to implement this program."

Page 2, line 26, remove "through the line of credit"

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1526

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1526

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-29-05

Tape Number	Side A	Side B	Meter #
1	xxx		3368-end
1		xxxx	0-2950
Committee Clerk Signature <i>Lisa VanBurkorn</i>			

Minutes: **Chairman Mutch** opened the hearing on HB 1526. All Senators were present.

**HB 1526** relates to the creation of an industrial commission tribal-state guaranty program.

**Rep. Rick Berg** introduced the bill.

**Rep. Berg:** The essence of this bill is something that evolved from our interim. The problem is we have two communities in this state. Non-tribal, and tribal. The non-tribal community has low unemployment, looking for new markets and opportunities. Then the tribal government on the reservation, has high unemployment and a status with tremendous business opportunities available to them. My frustration has been this barrier between tribal government businesses and non-tribal businesses and American-Indian owned businesses. This bill intends to build a bridge and trust between these two entities.

**Senator Espgaard:** Once the money is in the hands of someone who thinks they were wronged, there is not as much fire in there to go back. Who would sue? I see the fiddle is out of this thing entirely and it just becomes a liability to the bank, that's how I see it.



**Rep. Berg:** I would look at this, the tribal-state guarantee program, that's gonna be the essence of what they are going to do to resolve those issues. What is going to happen is this guarantee program is going to be short one hundred thousand dollars. It's not the Bank of North Dakota from it's reserves, it's this program, and they are going to go after them.

**Senator Espegard:** Tribal-state guarantee program, is it administered by the Bank of North Dakota?

**Rep. Berg:** It's been amended, so Rep. Keiser is going to address some of those things.

**Rep. Keiser:** This program is being modeled after a federal program. The question arises, if you are an American-based corporation and you want to do business internationally with a corporation in another country, what kind of problems might you encounter? Of course, wherever that transaction occurs, what resources do you have in terms of collecting a payment that is due. We reviewed that program and attempted to develop a program for the state.

**Senator Espegard:** Is this program done, essentially, this is the Bank of North Dakota guaranteeing these business contracts, so are any other states that you know of, done this?

**Rep. Keiser:** To my knowledge, no.

**Senator Espegard:** When you do business with an entity that has appropriated money, that is a business risk, you might have to wait six months to get the money instead of three months because of business risk. That is not a credit risk. And here you are asking for this group to pay me with in ninety-days, in that case, who pays the interest?

**Rep. Keiser:** The tribe pledges to repay the reserve based on policies established by the commission.

**Senator Espegard:** Not even the federal government guarantees one hundred percent. And this does. Here we are asking them to guarantee one hundred percent. I think that is over reaching.

**Rep. Keiser:** I am here to explain the concept, that if you can better define, we have an opportunity to partner with the tribes. There are businesses not entering into the partnership because of the risk associated. This is providing a mechanism to address those risks.

**Rep. Dawn Charging,** read the testimony of Tex Hall. See attached.

**Senator Heitkamp:** Why is it that the Bank of North Dakota and the people of North Dakota should guarantee business with the tribes? Every tribe I know pays their bills. Business is business, why in the world should we be on the hook for five million dollars for contracts that the tribes enter into with any business.

**Rep. Charging:** This is a pro benefit to North Dakota cannot establish 8-A contracts. Only tribes can do that. Wouldn't that be a fantastic opportunity for North Dakotans, not just tribes. This is opening the door to a type of business that has never been available.

**Senator Heitkamp:** I'm not sure you answered my question, the question is, if Joel Heitkamp Enterprises does business with the tribes, my exposure with doing business with the tribes, and I do business with them all of the time, they pay their bills. So if Joel Heitkamp Enterprises does business with the tribe, why in the world should the Bank of North Dakota and the people of North Dakota have to back that?

**Rep. Charging:** It is unfortunate that Heitkamp Enterprises believes that to be true, where as 90% of businesses in North Dakota have a real concern about sovereignty issues.

**Senator Nething:** As I understood it, it was going to be, first that the money is put up by both sides. The person who is at fault is the loser, not the person who performs.

**Bob Humann**, Bank of North Dakota, spoke to explain some questions.

The concept of this bill is to increase economic activity on North Dakota reservations. Our experience tells us that individuals contemplating a contract with a tribal entity are concerned about what happens if they enter a contract default. How do they get paid?

I envision this program working similar to a performance bond. The most popular guarantee program that is used by tribal-owned businesses and lenders is a BIA guarantee. We work with them a lot. The key ingredients here is that we are going to require sovereign immunity and that will be used to bring the dispute into Burleigh County Court. The second is that the line of credit will be guaranteed by the individual tribe that wants to support that business contract. The work will have to be done in North Dakota. There will have to be a guarantee there. Regular banks are nervous about collecting from the tribes because of sovereign immunity. We are used to dealing with the tribes. We deal with majority of them.

**Senator Espgaard:** How will you know what the risk is?

**Bob:** We will be a member of the board. So we will know how many deals are being applied for to provide the guarantees on. We will not let them exceed that dollar amount.

**Senator Klein:** Then the business also has to have some responsibility because if you are denied the guarantee, then he has to call the shots.

**Austin Gillette** stated his support for the bill.

**Deana Wiese**, Information Technology Council of North Dakota Assistant Executive Director, spoke in support of the bill. See written testimony.

**Carol Two Eagle**, stated her support for the bill.

Page 5

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1526

Hearing Date 3-29-05

The hearing was closed. There was no action at this time.

**On March 30, the committee met to take action on the bill.**

**Senator Espegard moved to adopt amendment 50831.0301. Senator Klein seconded.**

**Roll Call Vote: 7 yes. 0 no. 0 absent.**

**Senator Espegard moved a DO PASS AS AMENDED. Senator Klein seconded.**

**Roll Call Vote: 7 yes. 0 no. 0 absent.**

**Carrier: Senator Espegard**

March 30, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1526

3 replace "a continuing appropriation" with <sup>g</sup>  
Page 1, line 2, after the semicolon insert "and to provide an expiration date," <sub>le</sub>

Page 1, remove line 3e

Page 1, line 8, after "establish" insert "at the bank of North Dakota"

Page 1, line 14, replace "industrial commission" with "bank of North Dakota"

Page 1, line 23, after "commission" insert ", the bank of North Dakota,"

Page 2, line 3, after "Bank" insert "of North Dakota"

Page 2, line 27, replace "reserve" with "program"

Page 2, line 30, remove "All funds received by the reserve board under this section are appropriated as a"

Page 2, line 31, remove "standing and continuing appropriation for the purposes of this section." and replace "board" with "bank of North Dakota"

Page 3, after line 4, insert:

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

Renumber accordingly

Roll Call Vote #:

**BILL/RESOLUTION NO.** 1526

Senate	Industry, Business, and Labor	Committee
--------	-------------------------------	-----------

☐ Check here for Conference Committee

Legislative Council Amendment Number

### Action Taken

## Adopt Amendments

**Motion Made By**

Espgaard

**Seconded By**

Klein

[illegible]

Total

(Yes)

7

No

0

Absent

2

## Floor Assignment

**If the vote is on an amendment, briefly indicate intent:**

Date: 3-30-08  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1526**

Senate      **Industry, Business, and Labor**      Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

### Action Taken

**Motion Made By**

## Seconded By

[illegible]

**Total**

(Yes)

7

No

2

Absent

0

## Floor Assignment

Espejarch

**If the vote is on an amendment, briefly indicate intent:**

**REPORT OF STANDING COMMITTEE**

**HB 1526, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1526 was placed on the Sixth order on the calendar.**

Page 1, line 3, replace "a continuing appropriation" with "an expiration date"

Page 1, line 8, after "establish" insert "at the Bank of North Dakota"

Page 1, line 14, replace "industrial commission" with "Bank of North Dakota"

Page 1, line 23, after "commission" insert ", the Bank of North Dakota,"

Page 2, line 3, after "Bank" insert "of North Dakota"

Page 2, line 27, replace "reserve" with "program"

Page 2, line 30, remove "All funds received by the reserve board under this section are appropriated as a"

Page 2, line 31, remove "standing and continuing appropriation for the purposes of this section." and replace "board" with "Bank of North Dakota"

Page 3, after line 4, insert:

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

Renumber accordingly



2005 TESTIMONY

HB 1526



**MANDAN, HIDATSA & ARIKARA NATION**  
Three Affiliated Tribes • Ft. Berthold Reservation  
404 Frontage Road • New Town, ND 58763-9402

**59<sup>th</sup> LEGISLATIVE ASSEMBLY**  
**HOUSE COMMITTEE ON INDUSTRY, BUSINESS & LABOR**  
**HONORABLE GEORGE KEISER, CHAIRMAN & COMMITTEE MEMBERS**

**TESTIMONY OF TEX G. HALL, CHAIRMAN**  
**MANDAN, HIDATSA & ARIKARA NATION**  
**ON HOUSE BILL 1526**

Chairman Keiser and Committee Members my name is Tex Hall and I am the Chairman of the Mandan, Hidatsa & Arikara Nation. I apologize for not being able to testify in person before you today but preexisting commitments prohibit me from being here. I have asked the Tribe's Chief Executive Officer, to provide this testimony on behalf of the Mandan, Hidatsa & Arikara Nation.

House Bill 1526 would add a new section to Chapter 54-17 of the North Dakota Century Code which requires the industrial commission to establish a tribal-state guaranty program and to provide a continuing appropriation for this program. This guarantee program is intended to promote business relationships between North Dakota businesses and businesses owned by North Dakota's tribes and Indian-owned businesses.

The Mandan, Hidatsa & Arikara Nation has seven corporations that are always looking for business. Three of these corporations, Fort Berthold Development Corporations, Mandaree Electronics, and MHA Systems, all have obtained 8(a) certification by the Small Business Administration. Tribal 8(a) firms are eligible to receive sole source 8(a) contracts regardless of dollar size, with no upper limit, while all other 8(a) firms may not receive sole source contracts in excess of \$3 million. Congress provided this opportunity because it recognized that tribes have the large responsibility of trying to pull their entire tribal membership up from poverty and need larger contracts to be able to do so. Also, the affiliation rules are applied more favorably to tribes. In sum, to enable tribes to build their communities and provide jobs, Congress has

permitted a tribal company to have many of the attributes of a large company to enable them to perform large and complex contracts, while still having preferential procurement rights under the 8(a) program. All three of these companies would be willing to contract with North Dakota businesses and pursue government contracts if the opportunity looks profitable.

One obstacle to contracting with non-Indian business is trust. I believe that House Bill 1526 addresses this problem by ensuring payment to a non-Indian business that has contracted with a tribally- owned or Indian-owned business. The way I read this bill, if there is a payment dispute between a North Dakota business and a tribally-owned business, House Bill 1526 will ensure payment to the North Dakota Business. The dispute will be heard in Burleigh County district court or by an arbitrator if the parties agree. If the dispute is settled in favor of the North Dakota Business, the tribe owning the business will have to make a payment covering the disputed amount to the guarantee reserve. If the dispute is settled in favor of the tribally-owned business, the North Dakota business will have to return the disputed amount to the Bank of North Dakota. Thus, this Bill simply bridges the "trust issue" by ensuring payment to the North Dakota business first and then looking to settle the dispute.

This bill also creates a guarantee reserve board made up of representatives of State and Tribal government and private businesses. I am in strong favor of this concept as I believe that it will build productive relationships and partnerships between North Dakota businesses and tribally-owned businesses.

In conclusion, I believe that this bill is good for North Dakota, North Dakota businesses and North Dakota tribes. It promotes partnerships that will undoubtedly result in jobs for Indians and non-Indians alike.

For all of these reasons, I respectfully urge this committee to recommend a DO PASS on House Bill 1526.

3-15-05

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1526

Page 1, line 13, replace "rules" with "policies and procedures"

*Rep. Keiser suggested this change because the Industrial Commission isn't subject to the administrative agencies practices act and so "rules" is an inappropriate term.*

Page 1, line 13, after "program." insert "The industrial commission may charge fees to participants in the program." *†.0201 (Doch)*

*The Working Group wanted language ensuring BND could charge fees.*

Page 1, line 15, after "payment" insert "of receivables owing"

*This makes clear that the program doesn't guarantee contracts, but just "receivables" that are due but unpaid under a contract. To reaffirm this, the word "receivables" is also inserted into a new Section 5 to the bill.*

Page 1, line 16, after "business." insert "Any litigation over a payment dispute must be conducted by the participating businesses and is not the responsibility of the industrial commission or this guaranty program."

*This change clarifies that the state will not be doing any legal or other work to enforce contracts or "receivables" due under a contract.*

Page 1, line 17, remove ", which may borrow"

Page 1, remove lines 18 and 19

Page 1, line 20, remove "payment dispute"

*This language is removed because it deals with the fund. We were uncertain just how the fund would be established and operate in light of the fact that the Working Group wanted a \$5 million cap on the program but also wanted a fund of \$500,000 to be matched, dollar for dollar, by money from the tribes. Sorting out these two concepts, which initially seemed mutually exclusive, was done by writing a new section 5 to the bill, which made the language in lines 17-20 unnecessary. Further, the language here refers to a "line of credit" running from the guaranty reserve board to participating businesses, which seems to imply that loans will be given. Loans are not, however, contemplated.*

Page 2, line 22, remove "line of credit"

*This change wasn't discussed by the Working Group, but, as just mentioned, "line of credit" connotes a loan that must be repaid, and repaid with interest. But this isn't the program's purpose. The program will make outright payments to businesses, and pretty much without strings attached.*

Page 2, line 23, after "disputes." insert "This repayment guarantee must be consistent with the policies and procedures established by the industrial commission to implement this program."

*This amendment wasn't discussed by the Working Group, but is needed. While the bill is clear about making businesses participating in the program subject to BND policies implementing the program, it isn't clear that the tribes and tribal entities that guarantee payments are equally subject to BND policies. This change ensures that a business doesn't assert rights under the program by merely presenting, for example, a letter from the tribal chair stating the tribe guarantees contract payments. BND needs control not only over the participating businesses but also over the pledges that guarantee repayment to BND.*

Page 2, line 26, delete "through the line of credit"

*This change wasn't discussed by the Working Group, but, as mentioned above, "line of credit" connotes a loan that must be repaid, and repaid with interest. But this isn't what the program contemplates.*

Page 2, after line 29, insert:

"5. There is hereby created the tribal-state guaranty fund. The fund is to be administered by the guaranty reserve board and money in it is to be used for payments to businesses participating in the program and who are entitled to payment for receivables due. There is hereby appropriated to the fund an amount up to \$500,000 from the general fund in the state treasury, not otherwise appropriated. No part of this amount, however, may be transferred into the fund unless a matching amount is received and deposited into the fund from tribes participating in the tribal-state guaranty program. Program policies and procedures adopted by the industrial commission must include provisions governing the return of deposits made by a tribe. Once money is deposited into the fund and the

program is implemented, the state's total contribution to the fund may not exceed five million dollars, and is subject to future biennial appropriations."

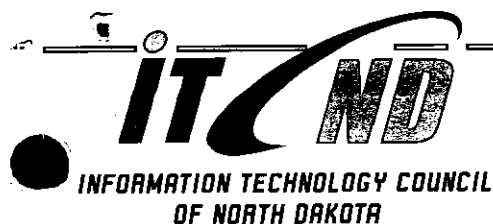
*This seeks to better define how the reserve fund is funded and to reconcile the \$500,000 fund limit and the \$5 million cap discussed by the Working Group.*

Renumber accordingly

3-9-05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1526

Page 1, line 13, replace "rules" with "policies"



PO Box 2599 • Bismarck, ND 58502  
U.S. Toll Free 1-877-311-1648 • (701) 355-4458 • (701) 223-4645 (Fax)  
office@itcnd.org • www.itcnd.org

March 9, 2005

Mr. Chairman and members of the House Industry, Business and Labor Committee:

I am writing to emphasize the Information Technology Council of North Dakota's (ITCND) support of HB 1526 as expressed in our testimony before your committee on March 9.

Attached is the additional information that you requested regarding ITCND's current effort in forming a North Dakota IT business consortium. The consortium consists of tribal and non-tribal IT businesses with certifications and core capabilities compatible with federal and large contract needs. The goal of the consortium is to secure federal or large contract opportunities for the consortium and to create sub-contracting opportunities for smaller-scale North Dakota IT businesses. This effort, in-turn, will stimulate rural and reservation economies.

ITCND is currently partnering with the New Economy Initiative, the North Dakota REAP Zones, and Senator Dorgan's office to achieve these opportunities. This bill would add the State as another valuable partner in encouraging the partnerships between North Dakota's IT tribal and non-tribal businesses and would provide another tool for making the consortium successful.

If you have any further questions, feel free to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Gary Inman".

Gary Inman

ITCND President



## **North Dakota IT Business Outreach**

### **I. Summary**

The Information Technology Council of North Dakota (ITCND), the New Economy Initiative (NEI), the North Dakota Rural Economic Area Partnership, and U.S. Senator Byron Dorgan have come together to address out-migration and encourage IT business growth in North Dakota through the North Dakota IT Business Outreach program.

A consortium of North Dakota IT companies will travel to Washington, D.C. to showcase a cluster of marketable North Dakota IT products and services that meet the needs of available federal contracts. The consortium will showcase North Dakota's well organized and synergistic company resources, rural technology and business development centers, and its large, well connected labor pool.

The goal of the IT Business Outreach program is the procurement of large, profitable partner agency contracts that create new jobs in rural centers and serve as the foundation of integrated networks to provide for sustainable economic revitalization in multiple North Dakota communities.

Other North Dakota industries, including the Aerospace industry, which secured \$38 million in new contracts in 2003-2004, have facilitated similar programs with much success, showing that North Dakota's business climate is favorable for federal contracts.

### **II. Introduction**

Information technology (IT) is one of the most exciting growth prospects for North Dakota and its rural communities. Government policies mandate that 23 percent of all government contracts should go to small businesses, including 40 percent of subcontracts. This creates a tremendous opportunity to develop connections with federal agencies who are interested in doing business in rural America.

Business leaders and government representatives alike recognize the benefits of a strong, supportive IT infrastructure. This is why Sen. Dorgan, the North Dakota REAP, NEI, and ITCND have joined together to showcase the deliverable core capabilities of North Dakota's IT companies.

TechLink, Inc., under the direction of its owner, the North Dakota REAP Investment Board, serves as a model for rural development in North Dakota. It currently deploys its data processing services from operation centers in two rural North Dakota communities. TechLink stands readied with capacity and resource partners for delivery on a large federal government contract that can aid in stemming out-migration and growing numerous small communities. Several other IT businesses are prepared to follow this model.

Many state initiatives have helped create a positive IT business climate, recruit and develop a talented IT workforce, support entrepreneurs, improve the availability of financing and IT investment capital, and establish dynamic interaction between businesses, government and universities.

### **III. Problem Statement**

Few federal contracts awarded to North Dakota IT companies have been able to sustain or revitalize North Dakota rural communities. Therefore, a potential exists for the North Dakota IT business consortium to secure federal contracts that will in-turn, revitalize North Dakota's rural economy.

#### **IV. Objective of the IT Business Outreach Program**

The objective of the IT Business Outreach program is to secure contracts with federal agencies and the North Dakota IT business consortium, which in-turn will create sustainable economic revitalization in multiple North Dakota communities.

The IT Business Outreach program is a unique opportunity for the North Dakota IT business consortium to market its products and services, as well as North Dakota's well organized and synergistic company resources, rural technology and business development centers, and large, well connected labor pool.

#### **V. Process**

The IT Business Outreach program will include a brief first-class presentation given to three to five executives representing select federal agencies, a second more in-depth presentation for federal agency mid-level decision makers, and structured one-on-one business development meetings.

ITCND will serve as the overall coordinator of the program and will work with NEI, the North Dakota REAP, and Sen. Dorgan to develop a consortium of North Dakota IT companies that will travel to Washington, D.C. to showcase a cluster of marketable North Dakota IT products and services that meet the needs of available federal contracts. ITCND will take the lead in preparing presentations, emphasizing the synergy of resources and large labor pool that North Dakota IT companies have at their disposal to execute large federal contracts.

ITCND and the North Dakota REAP zones will work with North Dakota IT companies outside the consortium, and state agencies, such as the North Dakota Department of Commerce and Job Service North Dakota, that can support IT companies with expansion, workforce, training, and finance issues should large contracts be secured. They will also help identify business to business opportunities between North Dakota companies that secure federal subcontracts and work to secure ongoing resources.

Sen. Dorgan and his staff will determine which federal agencies will be outsourcing IT contracts, formally initiate the program, and invite executives and procurement officers from federal agencies to participate.

Each business within the consortium must be prepared to spend two to three days in Washington, D.C. and cover individual expenses, including travel, lodging and meals.

#### **VI. Event Coordination Team**

The event coordination team consists of the following individuals:

##### Information Technology Council of North Dakota (ITCND)

ITCND was founded in 2000 by North Dakota business, government and educational leaders who recognized the need to strengthen the state's IT infrastructure and reposition itself as a national leader in IT. It operates under the vision of building a stronger North Dakota through information technology excellence.

##### New Economy Initiative (NEI)

The New Economy Initiative was initiated in 2000 to develop strategies to increase economic opportunities and strengthen North Dakota's position in the new digital economy. The NEI organized North Dakota businesses into six industry clusters showing the greatest potential for growth and expansion in the new economy. One of those industries was information technology. The Information Technology Council of North Dakota was formed from the IT cluster of the NEI.

North Dakota Rural Economic Area Partnership (REAP) Zones

The North Dakota REAP zones were created in 1995 by the United States Department of Agriculture with a goal of improving economic viability, diversity, and competitiveness of the local economy and enhancing its participation in state, national and global markets.

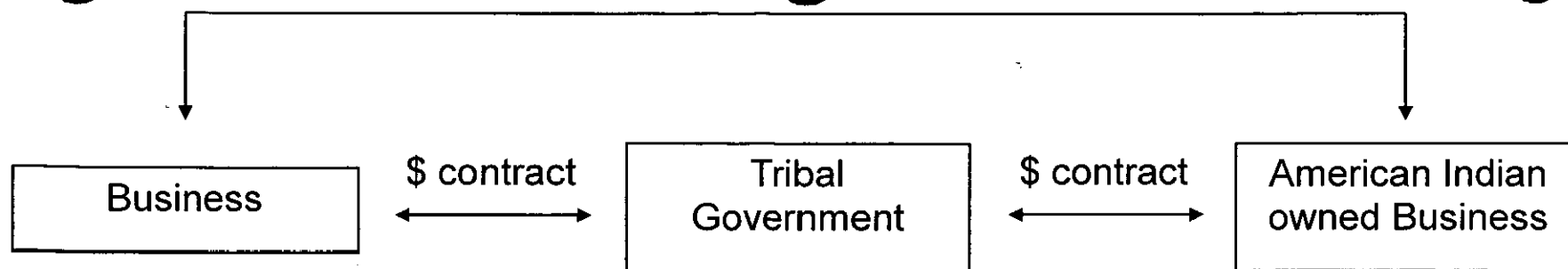
Sen. Dorgan and his staff

Sen. Dorgan and his staff will host the IT consortium and invite federal agency procurement officers to participate in face-to-face meetings with representatives from the consortium.

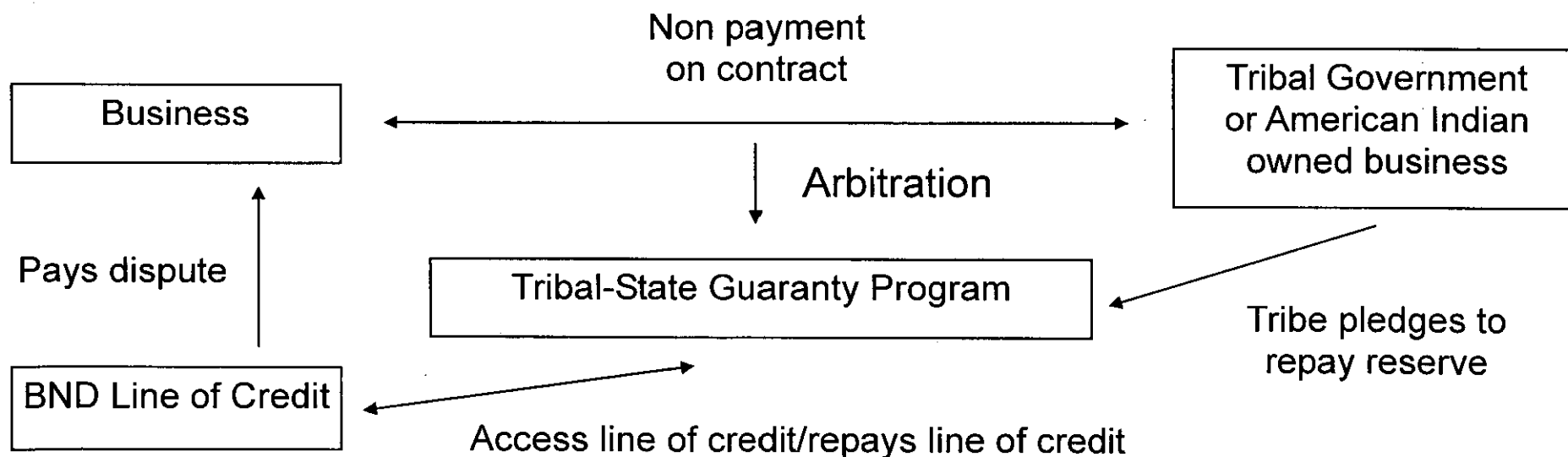
**VIII. Evaluation**

The success of this event will be based upon new contracts secured by North Dakota companies with federal agencies and the economic effects of subcontracts on rural North Dakota communities.

## Typical Business Transaction



Dispute over payment between business owner and tribal Government or other American Indian business owner



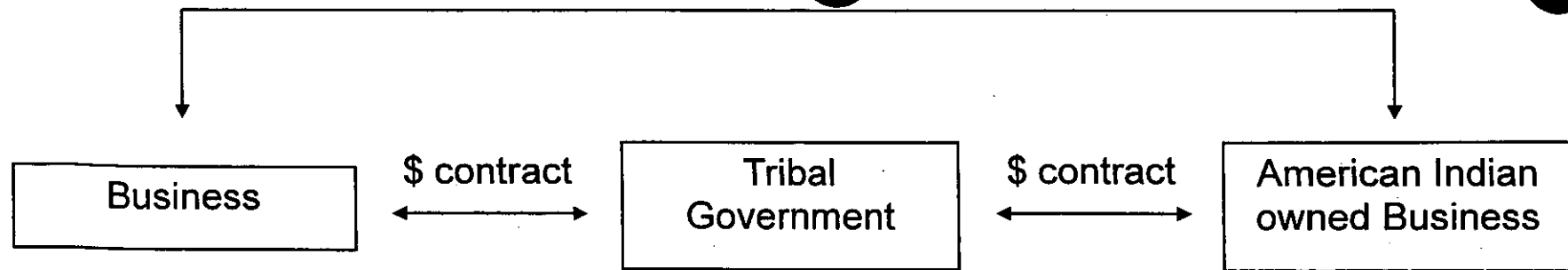
### Legislation Required:

#### 1. Establish Tribal-State Guaranty Program:

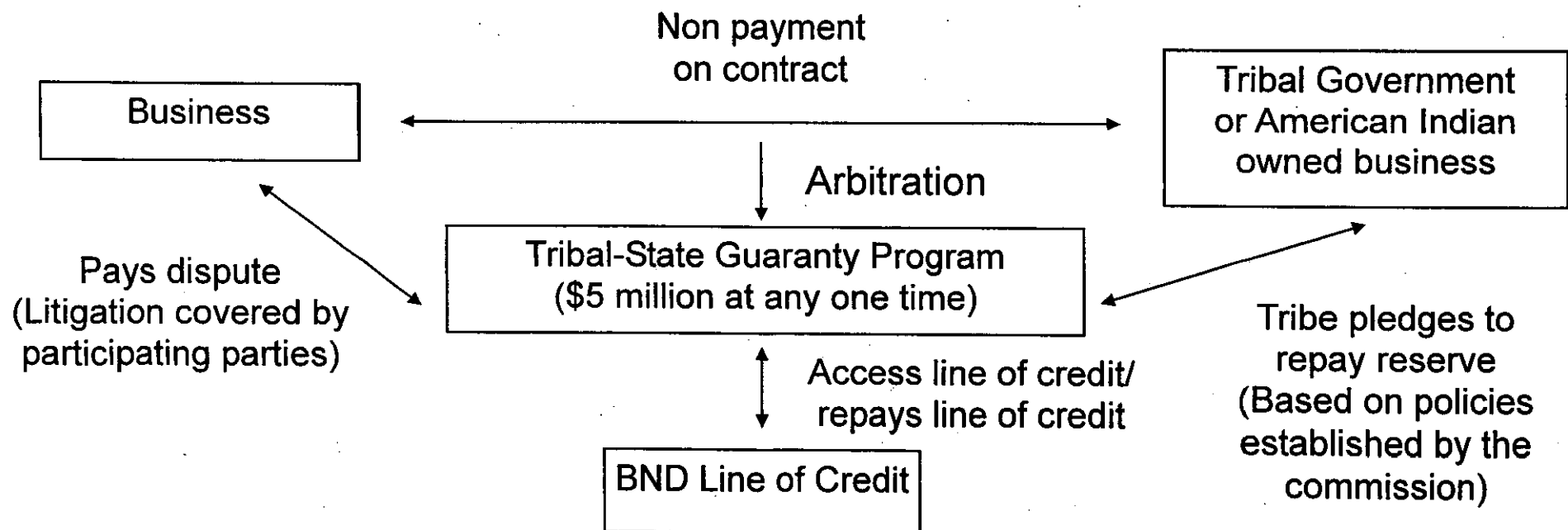
- Allows business to receive payment guaranty
- Membership to include: Tribal representation, Attorney General's rep, private sector representation

#### 2. Authorized the Tribal-State Guaranty Program to borrow from the Bank of North Dakota

## Typical Business Transaction



Dispute over payment between business owner and tribal Government or other American Indian business owner



### Legislation Required:

#### 1. Establish Tribal-State Guaranty Program:

- Allows business to receive payment guaranty
- Membership to include: Tribal representation, Attorney General's rep, private sector representation

#### 2. Authorized the Tribal-State Guaranty Program to borrow from the Bank of North Dakota



**MANDAN, HIDATSA & ARIKARA NATION**  
Three Affiliated Tribes • Ft. Berthold Reservation  
404 Frontage Road • New Town, ND 58763-9402

*Read by Rep. Charging*

**59<sup>th</sup> LEGISLATIVE ASSEMBLY**  
**SENATE COMMITTEE ON INDUSTRY, BUSINESS & LABOR**  
**HONORABLE DUANE MUTCH, CHAIRMAN & COMMITTEE MEMBERS**

**TESTIMONY OF TEX G. HALL, CHAIRMAN**  
**MANDAN, HIDATSA & ARIKARA NATION**  
**ON HOUSE BILL 1526**

Chairman Mutch and Committee Members my name is Tex Hall and I am the Chairman of the Mandan, Hidatsa & Arikara Nation. I apologize for not being able to testify in person before you today but preexisting commitments prohibit me from being here. I have asked the Tribe's Chief Executive Officer, to provide this testimony on behalf of the Mandan, Hidatsa & Arikara Nation.

House Bill 1526 would add a new section to Chapter 54-17 of the North Dakota Century Code which requires the industrial commission to establish a tribal-state guaranty program and to provide a continuing appropriation for this program. This guarantee program is intended to promote business relationships between North Dakota businesses and businesses owned by North Dakota's tribes and Indian-owned businesses.

The Mandan, Hidatsa & Arikara Nation has seven corporations that are always looking for business. Three of these corporations, Fort Berthold Development Corporations, Mandaree Electronics, and MHA Systems, all have obtained 8(a) certification by the Small Business Administration. Tribal 8(a) firms are eligible to receive sole source 8(a) contracts regardless of dollar size, with no upper limit, while all other 8(a) firms may not receive sole source contracts in excess of \$3 million. Congress provided this opportunity because it recognized that tribes have the large responsibility of trying to pull their entire tribal membership up from poverty and need larger contracts to be able to do so. Also, the affiliation rules are applied more favorably to tribes. In sum, to enable tribes to build their communities and provide jobs, Congress has permitted a tribal company to have many of the attributes of a large company to enable them to perform large and complex contracts, while still having preferential procurement rights under the 8(a) program. All three of these companies would be willing to contract with North Dakota businesses and pursue government contracts if the opportunity looks profitable.

One obstacle to contracting with non-Indian business is trust. I believe that House Bill 1526 addresses this problem by ensuring payment to a non-Indian business that has contracted with a tribally- owned or Indian-owned business. The way I read this bill, if there is a payment dispute between a North Dakota business and a tribally-owned business, House Bill 1526 will ensure payment to the North Dakota Business. The dispute will be heard in Burleigh County district court or by an arbitrator if the parties

agree. If the dispute is settled in favor of the North Dakota Business, the tribe owning the business will have to make a payment covering the disputed amount to the guarantee reserve. If the dispute is settled in favor of the tribally-owned business, the North Dakota business will have to return the disputed amount to the Bank of North Dakota. Thus, this Bill simply bridges the "trust issue" by ensuring payment to the North Dakota business first and then looking to settle the dispute.

This bill also creates a guarantee reserve board made up of representatives of State and Tribal government and private businesses. I am in strong favor of this concept as I believe that it will build productive relationships and partnerships between North Dakota businesses and tribally-owned businesses.

In conclusion, I believe that this bill is good for North Dakota, North Dakota businesses and North Dakota tribes. It promotes partnerships that will undoubtedly result in jobs for Indians and non-Indians alike.

For all of these reasons, I respectfully urge this committee to recommend a DO PASS on House Bill 1526.



---

PO Box 2599 • Bismarck, ND 58502  
U.S. Toll Free 1-877-311-1648 • (701) 355-4458 • (701) 223-4645 (Fax)  
office@itcnd.org • www.itcnd.org

---

**Testimony of Deana Wiese**

**Information Technology Council of North Dakota Assistant Executive Director**

**on HB 1526**

**March 29, 2005**

Mr. Chairman and members of the Senate Industry, Business and Labor Committee:

For the record, my name is Deana Wiese and I am the Assistant Executive Director of the Information Technology Council of North Dakota. I am here today to voice ITCND's support of HB 1526.

ITCND is currently partnering with the New Economy Initiative, the North Dakota REAP Zones, and Senator Dorgan's office to form a North Dakota IT business consortium. The consortium consists of tribal and non-tribal IT businesses with certifications and core capabilities compatible with federal and large contract needs. The goal of the consortium is to secure federal or large contract opportunities for the consortium and to create sub-contracting opportunities for smaller-scale North Dakota IT businesses. This effort, in-turn, will stimulate rural and reservation economies. More information on the consortium is attached.

This bill would add the State as another valuable partner in encouraging the partnerships between North Dakota's IT tribal and non-tribal businesses and would provide another tool for making the consortium successful.

We encourage your support of HB 1526.