

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1503
(Representatives Charging, Berg, Froelich, Onstad)
(Senators Marcellais, Warner)

AN ACT to amend and reenact section 54-17-37 of the North Dakota Century Code, relating to extending the tribal-state guaranty program; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

54-17-37. (Effective through ~~June 30, 2007~~ July 31, 2011) Tribal-state guaranty program - Continuing appropriation.

1. The industrial commission shall establish at the Bank of North Dakota a guaranty program for a business located in the state which contracts with a business located in the state which is either owned by one of the five North Dakota Indian tribes or which is an American Indian-owned small business located in this state. The industrial commission shall establish program guidelines and shall establish program application forms. The industrial commission shall adopt policies and procedures as necessary to implement this program. The Bank of North Dakota 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.
2. In the case of a payment dispute, the program must provide a participating North Dakota business with sure and certain payment of receivable owing under the contract between the North Dakota business and the tribal-owned or Indian-owned business. Any litigation over a payment dispute must be conducted by the participating businesses and is not the responsibility of the industrial commission, the Bank of North Dakota, or this guaranty program. The industrial commission shall establish a guaranty reserve board. The board membership, which may not exceed twelve members, consists of the attorney general or the attorney general's representative, who serves as chairman of the board; the president of the Bank of North Dakota or the president's representative; one representative for each participating tribal government; and representatives of private business equal to the number of tribal government representatives serving on the board. Each North Dakota Indian tribe that participates in the program may appoint one board member to serve a two-year term. A tribally appointed member serves at the pleasure of the appointing tribal government. The board members representing private business serve two-year terms to run concurrently with the corresponding tribally appointed member. The members of the industrial commission shall take turns appointing the board members representing private business, in the following order: governor, attorney general, and agriculture commissioner. Each member representing private business serves at the pleasure of the industrial commission and any vacant position must be filled by an individual appointed by the member of the industrial commission making the original appointment. The board must meet annually, or more often as may be determined necessary by the chairman, for the purpose of reviewing participation in the program and conducting the business of the board.

3. To participate in the program, all parties must agree that for purposes of the program and related business contract issues any claim or dispute between any of the parties are governed by the laws of the state of North Dakota and any claim or dispute between the parties must be brought in Burleigh County district court in Bismarck or by agreement of the parties may be brought to a mutually agreed-upon arbitrator. To participate in the program, the business owned by a North Dakota Indian tribe or the Indian-owned small business must have secured the pledge of a North Dakota Indian tribe or a tribally approved entity to guarantee repayment to the guaranty program for any payments made due to payment disputes. This repayment guarantee must be consistent with the policies and procedures established by the industrial commission to implement this program.
4. If the Bank of North Dakota provides a North Dakota business with a payment due to a payment dispute, as a guarantor the board is an assignee and as such may seek reimbursement from a third party or from the North Dakota business for any payment made under the program.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1503 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 89 Nays 0 Absent 5

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State