

TESTIMONY OF

David Stradinger, Manager of the Radiation & Indoor Air Quality Control Program

Good afternoon Chairman Porter and members of the House Energy and Natural Resources Committee. My name is David Stradinger and I am the Manager of the Radiation and Indoor Air Quality Control Program of the Division of Waste Management of the Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation and enforcement of many of the federal and state environmental protection programs in North Dakota. I provide this testimony in support of Senate Bill 2076.

To help ensure facility operational integrity and safe handling of specific hazardous materials, the DEQ can require individuals or responsible parties to complete a criminal history background check prior to gaining employment or receiving a permit or license to operate in the state. Some record checks may go beyond the state boundaries and require access to the Federal Bureau of Investigation (FBI) Criminal History Record Information (CHRI).

As part of the 2021 amendments to NDCC 12-60-24(2)(vv) and addition of NDCC 23.1-01-11.1, the US Department of Justice – Office of General Counsel - Criminal Justice Information Law Unit (CJILU) reviewed NDCC 12-60-24(2) as it relates to the requirement for state or federal criminal history background checks. It was determined the law as written did not qualify the state for access to the FBI CHRI pursuant to Pub. L. 92-544.

As NDCC 12-60-24(2)(vv) was previously approved by the CJILU, the CJILU placed NDCC 12-60-24(2)(vv) on a grace period until July 31, 2023. During the grace period, the FBI would continue to honor fingerprints submitted for final applicants prior to gaining employment in the DEQ, or an applicant for registration, certification, or licensure by the DEQ pursuant to this authority.

SB 2076 addresses concerns of the FBI in the following sections:

Section 1: Provides specificity as to the types of individuals or occupations that may require a criminal history background check;

Section 2: Provides language that the DEQ may require applicants for a radioactive materials license or a solid waste permit, as a part of an environmental compliance background review, to complete a statewide and federal criminal history background check. This section also provides the meaning of "applicant", and reasons for application denial, taking into consideration the relevance of the circumstance to the type of license or permit being sought.

The proposed changes to the statute have been provided to the DOJ for their review and concurrence.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for Senate Bill 2076 with the requested amendments. I would be happy to answer any questions.