

**HOUSE BILL NO. 1104**

Introduced by

Industry, Business and Labor Committee

(At the request of the State Department of Health)

1 A BILL for an Act to amend and reenact subsection 7 of section 23-20.3-03.1 of the North  
2 Dakota Century Code, relating to financial assurance requirements for property subject to  
3 institutional controls or responsibility exemptions.

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

5 **SECTION 1. AMENDMENT.** Subsection 7 of section 23-20.3-03.1 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 7. Before agreeing to any institutional controls or responsibility exemptions, the  
8 department may require insurance coverage or other financial assurance for any  
9 additional environmental monitoring or remediation that may become necessary on the  
10 property after the site-specific responsibility exemptions and institutional controls are  
11 established, and must require such insurance coverage or other financial assurance  
12 when the projected cost of an active monitoring or remediation program exceeds five  
13 hundred thousand dollars. The department may terminate the requirement for financial  
14 assurance if the person required to have financial assurance demonstrates to the  
15 department that the property no longer presents a significant threat to public health or  
16 the environment. ~~A determination by the department that financial assurance is no~~  
17 ~~longer necessary does not relieve any responsible party from liability for any future~~  
18 ~~remediation the department requires for the property.~~ The department may enter a  
19 joint agreement with affected political subdivisions, state or federal agencies, property  
20 owners, lenders, the administrator of the petroleum tank release compensation fund,  
21 or any responsible or potentially responsible party concerning payment for or funding  
22 of any insurance coverage or other financial assurance for any additional  
23 environmental monitoring or remediation that may become necessary on  
24 contaminated or affected properties. Such agreements do not waive the liability

1            limitations that apply by law to the state, to state agencies, or to political subdivisions,  
2            except up to the amounts, and subject to the terms, conditions, and limitations, of any  
3            insurance policy or any financial assurance fund created by the joint agreement of the  
4            parties under this subsection. Any financial assurance fund must comply with chapters  
5            59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 and  
6            be managed for the benefit of the affected persons or community, but liability of the  
7            fund may not exceed the amount deposited with the fund.