

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Environmental Quality)

1 A BILL for an Act to amend and reenact subdivision vv of subsection 2 of section 12-60-24 and
2 section 23.1-01-11.1 of the North Dakota Century Code, relating to environmental compliance
3 background reviews of applicants for a radioactive materials license or solid waste permit.

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

5 **SECTION 1. AMENDMENT.** Subdivision vv of subsection 2 of section 12-60-24 of the North
6 Dakota Century Code is amended and reenacted as follows:

7 vv. The department of environmental quality for a final applicant for a job opening or
8 a current employee with the department; ~~an individual being investigated by the~~
9 ~~department;~~ as designated by the director of the department or, when requested
10 by the department, an applicant for a radioactive materials license under chapter
11 23.1-03 or a solid waste permit under chapter 23.1-08 as provided in section
12 23.1-01-11.1.

13 **SECTION 2. AMENDMENT.** Section 23.1-01-11.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **23.1-01-11.1. Criminal history background checks.**

16 The

17 1. As part of an environmental compliance background review, the department may
18 require an applicant for a radioactive materials license under chapter 23.1-03 or a
19 solid waste permit under chapter 23.1-08 to complete a statestatewide and nationwide
20 criminal history record check as provided in section 12-60-24. ~~If the applicant is not an~~
21 individual, the department may require an individual responsible for the applicant to
22 complete a state and a nationwide criminal history record check as provided in section
23 12-60-24. The applicant or responsible individual shall submit personal information
24 and fingerprints with the application necessary to complete the statestatewide and

1 nationwide criminal history background record check. All costs associated with the
2 statewide and nationwide criminal history record check are the responsibility of
3 the applicant.

4 2. For purposes of this section, an "applicant" means the person applying for the license
5 or permit, and includes:

6 a. Each entity that is, or is proposed to be:

7 (1) A partner;

8 (2) An entity contracted with the applicant to operate, manage, or supervise the
9 facility or activities for which approval is being sought;

10 (3) An entity holding ten percent or more of the applicant's debt;

11 (4) An entity holding ten percent or more of the applicant's equity; or

12 (5) The parent corporation, holding corporation, and any other entity that
13 exercises control over the facility or activities for which approval is being
14 sought.

15 b. Each individual who has, or is proposed to have, any of the following
16 relationships with the applicant:

17 (1) Director;

18 (2) Partner;

19 (3) Officer;

20 (4) All individuals having managerial, supervisory, or substantial
21 decisionmaking authority and responsibility for the management of
22 operations involving radioactive material;

23 (5) Holder of ten percent or more of the applicant's debt; or

24 (6) Holder of ten percent or more of the applicant's equity.

25 3. The department may deny an application for the issuance, renewal, transfer, or major
26 modification of a license or permit based on its environmental compliance background
27 review.

28 a. Reasons for denial include:

29 (1) The applicant has intentionally misrepresented or concealed any material
30 fact in a statement required under this section;

- 1 (2) The applicant has been convicted of a felony or pleaded guilty or nolo
2 contendere to a felony involving the laws of any state or the federal
3 government within five years preceding the application;
4 (3) The applicant has been adjudicated in contempt of an order of any court
5 enforcing the laws of this state or any other state or the federal government
6 within five years preceding the application; or
7 (4) The applicant has repeatedly violated any state or federal environmental
8 protection laws.
9 b. The department also shall consider the relevance of the offense to the business
10 to which the license or permit is issued, the nature and seriousness of the
11 offense, the circumstances under which the offense occurred, the date of the
12 offense, and the ownership and management structure in place at the time of the
13 offense.