

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 in the manner provided in
2 subsection 1 of section 12-60-24. All costs associated with the ~~state~~statewide and
3 nationwide criminal history record check are the responsibility of 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 as defined in subsection 7 of section 10-01.1-02 that is, or is
7 proposed to be:

8 (1) A partner in a partnership as defined in subsection 19 of section 45-13-01;

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

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

12 ~~(4)~~(3) An entity holding ten percent or more of the applicant's equity; or

13 ~~(5)~~(4) ~~The parent corporation, holding corporation, and any other entity that~~
14 ~~exercises control over the facility or activities for which approval is being~~
15 ~~sought of a corporation as defined in subsection 46 of section 10-19.1-01.~~

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

18 (1) ~~Director~~A board member as defined in subsection 8 of section 10-19.1-01;

19 (2) ~~Partner~~A partner in a partnership as defined in subsection 19 of
20 section 45-13-01;

21 (3) ~~Officer~~An officer as defined in section 10-15-29 or 10-19.1-52;

22 (4) ~~All individuals having managerial, supervisory, or substantial~~
23 ~~decisionmaking authority and responsibility for the management of~~
24 ~~operations involving radioactive material~~A radiation safety officer as defined
25 in North Dakota Administrative Code subsection 34 of
26 section 33.1-10-01-04;

27 (5) ~~Holder~~A holder of ten percent or more of the applicant's debt; or

28 (6) ~~Holder~~A holder of ten percent or more of the applicant's equity.

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

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