

Fifty-fifth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2348**

Introduced by

Senators Traynor, Freborg, Krauter

1 A BILL for an Act to amend and reenact sections 61-16.1-42 and 61-21-31 of the North Dakota  
2 Century Code, relating to construction of drains across roads and railroads.

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

4 **SECTION 1. AMENDMENT.** Section 61-16.1-42 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **61-16.1-42. Drains along and across public roads and railroads.** Drains may be  
7 laid along, within the limits of, or across any public road or highway, but not to the injury of ~~such~~  
8 ~~the road. In instances where~~ If it is necessary to run a drain across a highway, the department  
9 of transportation, the board of county commissioners, or the board of township supervisors, as  
10 the case may be, when notified by the water resource board to do so, shall make necessary  
11 openings through the road or highway at its own expense, and shall build and keep in repair all  
12 required culverts or bridges as provided under section 61-16.1-43. In instances where If drains  
13 are laid along or within the rights of way of roads or highways, the drains shall must be  
14 maintained and kept open by and at the expense of the water resource district concerned. A  
15 drain may be laid along any railroad when necessary, but not to the injury of the railroad, and  
16 when or railroad company. When it is necessary to run a new or modify an existing drain  
17 across the railroad, the railroad company, when notified by the water resource board to do so,  
18 shall make the necessary opening through such the railroad, and shall build the required  
19 bridges and culverts, and shall keep them in repair. The cost of construction or modification of  
20 any required bridges or culverts must be borne by the district or board ordering the work and  
21 may be apportioned and assessed as provided in this chapter to and upon lands or premises  
22 benefited by the project in proportion to and in accordance with benefits accruing to the lands or  
23 premises. If drains are laid along, across, or within the right of way of any railroad, the drain

1 must be maintained, repaired, and kept open by and at the expense of the board concerned,  
2 and the board may apportion and assess the costs as provided in this chapter.

3 **SECTION 2. AMENDMENT.** Section 61-21-31 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **61-21-31. Drains along and across public roads and railroads.** Drains may be laid  
6 along, within the limits of, or across any public road or highway, but not to the injury of ~~such the~~  
7 road. ~~In instances where~~ If it ~~shall be~~ is necessary to run a drain across ~~such the~~ highway, the  
8 department of transportation, the board of county commissioners, or the board of township  
9 supervisors, as the case may be, when notified by the board to do so, shall make necessary  
10 openings through ~~such the~~ road or highway at its own expense, and shall build and keep in  
11 repair all suitable culverts or bridges at its own expense, as provided under the applicable  
12 provisions of section 61-21-32. ~~In instances where~~ If drains are laid along or within the limits of  
13 roads or highways, ~~such the~~ drains ~~shall~~ must be maintained and kept open by the board at the  
14 expense of the drainage district concerned. A drain may be laid along any railroad when  
15 necessary, but not to the injury of ~~such road, and when the railroad or railroad company.~~ When  
16 it ~~shall be~~ is necessary to run a new or modify an existing drain across a railroad, the railroad  
17 company, when notified by the board to do so, shall make the necessary opening through ~~said~~  
18 the road and shall build suitable bridges and culverts ~~and keep them in repair.~~ The cost of  
19 construction or modification of any required bridges or culverts must be borne by the district or  
20 board ordering the work and may be apportioned and assessed as provided in this chapter to  
21 and upon lands or premises benefited by the project in proportion to and in accordance with  
22 benefits accruing to the lands or premises. If drains are laid along, across, or within the rights  
23 of way of any railroad, the drain must be maintained, repaired, and kept open by and at the  
24 expense of the board concerned, and the board may apportion and assess the costs as  
25 provided in this chapter.