

FIRST ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2324

Introduced by

Senators Wanzek, Conley

Representatives Ostlie, Pollert, Satrom

1 A BILL ~~for an Act to amend and reenact section 24-03-08 of the North Dakota Century Code,~~
2 ~~relating to installation of culverts.~~ for an Act to provide for a legislative management study
3 regarding stream crossing standards.

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

5 **SECTION 1. AMENDMENT.** ~~Section 24-03-08 of the North Dakota Century Code is~~
6 ~~amended and reenacted as follows:~~

7 ~~— 24-03-08. Determinations of surface water flow and appropriate highway~~
8 ~~construction.~~

9 ~~— Whenever and wherever~~ When a highway under the supervision, control, and jurisdiction of
10 ~~the department or under the supervision, control, and jurisdiction of the,~~ a board of county
11 ~~commissioners of any county, or the~~ a board of township supervisors has been or will be
12 ~~constructed over a watercourse or draw into which flow surface waters from farmlands, the~~
13 ~~state engineer, upon petition of the majority of landowners of the area affected or at the request~~
14 ~~of the board of county commissioners, township supervisors, or a water resource board, shall~~
15 ~~determine as nearly as practicable the design discharge that the crossing is required to carry to~~
16 ~~meet the stream crossing standards prepared by the department and the state engineer. When~~
17 ~~the determination has been made by the state engineer, the department, the board of county~~
18 ~~commissioners, or the board of township supervisors, as the case may be, upon notification of~~
19 ~~the determination, shall install a culvert or bridge of sufficient capacity to permit the water to flow~~
20 ~~freely and unimpeded through the culvert or under the bridge. If the department, the board of~~
21 ~~county commissioners, or the board of township supervisors, as the case may be, fails to install~~
22 ~~a culvert or bridge of sufficient capacity for the design discharge determined by the state~~
23 ~~engineer within one year after receiving the state engineer's determination, and does not have~~
24 ~~good cause for failing to do so, a court may award reasonable court costs and attorney's fees to~~

1 ~~a person that incurred the expenses in an action to enforce this section. The department,~~
2 ~~county, and township are not liable for any damage to any structure or property caused by water~~
3 ~~detained by the highway at the crossing if the highway crossing has been constructed in~~
4 ~~accordance with the stream crossing standards prepared by the department and the state~~
5 ~~engineer and any recommendations from the state engineer for a specific size or design for the~~
6 ~~culvert or bridge.~~

7 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STREAM CROSSING**

8 **STANDARDS.** During the 2021-22 interim, the legislative management shall consider studying
9 stream crossing standards and the design discharges that crossings must carry to meet the
10 standards. The study must include consideration of the development of the stream crossing
11 standards, impacts of stream crossings on upstream and downstream landowners, and
12 enforcement of section 24-03-08 and any similar stream crossing requirements. The legislative
13 management shall report its findings and recommendations, together with any legislation
14 required to implement the recommendations, to the sixty-eighth legislative assembly.