

SENATE BILL NO. 2325

Introduced by

Senators Luick, Wanzek, Weber

Representative Brandenburg

1 A BILL for an Act to create and enact a new section to chapter 47-05 of the North Dakota
2 Century Code, relating to nonfederal easements granted on wetland areas.

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

4 **SECTION 1.** A new section to chapter 47-05 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Easements granted to a nonfederal party within a wetland - Restrictions - Liability.**

- 7 1. Before a real property owner grants an easement within a wetland of this state to any
8 person, except the federal government, the grantor of the easement shall request the
9 department of water resources or appropriate federal agency to determine the ordinary
10 high water mark of the area subject to the easement. All easement holders having
11 obtained an easement subject to this section before August 1, 2025, shall obtain an
12 ordinary high water mark determination from the department of water resources or
13 appropriate federal agency.
- 14 2. Upon determining the ordinary high water mark of the affected areas, the easement
15 holder shall record a copy of the easement, the ordinary high water mark
16 determination issued by the department of water resources or appropriate federal
17 agency, and a map of the area subject to the easement with the county recorder of the
18 county in which the majority of the easement area is situated. If the water level
19 exceeds the ordinary high water mark within the easement area, the easement holder
20 is liable for civil damages to any person aggrieved by damages to crops, county and
21 township roads, railroad infrastructure, and private property caused by the flow of
22 water above the ordinary high water mark.