

**Testimony by Jayme Tenneson, Griggs County State's Attorney, Nelson County State's Attorney
Before the House Political Subdivisions Committee**

In Opposition of SB 2324

March 11, 2021

Thank you Chairman Dockter and Committee Members, for the opportunity to provide testimony on SB 2324. My name is Jayme Tenneson, I am the State's Attorney in Nelson County and Griggs County and serve as an executive officer on the board of the NDACo. I also farm with my father in Griggs County.

I first heard the adage of "Whiskey is for drinking and water is for fighting", after I had been serving as state's attorney and it was contradictory to everything my experience as a state's attorney had told me. Unfortunately, I have learned the hard way, that there is probably no truer expression than this.

As a State's Attorney, I have the duty to look out for the best interest of the counties I serve. As a farmer I must work as hard as I can to conserve our land not only for my own livelihood, but so that I can pass on an asset that I hope provides for generations. I respectfully request recommend a **"DO NOT PASS"** on SB 2324.

First, I need to speak to you as a State's Attorney. Counties have limited budgets and resources as you see every year during the session. I believe passage of SB 2324 is detrimental to the counties I serve, probably more than others because we are importers of water. Both Nelson and Griggs Counties are importers of water having the Sheyenne River and Baldhill Creek system as outlets to drains. Both counties have hundreds of stream crossings and culverts throughout the county and township road system. The requirement that counties

follow stream crossing studies and replace culverts within one year of the study under SB 2324 will have disastrous financial impact on counties. This disastrous financial impact will be implemented through appointed officials rather than the local elected officials.

I believe that implementation of SB 2324 will cause deteriorated relationships between neighboring counties, neighboring townships, and between counties and townships. Passage of SB 2324 will force counties and townships to “dump” water on their downstream neighbors without being able to broker deals between the sub divisions. Under current law, there is no requirement to replace the culverts within any given time frame. This allows the townships or counties the ability to work together. When crossing county or township lines, it gives the water resource board the ability to work with the townships, counties, and other water boards to find a solution to issues. I believe SB 2324 will ultimately result in suits between counties, townships, and landowners.

The Griggs County Commission and Nelson County Commission are concerned about the financial repercussions of SB 2324 and the power that this would give to the state to control county and township affairs. As a result both commissions have taken action to formally oppose SB 2324.

Finally, voters of my respective counties voted for township officers and county commissioners and shown confidence in their ability to steer the counties in the right direction and solve the counties’ problems. These voters have given the commissioners and township officers the power to manage the culverts of the counties and townships. The commissioners have the ability to appoint a water resource board and gives that board to be the governors of

water in their respective counties. Current law, gives those same water resource board members the ability to work with other boards to govern shared watersheds.

Next, I think it's appropriate to address you as a farmer. Because of changes in technology and the need to get the highest return on investment possible, farmers are more aggressively draining with use of GPS technology and subsoil tiling. These practices remove the water from the land at higher speeds. These practices result in increased flows at stream crossings and through the man-made or natural drains. This causes water to back up at stream crossings and erode the drainage channels. Now, culverts that were sufficient for the last 50 years are no longer sufficient. Channels that handled the water for the last 50 years are no longer sufficient. Downstream neighbors receive these higher volumes of water at faster rates. This additional water causes drains to overtop their banks and flood fertile land of downstream neighbors. These actions are causing irreparable damage to fertile farmland while draining the water from poor to mediocre land. It creates erosion of the drainage channels that can not be stopped nor repaired. As a farmer it kills me to see the soil erode. Soil can not be replaced.

Griggs County County and Foster County are currently facing a stream crossing study on a drain at the county line. This is the western boundary of Griggs County and the Eastern Boundary of Foster. This drain travels approximately 7 miles before it enters the Baldhill Creek which eventually flows into Lake Ashtabula and into the Sheyenne River. In this particular stream crossing study, the study calls for two 36 inch culverts to replace a single 24 inch culvert that adequately served the drain since the early 50s.

I'm intimately familiar with this stream crossing because my family farms this land on the eastern boundary of Griggs County, and it has been in my family since the late 40s.

Replacing these culverts will quadruple the water flow through the drain, likely topping the channel and causing more erosion. 2 miles downstream from the Griggs and Foster County line there is the farm yard of Tim and Nancy Anderson that is near the drain. The Andersons have previously have fought water in their farm yard near their home because of this drain. Increased flows from the additional culvert will cause the Andersons to contend with a flooded yard and home. Approximately a mile downstream from the Andersons is Tim and Marietta Weber. Tim lives on his family farm that was built by his father Rueben. Webers have diked their yard and have seen waters approximately 6 inches from the top of their dike. Again, increased flows will likely be catastrophic for the Weber family. Yet, another mile down the road, Doug Johnson's land has a wildlife easement on it. This wildlife easement will only allow a portion of the water to leave the Johnson land. Finally, the drain flows into land owned by Gary and Karen Ramsey, this land is irrigated with an irrigation pivot, but the pivot is unable to operate as it once did because of the washout created by this drain. The Ramseys never imagined their investment in and expensive irrigation system would be stopped because of a water washout. Current law mandates that more water flow into this waterway and proposed law mandates that it be done within a year. The upstream land owners have only expressed the desire to move the water from their land with absolutely no regard for the downstream damage.

Neither current law under NDCC 24-03-08 nor proposed SB 2324 take into account any downstream impact, but allows upstream landowners to relieve the water from their land as quickly as possible. Current law and the proposed legislation of SB 2324 do not work. It allows

upstream landowners to dump their water and forget it and leave those downstream to suffer the consequences.

For the reasons above, I respectfully recommend “**DO NOT PASS**” on SB 2324. Thank you.