


Testimony Prepared for the  
**House Political Subdivisions Committee**

Thursday, March 11, 2021

By: Nick West PE, NDACE President & Grand Forks County Engineer



*North Dakota  
Association of  
County Engineers*

**RE: Senate Bill 2324**

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Nick West, I'm the president of NDACE, the Grand Forks County Highway Engineer and Chairman of Allendale Township. Thank you for the opportunity to provide testimony in opposition of SB 2324.

I did submit testimony a month ago when this bill was first heard in the Senate Transportation Committee. Please reference that testimony, as it still holds true. Every crossing is controversial, it's a constant tug of war between upstream and downstream interests, and the middle ground is the NDCC. The State Engineer's office should remain a partner, an asset, as it is today, and not turned into an authoritative agency with direct jurisdiction over Local Governments.

That said, I'd like to express my sympathies to all the parties involved in these culvert projects. Managing water is challenging and has real financial consequences both up and downstream. Often times there's a lot of tribulations to each unique situation, with limited funding to remedy the problems, and government is tasked with finding that balance and sometimes gets a bad name in the process. However, this bill doesn't solve the problem.

Bottom line, this bill as proposed with its amendments transfer's power away from the local subs and gives it to the State Engineer's office, with no funding mechanism to support it. The State Engineer could tell a County or Township what to do and the County or Township would have no mechanism to contradict or even negotiate the requirement, even if the Engineer's requirement exceeds the Stream Crossing Standards. This unfunded mandate could be particularly difficult for a township or smaller county to work into their construction plan particularly within the one-year timeframe amendment. Having one agency dictate what another agency must do, is never a good thing.

It's likely that this bill would create an increase in determination requests that could overwhelm the State Engineer's office. One question that would need to be addressed is, does the State Engineer's office have sufficient capacity to process such requests?

Additionally, and unfortunately, this bill still doesn't solve the enforcement issue, as folks like Mrs. Backer would still be forced to sue the township in order to get justice, that part doesn't change from current Century Code.

We would urge a "do not pass" vote on this bill, however if this bill proceeds further, we recommend adding language to address the potential unfunded mandate.

Please feel free to reach out to me with any questions. I can be reached via phone at Office: 701-780-8248 or Mobile: 701-317-0126 or via email at: [nick.west@gfcounty.org](mailto:nick.west@gfcounty.org).

Thank you for your time and consideration.