

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

2137

2007 SENATE POLITICAL SUBDIVISIONS

SB 2137

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2137**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **January 11, 2007**

Recorder Job Number: **919**

Committee Clerk Signature



Minutes:

**Chairman Cook** called the Senate Political Subdivisions to order. Roll call was taken with all members (5) present.

**Chairman Cook** opened the hearing on SB 2137 relating to the department of emergency services and the North Dakota Disaster Act of 1985.

**Greg Wilz**, Director of Homeland Security, Adjutant Generals Office testified on behalf of Major General David Sprynczynatyk, testified in Support of SB 2137 and explained the bill. (See attached testimony) He felt it was important to deviate from his testimony and walk the committee through the recommended changes of the bill so they understand because it is somewhat complex. On page 1, in section one of the amendment, we are simply adding to our purpose threats to home land security and recognizing and adding the important prevention role that the governor, the agencies, state agencies and local government need to fulfill in the emergency management arena.

**Chairman Cook** Chapter 37 is the military code and the 17.1 is the ND Disaster Act. There is a section that talks about the governor and we are not touching that section. So if I am to understand right, none of this goes into effect unless the governor makes some sort of declaration. Is this correct?

**Greg Wilz** answered that is not entirely correct. The agency operates on a daily basis and performs its mission. The agency at this time is working in the area of prevention in terms of threats to home land security. In recent years an Intel fusion center has been put together in the agency that is comprised of members of the highway patrol, the bureau of criminal investigation, the National Guard and our agency. One of the primary responsibilities of that agency is to look at all of the intelligence information that is coming in and do things to prevent potential home land security threats from occurring. It is important at this time that we are fulfilling a role in preventing a lot of the stuff. In the past we wrapped it all up under mitigation but they are two different things. The governor is provided with a lot of things in law once an emergency or declaration is declared and we are not speaking to that at this point, we are speaking to it as a general mission requirement or responsibility of the understate agencies. We are doing prevention right now as the governor has instructed us.

**Senator Warner** asked if he saw this as an extension of policing powers to the military. Traditionally we have been very careful to keep a separation.

**Greg Wilz** answered he did not.

Moving on to page 2, we added the word prevention and are codifying into our statute the requirements to be National Incident Management System and the Incident Command system compliant. This is a requirement of the federal government. Moving down the page to 37-17.1-02.1 the change is just a title clarification to comply with nationally understood terms and abbreviations. The operation center that we have at the center is really the emergency operation center. We do not have a daily operation center running at the agency. It is active only when we have an emergency. 37-17.1-04 is an update in verbiage. We are striking oil and adding chemical. Section 4 is one of the areas we had gotten some feedback on from some of our stake holders. What we are doing here is changing the agencies mission. The

staffing that we currently have has not allowed us to continue that. Today we are continuing to provide the technical advice and support on an individual request basis. If a county or city has a problem we do respond but we are not able to maintain the staffing with the other mission requirements that we have had in recent years to maintain a section that just does that. The auditors recommended that we reimplement a program that fulfills that intent of law or we seek the change and that is what we are doing at this point.

**Chairman Cook** asked to have the stake holder's listed.

**Greg Wilz** Answered that it is a long list. We have fire departments, ambulance services, local law, county law enforcement, all state agencies, a number of federal stake holders that they deal with that being FBI, Department of Home Land Securities, FEMA. In all total we have like 54 stake holder agencies.

**Greg Wilz** referred back to the attached testimony.

**Chairman Cook** asked if they had communication with the stake holders as this was being drafted.

**Greg Wilz** answered yes, last legislative session the session saw fit to institute an advisory committee to the agency. The advisory committee consists of eleven stake holder representatives and I believe we had nine to ten meetings with them. The meetings ran from two hours to two days. We have discussed with them the changes in this bill plus the other legislative initiatives that we have this session.

**Senator Hacker** asked if there is some sort of level of service or need to guide the situation if something minor is going on in one area and a severe need in another area. Would you pull the resources away from the area of severe need?

**Greg Wilz** answered that it is a concern. Emergency management is a system of redundancy. It has many back ups and it is very flexible. Other assets can be brought in to meet the needs of the situation.

**Bill Wocken**, City Administrator, City of Bismarck, appeared in support of SB 2137. There are additional wording changes that the city would like to take a look at. The purpose of the bill is excellent. He brought amendments to the bill but did not think they would help at this point and would like a weeks to work with Mr. Wilz to come up with some language that will hopefully compliment the purpose of the bill and also make sure that city and county plans would be able to handle the hazards that they are intended to handle.

**Chairman Cook** encouraged Mr. Wocken to do so.

No further testimony in support, opposed or neutral on SB 2137.

**Chairman Cook** closed the hearing on SB 2137.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2137**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **January 25, 2007** (Action)

Recorder Job Number: **1880**

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Chairman Cook** called the Senate Political Subdivisions Committee to order. All members present.

Committee work:

Amendments submitted by Bill Wocken were passed out. (Attachment #1)

**Chairman Cook** said the amendments try to define the way communication between cities and counties that both have emergency plans are going to cooperate and work together. It sets off the chain of command. I consider them to be friendly amendments to the bill.

**Senator Hacker** moved a Do Pass on the amendments on SB 2137.

**Senator Olafson** seconded the motion.

Voice vote: 5 Yes 0 Opposed

**Senator Olafson** moved a Do Pass as Amended.

**Senator Warner** seconded the motion.

Vote: 5 Yes 0 No 0 Absent

Carrier: **Senator Warner**

*Attachment #1*

PROPOSED AMENDMENTS TO SB 2137  
(Submitted by Bill Wocken, City of Bismarck)

Page 5, line 10 remove "coordinated through the country"

Page 5, line 15 after the period insert "If a city provides an emergency management organization of its own, the city and county must synchronize their emergency plans."

Page 5, line 16 remove the overstrike over "mayor of a city" and add immediately thereafter "with an emergency management organization and the"

Page 5, line 17 remove the overstrike over city and add immediately thereafter "and the"; immediately after the overstrike through "is" insert "are"; remove "and"

Page 5, line 18 remove "the cities within that county are"

Page 5, line 19 overstrike the second "the" and insert immediately thereafter "each"



January 25, 2007

*JTB*  
*1-25-07*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2137

Page 5, line 10, remove "coordinated through the county"

Page 5, line 15, after the overstruck period insert "If a city provides an emergency management organization of its own, the city and county shall synchronize the city and county emergency plans."

Page 5, line 16, remove the overstrike over "~~mayer of a city~~" and after "~~er~~" insert "with an emergency management organization and the"

Page 5, line 17, remove the overstrike over "~~city~~", after "~~er~~" insert "and the", and remove "and"

Page 5, line 18, remove "the cities within that county"

Page 5, line 19, overstrike "the person" and insert immediately thereafter "each individual"

Renumber accordingly

Date: 1-25-07  
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2137

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 78078.0101 Title .0200

Action Taken No Pass as Amended

Motion Made By Senator Olafson Seconded By Senator Warner

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 No 0

Absent \_\_\_\_\_

Floor Assignment Senator Warner

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2137: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2137 was placed on the Sixth order on the calendar.**

Page 5, line 10, remove "coordinated through the county"

Page 5, line 15, after the overstruck period insert "If a city provides an emergency management organization of its own, the city and county shall synchronize the city and county emergency plans."

Page 5, line 16, remove the overstrike over "~~mayer of a city~~" and after "~~or~~" insert "with an emergency management organization and the"

Page 5, line 17, remove the overstrike over "~~city~~", after "~~or~~" insert "and the", and remove "and"

Page 5, line 18, remove "the cities within that county"

Page 5, line 19, overstrike "the person" and insert immediately thereafter "each individual"

Renumber accordingly

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2137

# 2007 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2137

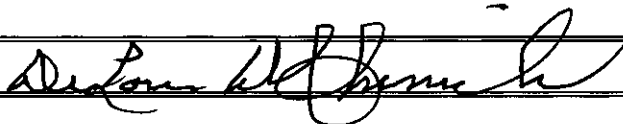
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 23, 2007

Recorder Job Number: 3783, 3787

Committee Clerk Signature



Minutes:

**Chairman Herbel** opened the hearing on SB 2137.

**David Sprynczynatyk: Adjutant General from ND:** I am here in support of SB 2137. It was introduced at the request of the adjutant general. As many of you recall during the last legislative session there was a lot of discussion and debate about the department of emergency and as a result there were some modifications made to the law to strengthen our ability to address emergency management disasters in the state of ND. Since that bill was passed into law two years ago we have done a lot internally to address how we do business and as we look to the future the strategic direction we want to take. I am here to introduce the bill and turn it over to Greg Wills, who is our director of homeland security within the Department of Emergency Services. The ND Disaster Act of 1985 is old and things have changed since then. Those primary changes are in the area of incident management system and incident command system.

**Greg Wilz:** Went through the bill thoroughly explaining all the changes (see attached testimony #1).

**Rep. Kari Conrad:** The word prevention and what does that entail putting that into law?

**Greg Wilz:** In the prevention arena we have built a intelligence fusion center in the agency. That particular center is comprised of folks from the Highway Patrol, Bureau of Investigation, Office of the Adjutant General; specifically the National Guard, and our agency. What that center has lengths to a number of federal agencies all the way down to local law enforcement agents. That information is brought into this central location. There are some activities we can do through law enforcement that can help prevent things from happening in the state. In the homeland security agreement where we are dealing with some bad people that want to do bad things and so we have the communications system set up to handle this.

**Rep. Kari Conrad** What is the roll of the local sheriff or responder in that and how does it connect?

**Greg Wilz:** The local roll is to report suspicious activities. Once we get this information on a person we push it out to all the state agencies so they have it.

**Rep. Lawrence Klemin:** I recall other entities like the Red Cross, where do they figure into this kind of thing? Do you enter into agreements with organizations like the Red Cross? Is there authority in here for the Red Cross to assist with the warehouses and stock piles etc?

**Greg Wilz:** I don't believe it significantly addresses this. What you see in front of you is that in practice that is occurring today at a larger and faster rate than ever before. We are finding that we can significantly improve our ability to respond to incidents in the state of ND when we have the partnerships in place that can leverage every ones resources. The American Red Cross is a big part of the solution in the state of ND. We have actively engaged in a new sheltering program. We have no stumbling blocks polling resources to work together throughout the state.

**Rep. Lee Kaldor** The prevention term. Is that language necessary to comply with the federal homeland security requirements?

**Greg Wilz:** That language is in the federal homeland security mission. Because we are the state agency that has the direct link of that responsibility in the state we ought to begin there. I am not saying we are extending or infringing on peoples rights with what we are doing. We are very strict in the procedures that we follow within that fusion center.

**Chairman Herbel:** On page 4 at the top, in coordination with lead and support agencies. Would that be part of what we have been talking about? Trying to coordinate with them or is there some other issues?

**Greg Wilz:** That is in reference specifically to state agencies. We have to draw on expertise of other state agencies. The Department of Health would be considered a lead agency in a disaster.

**Chairman Herbel:** What are the other specific agencies you are referring to?

**Greg Wilz:** All of them. There are 60 some off state agencies. We are working with them all to identify every ones critical essential services.

**Terry Traynor, Assistant director ND Assoc. of Counties:** (see testimony #2). Includes a proposed amendment.

**Chairman Herbel:** Terry you want to go through the amendment and what is happening.

**Terry Traynor:** The meat is having a new section of Emergency funds to counties. Emergency funds may be used to match federal funds related to a federally declared disaster that occurred more than 60 days preceding such determination.

**David Sprynczynatyk:** Adjutant General from ND. We worked with the association of counties on this amendment. We have no opposition to it. We are very much aware of the problem that exists out there. Especially in the Devils Lake area and we think this would be an added benefit to the county and township abilities to respond to disasters and mitigate disasters.

**Mary Senger: NDSBA:** I am in support of SB 2137. I do have some concerns in section 5 with the word synchronize. We rely on our neighboring county plans. Many of our plans are similar in nature and I would like them to remain what the counties need them to be rather than trying to put on a synchronized process with the city programs. We have issue where we have counties that have staff that maybe work eight, ten or fourteen hours a week so they do rely on support from their neighboring counties.

**Rep. Lawrence Klemin:** The word synchronize do you have some suggestions on this?

**Mary Senger:** Even just the word coordinate.

**Larry Syverson:** The Association of Counties is in support of this bill. I believe this would be a big help since the counties are always short.

Opposition: None

Hearing closed.

**Chairman Herbel** reopened the hearing on SB 2137. Job #3787

**Rep. Lawrence Klemin** discussed the amendment.

**Rep. Nancy Johnson** On page 5, line 17 it says the mayor of a city or president of the board.

**Rep. Lawrence Klemin:** Chairman Herbel this brings up another whole subject. It seems on the whole subject of mayor vs. president of city commission that just about every president of the city commission is referred to as a mayor. But he really isn't.

**Chairman Herbel** said we will take action next Thursday on this bill.

Hearing closed.



2007 HOUSE STANDING COMMITTEE MINUTES

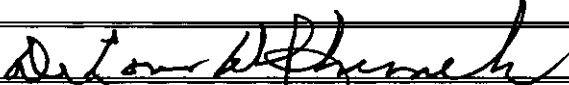
Bill No. SB 2137

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4219

Committee Clerk Signature 

Minutes:

**Chairman Herbel** reopened the hearing on SB 2137.

**Rep. Lawrence Klemin:** It is the bill that came from the homeland security as far as emergency services. It was proposed by the ND Association of Counties. . Went over the amendment.

**Motion Made By Rep. Lawrence Klemin to Move the amendment Seconded By Rep. Lee Kaldor**

Discussion: None

Voice vote carried

**Do Pass As Amended Motion Made By Rep. Nancy Johnson Seconded by Rep. Pat Hatlestad**

Discussion: None

Vote: 14 Yes 0 No 0 Absent Carrier: Rep. Lawrence Klemin

Hearing closed.

VR  
3/1/07

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2137

Page 1, line 5, remove the second "and"

Page 1, line 6, after "37-17.1-25" insert ", and section 57-15-28"

Page 4, line 29, after "Coordinate" insert "and may enter agreements"

Page 5, line 16, replace "synchronize" with "coordinate"

Page 5, line 17, after "of" insert "or the president of the board of city commissioners in"

Page 13, after line 25, insert:

**"SECTION 16. AMENDMENT.** Section 57-15-28 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-28. Emergency fund - County.** The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund may not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding ~~such~~ the determination to expend emergency funds, or for the purchase of road equipment; ~~however, the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding the determination.~~ Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, must be kept in ~~such~~ the fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, or ten mills on the taxable valuation of property in a county with a population of less than thirty thousand, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund."

Renumber accordingly

Date: 2-23-07  
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2137

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Moved Amend

Motion Made By Klemin Seconded By Rep Kaldor

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman			Rep. Kari Conrad		
Rep. Dwight Wrangham-V. Chair			Rep. Chris Griffin		
Rep. Donald Dietrich			Rep. Lee Kaldor		
Rep. Patrick Hatlestad			Rep. Louis Pinkerton		
Rep. Nancy Johnson			Rep. Steve Zaiser		
Rep. Lawrence Klemin					
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-1-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2137

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do Pass As Amended

Motion Made By

Rep. Johnson

Seconded By

Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Klemin

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2137, as engrossed: Political Subdivisions Committee (Rep. Herbel, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2137 was placed on the Sixth order on the calendar.

Page 1, line 5, remove the second "and"

Page 1, line 6, after "37-17.1-25" insert ", and section 57-15-28"

Page 4, line 29, after "Coordinate" insert "and may enter agreements"

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Renumber accordingly

2007 SENATE POLITICAL SUBDIVISIONS

CONFERENCE COMMITTEE

SB 2137

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2137**

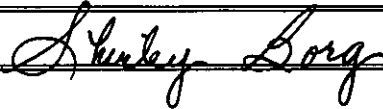
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **April 3, 2007**

Recorder Job Number: **5686**

Committee Clerk Signature



Minutes:

**Chairman Hacker** called the Conference Committee on SB 2137 to order. Senators Hacker, Olafson and Warner and Representative Klemin, Kretschmar and Pinkerton were present.

**Chairman Hacker** opened the Conference Committee on SB 2137 and asked for the house to explain the amendments.

**Representative Klemin:** On SB 2137 we made a few minor amendments and then we added Section 16 at the request of the Association of Counties. The Association of Counties asked us to include this as an amendment to this bill as a result of federal funds that had been received for repair of roads in Benson County. This particular section wouldn't allow the use of emergency road funds because of the fact there was a disaster declared affecting these roads in 2004 and well beyond that and this emergency repair can only be used by roads damaged by nature within sixty days proceeding the determination to expend emergency funds, so we are well beyond the sixty day period under this section so what we were asked to do in view of the fact federal matching funds had just come available for repair of roads in Benson County as a result of this disaster in 2004. We were asked to amend this section to permit the emergency fund to be used and not federal funds appropriated to mitigate damages to roads

related to a federally declared disaster that occurred more than sixty days preceding the determination that would allow the use of these emergency road funds to match federal funds.

**Senator Hacker:** How related to SB 2137 is this?

**Terry Traynor,** Association of Counties: I think Representative Klemin very accurately described the purpose of the amendment. The reason that we looked to this vehicle is we were alerted to the problem in Benson County in late January, after the bill filing dates and at first we thought we could deal with it administratively, we worked with the state attorney in Benson County and found that really with that law he did not feel there was any way that they could legally preempt those dollars and make them available to match the FEMA funds, so we looked around for a bill that dealt with emergency services or dealt with the emergency fund and this was the closest bill that we could find that really was germane to the topic of emergencies. We contacted the adjunct general's office and asked if he would be agreeable to us attempting to add this on there because of the relationships to emergencies and they were agreeable and that is why we approached the house committee on that late date to put it on there. It doesn't affect mill levies in that the county can use two mills and generate money into the fund until it reaches a certain level and when it is at that certain level they have to stop levying for it and the money sits there until an emergency that meets the requirements of the act occurs and the commission passes a resolution that they can spend the money. They can draw that down and in subsequent years they can put the two mills on until they build that back up. Indirectly that would allow them next year if they can spend this money this summer to match the FEMA funds and get the road projects done and build that fund up again but it doesn't change their levy authority, it just changes how money is in this reserve account for emergencies.

**Senator Hacker:** How far back can you go?



**Terry Traynor:** I don't believe we can go back; it is more of a prospective thing, if federal funds should become available in the future and they happen to become available after that sixty day window then they would be able to use it. Generally the FEMA funds are released very quickly and as I understand it this was a very unique situation that it took that long to get approval to spend that money. I see it not as in the past but really prospectively that should there be a disaster that was declared federally and the money is not available immediately and maybe later on they would be able to match it even if they missed the window.

**Senator Olafson:** Are the representatives that are here from the city, county, townships and department of emergency services all in agreement with the amendment.

**Terry Traynor:** I am sure they are.

**Senator Hacker:** Will this bill fix the Benson County roads?

**Terry Traynor:** The states attorney up there assured me that they would be able to fund those projects.

**Chairman Hacker:** I would like to get a couple of questions answered.

**Chairman Hacker** adjourned the Conference Committee on SB 2137.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2137**

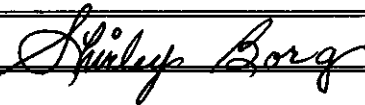
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **April 5, 2007**

Recorder Job Number: **5759**

Committee Clerk Signature



Minutes:

**Chairman Hacker** opened the Conference Committee on SB 2137. Senators Hacker, Olafson and Warner and Representatives Klemin, Kretschmar and Pinkerton present.

**Senator Hacker:** After looking at some of these changes in the use of the emergency fund. I have some concerns. Dealing with what is in the emergency fund and what is it being used for and how large of a disaster declaration that there may be. There are twelve of these that are open right now.

**Greg Wilz, Director of Home Land Security:** After the hearing three days ago we had a conversation on what the true impact of this bill is. I had the bill reviewed by some people who have been working with this for seventeen years and their feed back was that this is a good amendment and it is right for local jurisdictions to be able to exercise their ability locally to generate the funds required to meet or match the federal match requirements and seize all the federal dollars that they can for these disasters. When a disaster is declared, what happens is a team from the State of North Dakota under what they call the Management State Program goes out and assesses all of the damage and on a given project they develop what they call a project work sheet. That project work sheet is an estimate of what it costs to restore that damage back to original condition prior to the disaster. If they aren't able to generate the

amount of local match dollars then that money is going to be lost back to the federal government.

**Senator Hacker:** Is there some projects that we are going to lose some money on?

**Terry Traynor, Associations of Counties:** I talked with the Benson County Auditor and the emergency fund is generated by a two mill levy maximum of two mills and they can build that up in counties of over thirty thousand to five mills and counties under thirty thousand to ten mills. They can not levy for that. In Benson County situation they are at about one hundred thirty five thousand and that is their limit. They have projects that total about seventy three thousand dollars on the work sheets. They would have a fifteen percent match on that. They need about five to six thousand dollars out of the emergency fund to accomplish that match and this is what they are trying to tap into in order to preserve about sixty two thousand dollars in FEMA dollars that other wise if they can not match that, it will be lost.

**Chairman Hacker** asked for further questions.

**Senator Warner** moved the Senate accede to the House Amendments on SB 2137.

**Senator Olafson** seconded the motion.

Discussion: None

Roll call vote: Yes 6 and 0 No 0 Absent.

**Chairman Hacker** adjourned the Conference Committee on SB 2137.

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 2137 (as re) engrossed)

Date: 4-3-07  
2nd Mtg. 4-5-07

Your Conference Committee Political Subdivisions

**For the Senate:**

**For the House:**

	Attend.		Vote		Attendance		Vote
	4/3	4/5			P	P	
Senator Hacker	P	P	Y	Rep. Klemm	P	P	Y
Senator Olafson	P	P	Y	Rep. Kretschmar	P	P	Y
Senator Warner	P	P	Y	Rep. Bakerton	P	P	Y

recommends that the (SENATE/HOUSE) (ACCEDE) to (RECEDE) from

the (Senate/House) amendments on (SJ/HJ) page(s) 866 -- 867

and place 2137 on the Seventh order.

, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4-5-07

HOUSE CARRIER: Klemm

SENATE CARRIER: Hacker

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Senator Warner

SECONDED BY: Senator Olafson

VOTE COUNT: 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2137, as engrossed:** Your conference committee (Sens. Hacker, Olafson, Warner and Reps. Klemin, Kretschmar, Pinkerton) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 866-867 and place SB 2137 on the Seventh order.

Engrossed SB 2137 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2137

TESTIMONY OF  
GREG WILZ  
DIRECTOR OF HOMELAND SECURITY  
OFFICE OF THE ADJUTANT GENERAL  
BEFORE THE  
SENATE POLITICAL SUBDIVISIONS COMMITTEE  
JANUARY 11, 2007  
SENATE BILL 2137

Mr. Chairman and Members of the Committee:

I am here today on behalf of Major General David Sprynczynatyk, the Adjutant General, who could not be here because of a conflict with another hearing.

As part of our Strategic Plan to ensure we meet the needs of our customers and stakeholders we conducted a line by line review of the North Dakota Disaster Act of 1985 (NDCC 37-17.1). The bill before you updates the language in 37-17.1 to comply with the National Incident Management System (NIMS) and the Incident Command System (ICS) provisions in Homeland Security Presidential Directive/HSPD-5, put into effect in 2003. Meeting these requirements is necessary for states to receive Federal Homeland Security Grant funding.

While the bill does not, in our view, provide substantive changes to NDCC 37-17.1, other than updating NIMS and ICS, we have received concerns regarding three changes in the bill from our stakeholders that I will specifically address:

**Page 3, Section 4.** The requirement to “take an integral part” in the development and revision of local emergency operations plans and employ or secure services of professional and technical personnel to provide assistance to local emergency managers has been deleted. Three years ago, the Department was forced to abandon its Training, Exercise and Local Programs (TELP) section. This consisted of four staff assigned to specific quadrants of the state. Their main responsibility was to provide technical assistance and mentoring to local emergency managers and also included regularly scheduled visits to counties and tribes. The performance audit conducted in 2005 recommended the Department either delete the requirement from law or reestablish a program that meets intent. The Department simply cannot support this requirement with the current workload and number of staff. After careful review, we do not believe that the program can justify the high costs and therefore we are proposing to eliminate that requirement. We will continue to provide technical assistance to the local emergency managers.

**Page 5, Section 5.** The language change will ensure cities with individual emergency management programs do so with the knowledge of county government. The added language “coordinated through the county” simply ensures that the county knows the city’s intent and the city’s emergency operations plan will be synchronized with existing county plans. The language change also requires that the county board of commissioners notify the Department concerning the methods used by cities to provide emergency management services. This language does not establish a command relationship between the two entities. However, it does follow the national model wherein local emergencies are elevated from the city, to the county, and then to the state and then, if need be, to the federal government. It is also aligns the process with federal homeland security funding models that flow through the state, to counties, and then dispersed to local governments.

**Page 5, Section 6.** Federal law requires each state to organize emergency planning districts. In North Dakota, counties were established as emergency planning districts years ago. In turn, the local districts appoint emergency planning committee members. This language places the requirement in statute and complies with federal law. In this section, hazardous chemicals preparedness and response programs are defined to include training, exercising, equipping, response, and salaries for the sole purpose of expending funds associated with the program. This is being done to respond to audit findings that suggest there be legislative clarification of authorized expenditures.

Mr. Chairman and members of the committee, the Department of Emergency Service’s vision is to be “a respected team investing in and contributing to a safe and secure homeland through coordinate emergency service.” SB 2137, while not a dramatic change is just one of many efforts currently underway at DES to improve the quality of service, processes, and procedures we believe necessary to meet the needs of the citizens of North Dakota.

I ask your support of SB 2137 and would be pleased to respond to any questions, Mr. Chairman.



Proposed amendments to SB 2137

Line 10, page 5 Delete "coordinated through the county."

Line 13, page 5 After the period add "If a city provides an emergency management organization of its own, the city and county must synchronize their emergency plans."

Line 16, page 5 Remove the overstrike over "mayor of a city" and add immediately thereafter "with an emergency management organization and the"

Line 17, page 5 Remove the overstrike over "city" and add immediately thereafter "and the"

Line 17, page 5 After "county" add "are"

Line 17, page 5 Delete "and"

Line 18, page 5 Delete "the cities within that county are"

Line 19, page 5 After "of" delete "the" and add immediately thereafter "each"

Submitted by Bill Wocken, City of Bismarck

**SB 2137 AS DRAFTED**

**SECTION 5. AMENDMENT.** Subsections 3 and 4 of section 37-17.1-07 of the North Dakota Century Code are amended and reenacted as follows:

3. Each city shall provide an emergency management organization of its own coordinated through the county, or it shall participate in the countywide emergency management organization. Each governing board of a city shall make its determination on the basis of the city's emergency management requirements, hazards, capabilities, and resources. ~~The division of homeland security shall publish and keep current a list of cities desiring to have an emergency management organization of their own.~~
  
4. ~~The mayor of a city or~~ chairman of the board of county commissioners shall notify the division of homeland security of the manner in which the ~~city or county is~~ and the cities within that county are providing or securing emergency management activities, identify the person who will coordinate the activities of the local emergency management organization, and furnish additional information relating thereto as the division requires.

**SB 2137 AS PROPOSED**

**SECTION 5. AMENDMENT.** Subsections 3 and 4 of section 37-17.1-07 of the North Dakota Century Code are amended and reenacted as follows:

3. Each city shall provide an emergency management organization of its own, or it shall participate in the countywide emergency management organization. Each governing board of a city shall make its determination on the basis of the city's emergency management requirements, hazards, capabilities, and resources. **If a city provides an emergency management organization of its own, the city and county must synchronize their emergency plans.**
  
4. The **mayor of a city with an emergency management organization and the** chairman of the board of county commissioners shall notify the division of homeland security of the manner in which the **city and the** county **are** providing or securing emergency management activities, identify the person who will coordinate the activities of **each** local emergency management organization, and furnish additional information relating thereto as the division requires.

TESTIMONY OF  
GREG WILZ  
DIRECTOR OF HOMELAND SECURITY  
OFFICE OF THE ADJUTANT GENERAL  
BEFORE THE  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
FEBRUARY 23, 2007  
ENGROSSED SENATE BILL 2137

Mr. Chairman and Members of the Committee:

As part of our Strategic Plan to ensure we meet the needs of our customers and stakeholders we conducted a line by line review of the North Dakota Disaster Act of 1985 (NDCC 37-17.1). The bill before you updates the language in 37-17.1 to comply with the National Incident Management System (NIMS) and the Incident Command System (ICS) provisions in Homeland Security Presidential Directive/HSPD-5, put into effect in 2003. Meeting these requirements is necessary for states to receive Federal Homeland Security Grant funding.

While the bill does not, in our view, provide substantive changes to NDCC 37-17.1, other than updating NIMS and ICS, we have received concerns regarding three changes in the bill from our stakeholders that I will specifically address:

**Page 3, Section 4.** The requirement to “take an integral part” in the development and revision of local emergency operations plans and employ or secure services of professional and technical personnel to provide assistance to local emergency managers has been deleted. Three years ago, the Department was forced to abandon its Training, Exercise and Local Programs (TELP) section. This consisted of four staff assigned to specific quadrants of the state. Their main responsibility was to provide technical assistance and mentoring to local emergency managers and also included regularly scheduled visits to counties and tribes. The performance audit conducted in 2005 recommended the Department either delete the requirement from law or reestablish a program that meets intent. The Department simply cannot support this requirement with the current workload and number of staff. After careful review, we do not believe that the program can justify the high costs and therefore we are proposing to eliminate that requirement. We will continue to provide technical assistance to the local emergency managers.

**Page 5, Section 5.** The language change will ensure cities that desire to maintain an emergency management program of their own must synchronize with the county emergency management plan. To “synchronize” means a level of communication that ensures the plans are similar in process, mutually supportive in that resources are shared to the extent possible, and that management of emergencies and lines of communication are clearly defined. This language does not establish a command relationship between the two entities. It is congruent with the

national model wherein local emergencies are elevated from the city, to the county, and then to the state and then, if need be, to the federal government. It also aligns the process with federal homeland security funding models that flow through the state, to counties, and then dispersed to local governments.

**Page 5, Section 6.** Federal law requires each state to organize emergency planning districts. In North Dakota, counties were established as emergency planning districts years ago. In turn, the local districts appoint emergency planning committee members. This language places the requirement in statute and complies with federal law. In this section, hazardous chemicals preparedness and response programs are defined to include training, exercising, equipping, response, and salaries for the sole purpose of expending funds associated with the program. This is being done to respond to audit findings that suggest there be legislative clarification of authorized expenditures.

Mr. Chairman and members of the committee, the Department of Emergency Service's vision is to be "a respected team investing in and contributing to a safe and secure homeland through coordinate emergency service." SB 2137, while not a dramatic change is just one of many efforts currently underway at DES to improve the quality of service, processes, and procedures we believe necessary to meet the needs of the citizens of North Dakota.

I ask your support of SB 2137 and would be pleased to respond to any questions, Mr. Chairman.

Testimony To The  
**THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE**  
Prepared February 23, 2007 by  
Terry Traynor, Assistant Director  
North Dakota Association of Counties

**REGARDING ENGROSSED SENATE BILL 2137**

Chairman Herbel and committee members, county government would like to indicate its support of SB2137 as it comes to you from the Senate. We agree that it provides important corrections and clarifications to the statutes addressing State and local government emergency services.

I am also here today, however, to also request the committee's consideration of an amendment to address the counties' ability to fund emergency services in a particular situation.

As the attached section proposed for amendment indicates, a county can maintain an emergency fund to aid in their response to disaster-related damage of roads, bridges, and other property. The timing for authorizing the use of these funds is currently 60-days from the date of the damage. This timing issue has created a problem for at least one county, and we hope that this Committee would support the attached amendment to solve that problem.

Local roads within Benson County have just recently been approved for federal (FEMA) matching funds to address road damage resulting from a federally declared disaster several years ago. As the county became aware of the approval, and therefore the need for the matching funds only recently, the 60-day "approval period" is long past.

The amendment would provide an exception to this requirement only for damage related to federally-designated disasters and only for the purpose of matching federal funds related to that disaster. We believe this is clearly consistent with the purpose of the fund, and provides careful constraints to the fund's use.

When this section was first enacted in 1943, I doubt the possibility of federal funding was anticipated. Even in 1985, when it was last amended, a delay of several years in federal approval of matching funds was unheard of.

Mr. Chairman and committee members, I hope you will agree that this is a reasonable adjustment to allow Benson County residents to secure the federal funds to which they are entitled, and obtain the road repairs they need.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2137

Page 1, line 5, remove "and"

Page 1, line 6, after "section 37-17.1-25" insert "and section 57-15-28"

Page 13, after line 25, insert:

**"SECTION 16. AMENDMENT.** Section 57-15-28 of the North Dakota Century Code are amended and reenacted as follows:

**57-15-28. Emergency fund - County.** The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund may not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment, however the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding such determination. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, must be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, or ten mills on the taxable valuation of property in a county with a population of less than thirty thousand, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund."

Renumber accordingly