

2011 SENATE JUDICIARY

SB 2091

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

SB2091  
1/12/11  
Job #12849

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

Relating to liability of federal government employees assisting in a state disaster.

Minutes:

Written Testimony Attached

## Senator Nething – Chairman

**Greg Wilz** – Deputy Director of the Dept. of Emergency Services and Director of Homeland Security Division. See written testimony.

**Senator Nething** – Asks for an example where a Federal employee might be on loan or leave.

**Wilz** - Responds; IMAPS (Incident Mgmt. Assistance Teams) have about 25 to 32 positions. He explains how their management teams work and where they come from. For example using someone from the Fish and Wildlife Service. They are qualified and trained and would do the same job on the IMAPS team. Fish and Wildlife says now they can't let them do that under Uncle Sam's dime because they can't protect the Federal Government from the liability issues. As it is now to be a member of this team the employee has to take leave then become a state temporary employee to do the training and the response. He says they now have 10 or 12 people right now that are Federal employees that are members of this team.

**Senator Sitte** – Asks for an example for an undeclared emergency.

**Wilz** – Responds, there is a county declaration, a state declaration and at times a presidential declaration. The IMAPS available in ND would be available to counties if they had a declared event. Whoever needs the help all they have to do is ask and the state would immediately be able to muster and activate this IMAPS.

**Senator Nething** – Likens the train wreck up in Minot, as an undeclared emergency.

**Wilz** – Says it's important to have immediate access to this team because they are highly trained. They will be an instant asset for whatever jurisdiction needs help managing the event.

**Senator Nething** – Asks if this law with its change of immunity will permit it to function.

**Wilz** – Responds, correct but more importantly it permits those federal employees who are parts of these teams to be on loan status under the state direction and/or a response entity of the state's direction.

**Senator Lyson** – motions for a do pass

**Senator Nelson** – seconds the motion

6 yes

0 no

**Senator Nething** will carry

Closed the hearing on 2091

Date: 1/12/11  
 Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2091

Senate Judiciary Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Lyson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nething

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

**REPORT OF STANDING COMMITTEE**

**SB 2091: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2091 was placed on the  
Eleventh order on the calendar.

2011 HOUSE JUDICIARY

SB 2091

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

SB 2091  
March 2, 2011  
14824

Conference Committee

Committee Clerk Signature



## Minutes:

Chairman DeKrey: We will open the hearing on SB 2091.

Greg Wilz, Deputy Director, Dept of Emergency Services, Director of Homeland Security Division: Support (explained bill, see attached 1). The bottom line is that this is a simple add to current NDCC language and if you would look at SB 2091, we are adding immunities and protections to an employee of a federal agency on loan or leave to the state in support of emergency services response, whether the emergency is declared or undeclared.

Chairman DeKrey: Do contract employees need to be included in this bill.

Greg Wilz: Right now, contract employees are required under state law to carry insurance. It has been a challenge in some cases with regard to our disaster workers on a yearly basis and we are working on that right now with Risk Management and our attorneys. I would, at this time, say that I don't believe that we need to include them. If after more study we find that we need to include them, we will come back in the next session with changes. This is very important to us, to be able to fund those teams, muster them, and have them available to jurisdictions when they need them.

Rep. Koppelman: We had a bill earlier this session in regard to joint powers agreement and it had to do specifically with law enforcement more so than emergency services, but the concern was for people from other states. Do you think that's adequately addressed in the current statute or might that need to be added.

Greg Wilz: It may be a good idea; but at this point in time though, the Dept. of Emergency Services has built these teams and sustains responsibility for the wellness of these teams, their abilities, and their readiness. I will tell you that we have not recruited any federal employees that are outside of our state boundaries and most of them are members of the communities we all live in. They might work for the National Grasslands, USGS, Corps of Engineers; we have hand-picked these

teams to be the very best possible immediate response organization for local communities when they feel they need assistance.

Rep. Koppelman: The current statute on its face appears to take care of the concern, but what I'm hearing you say is that it is more of an issue of the employer wanting more explicit protection in our law in order to keep them on the clock when they are working. Is that correct.

Greg Wilz: Yes. It is the federal agencies' lead people and supervisors that are coming and saying that our law doesn't expressly include federal employees. So those agencies are telling us that when we use their federal employees, they have to be in a leave status to come and work for us.

Rep. Koppelman: You're recruiting people to help with emergencies in the case of a flood. For example, if Grand Forks, Fargo or Wahpeton gets flooded, wouldn't you have cross-border issues? If people are working on the East Grand Forks side of the flood, and the dike breaks in Grand Forks and maybe those East Grand Forks workers come over and help with that part of the emergency, they are coming across state lines. I realize that you probably didn't recruit them, but do you think that they need protections. The other bill's purpose was as a joint powers bill; the Cass County Sheriff and some police departments were saying that they were bringing in workers from MN counties or cities and we're having to deputize them in order for them to have, at least to our satisfaction, the liability protections and other things that the law gives anybody else doing this activity. That was why I raised the question of other states. I don't know if it is necessary or not, but it might be something to check into.

Greg Wilz: I am somewhat familiar, because I worked with the Asst. Chief out of West Fargo, on some of the language that was in that bill. We were in support of it because it is the right thing to do. At this time, we will continue to look at, and will appear before you in a future session if it's an issue.

Chairman DeKrey: Should we put an emergency clause on the bill.

Greg Wilz: I think that would be great. It is our belief, at this time, that some of these teams will be used in some of our smaller communities that just don't have enough local full-time people to manage complex and large events.

Rep. Delmore: The wording states "on or leave to the state". I don't think that just limits us to ND people. Before we broaden it a whole lot, I think I would just assume that those people were on board. Did they have to be part of a team in order to be granted this immunity? What are their areas of expertise? I didn't get all that you were talking when you went through that.

Greg Wilz: The bottom line is that this is geared towards emergency personnel who work emergencies; these are emergency personnel. The skill sets that these folks



bring, the IMATS, which stands for Incident Management Assistance Team; come in with people that can help local incident commanders. They have people trained in that level. They have operations, logistics, admin, and finance people; and all of the subsets underneath that, in the various units. Many of the team members are fire chiefs, assistant police chiefs, bomb squad; folks across the state of ND that have gone to their discipline chiefs and asked if they could be a part of this team; their commanders have told them yes, we will support that because we may need that team someday as well.

Rep. Steiner: How many people are we talking about? How many do you have currently and how many are you hoping to recruit.

Greg Wilz: We have two teams; a team in the western part of the state and a team in the eastern part of the state. Any team can be deployed anywhere within the state. They are comprised of about 26 people each and right now we're hoping to grow that number because we need to have positions in some cases, the critical positions two and three people deep. Because you might not be able to deploy as a commander lead or an operational lead assistant, because that is in your hometown or your county. So we would need to have personnel trained that are from outside of your county to come into your county and help. We're on our way to building those teams up to around 46-50 people. Right now, the total federal footprint that we have recruited into these teams, I would say equals around 10. But the opportunities are there for additional workers.

Chairman DeKrey: Thank you. Further testimony in support of SB 2091. Any testimony in opposition. We will close the hearing. What are the committee's wishes in regard to SB 2091? Other than the emergency clause I don't think we have to further amend it.

Rep. Koppelman: I move a Do Pass as amended with the addition of the emergency clause.

Rep. Delmore: Second the motion.

Chairman DeKrey: Any discussion on the amendment. Voice vote, motion carried. We now have the bill before us as amended.

Rep. Maragos: I move a Do Pass as Amended.

Rep. Hogan: Second the motion.

**13 YES 0 NO 1 ABSENT DO PASS AS AMENDED**

**CARRIER: Rep. Guggisberg**

March 2, 2011

VK  
3/3/11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2091

Page 1, line 2, after "disaster" insert "; and to declare an emergency"

Page 1, after line 21, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3/2/11  
 Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2091

House JUDICIARY Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Hogan

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	<i>absent</i>		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Guggisberg

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

**REPORT OF STANDING COMMITTEE**

**SB 2091: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2091 was placed on the Sixth order on the calendar.

Page 1, line 2, after "disaster" insert "; and to declare an emergency"

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2011 TESTIMONY

SB 2091

TESTIMONY – SB 2091  
SENATE COMMITTEE – JUDICIARY  
JANUARY 12, 2011  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (DES), and Director of Homeland Security Division.

This bill originates from DES and seeks to expand North Dakota's cadre of qualified responders by extending immunity and exemptions to federal employees while responding for and under the direction and supervision of state employees or state sanctioned response entities. When dispatched and working on behalf of the state, liability protections are provided; however, present language does not expressly include North Dakota citizens who are employed by the federal government. In order to assist the state, these individuals are required to take personal leave and become temporary state employees. Unless rectified, the situation will continue to impede the ability to access this critical talent pool.

Most recently the state has organized and trained two Type III Incident Management Assistance Teams (IMATS). The volunteer teams are available to any jurisdiction that requires assistance in managing extended, complex, or large emergency events. Members are experienced responders and professionals of whom several are highly trained federal employees. If protections were provided, federal support for IMATs will increase and when regular job assignments align with IMAT duties and responsibilities, agencies may place federal employees directly on loan negating the current cumbersome process.

The state possesses a significant federal employee base. As it relates to recruiting, training, and responding to emergency events, North Dakota needs to seize every opportunity to expand its asset base.

I urge members to pass this bill and will answer questions you may have.

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TESTIMONY – SB 2091  
HOUSE COMMITTEE – JUDICIARY  
FEBRUARY 2, 2011  
BY GREG WILZ  
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The state possesses a significant federal employee base. As it relates to recruiting, training, and responding to emergency events, North Dakota needs to seize every opportunity to use this asset pool.

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