

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Monday, March 1, 2004
Harvest Room, State Capitol
Building 35, Fraine Barracks, State Operations Center
Bismarck, North Dakota

Senator Bill L. Bowman, Vice Chairman, called the meeting to order at 9:00 a.m.

Members present: Representative Andrew Maragos; Senator Bill L. Bowman; Citizen Members Bob Frantsvog, Donny Malcomb, Bev Nielson, Devra Smestad

Members absent: Representative Scot Kelsh; Senator Michael Polovitz; Citizen Members Ron Anderson, Randy Bina, Mike Montplaisir; Governor John Hoeven

Others present: See attached appendix

Vice Chairman Bowman welcomed the members of the commission. He stated that due to the poor weather, the chairman, Representative Scot Kelsh, was unable to complete his drive from Fargo to Bismarck.

CONSOLIDATION OF MILL LEVIES

Vice Chairman Bowman called on Mr. Steven M. Neu, North Dakota Recreation and Park Association and Bismarck Parks and Recreation District, for comments regarding the status of the consolidation of park district mill levies. Mr. Neu said the park districts in the state are heading into the third budget year with consolidation of the mill levies. He said that the consolidation of the mill levies is generally working well and allows for the needed flexibility. He said some park and recreation districts have considered a dedicated mill for health insurance; however, generally the use of the general fund for funding health insurance works well. He said there are no legislative changes being suggested by the North Dakota Recreation and Park Association.

Vice Chairman Bowman called on Mr. Jack Davidson, Nelson County Auditor, for comments regarding the status of the consolidation of county mill levies. Mr. Davidson provided written testimony, a copy of which is on file in the Legislative Council office.

Mr. Davidson said that to his knowledge no county has implemented the optional consolidated county mill levies under North Dakota Century Code (NDCC) Section 57-15-06.10, which was created by 2003 House Bill No. 1024. According to an informal survey of counties, he said, county auditors indicated uncertainty as to how to implement a mill levy

increase under the consumer price index provision of the consolidation as well as a concern regarding whether the initial measurement should be based upon mills or dollars. He said the consumer price index referenced in the bill should specify the date on which the consumer price index is determined as well as which consumer price index to use. He said NDCC Section 57-15-06.10 specifies that for purposes of increasing the mills levied, the percentages apply to the mills levied the previous year and it would be better to instead consider the actual dollar amount in the previous year in order to protect a county in which valuation is decreasing.

Vice Chairman Bowman called on Ms. Shirley A. Murray, Sheridan County Auditor, for continued testimony regarding the implementation of the county consolidated mill levy. Ms. Murray continued with the written testimony distributed by Mr. Davidson.

Ms. Murray said the counties are concerned with the one-year lookback provision under NDCC Section 57-15-06.10. She said the lookback provision would penalize a county for lowering its consolidated mill levy. Current law on mill levy calculations, she said, looks at the highest of the last three years; whereas, under NDCC Section 57-15-06.10, a county would have to be very cautious about lowering its consolidated mill levy because if an increase were desired at a later date, it may take years to increase the levies back to the level before being lowered.

Ms. Murray said the inclusion of appointed boards in the consolidated levy may create problems in implementing the optional consolidated mill levy. She said appointed boards, in particular a county weed board, may object to the inclusion of its levy in the consolidated mill levy of the county. Additionally, she said, some boards may include only a portion of the county, such as a county park, which might not include land within cities that also have a park district. Therefore, she said, she recommends leaving the funds levied by appointed boards such as a county weed board, library board, weather modification board, and park board out of the consolidated mill levy.

Ms. Murray said the process of implementing an optional consolidated mill levy was considered by the counties to be too cumbersome when the impact on

taxpayers was protected by the limitation of the mill levy increase to the consumer price index.

Ms. Murray said that in considering possible solutions to problems with NDCC Section 57-15-06.10, a number of counties suggested patterning the counties' consolidated mill levy on the way the school districts consolidated mill levy was implemented following the 1995 legislative session. Under the school district mill levy consolidation, she said, school districts were given a 185-mill general fund levy and were allowed to increase the levy on dollars by 18 percent per year until the new maximum was reached.

Ms. Murray requested the commission consider two changes to the county consolidated mill levy.

1. Remove the levies for the four appointed boards from the list of those consolidated.
2. Remove or improve the "growth limitation" added during the legislative session. This could be accomplished by:
 - a. Removing the growth limitation language, as it was not part of the original bill proposed by the commission last interim, because locally elected officials are responsible and property tax growth would be limited by local service needs and local political pressure;
 - b. Replacing the growth limitation language with that used when the school district consolidated levy was implemented in 1995 which allows an 18 percent per year growth until the statutory maximum is reached; or
 - c. Further clarifying the time period for which the consumer price index is to be used and have it apply to the dollars levied rather than the mills, using a three-year "lookback" rather than only one year.

In response to a question from Senator Bowman, Ms. Murray said the Association of Counties is supportive of the proposed changes.

In response to a question from Citizen Member Nielson, Ms. Murray said the proposed three-year lookback for increases would consider the most recent three years' value in revenues, allowing the county to set an amount that does not exceed the highest in any of those three years.

In response to a question from Citizen Member Smestad, Ms. Murray said the maximum number of mills is 110 under NDCC Section 57-15-06.10.

In response to a question from Citizen Member Malcomb, Ms. Murray said some designated mill levies remain separate under NDCC Section 57-15-06.10, such as the mills for county weed boards, and some of the funds that are more rural in nature, such as extension service mills, could be supplemented under consolidation.

In response to a question from Senator Bowman, Ms. Murray said there is the possibility that a particular fund may have extra money under the nonconsolidated system. For example, she said, if there are funds remaining in a designated fund, this remaining money is not available to be used for other purposes. She said it is possible, due to economies gained under consolidation, that county taxes could go down in one of the first years of consolidation.

Vice Chairman Bowman called on Ms. Sandy Clark, North Dakota Farm Bureau, for comments regarding the consolidation of county mill levies. Ms. Clark said the North Dakota Farm Bureau opposed House Bill No. 1024, because under the bill, a consolidation could result in a tax increase without the vote of the people and NDCC Section 57-15-06.10 only allows for a partition process after consolidation has already occurred. She said the North Dakota Farm Bureau would prefer to allow for a vote of the people regarding whether consolidation is supported before the actual consolidation takes place.

In response to a question from Senator Bowman, Ms. Clark agreed that county commissioners have an obligation to the people and are held accountable to the people through the election process.

In response to a question from Representative Maragos, Ms. Clark said she is not opposed to further conversations regarding flexibility as it applies to consolidation of county mill levies; however, she is not ready to say NDCC Section 57-15-06.10 is free of problems. She said she would not oppose consolidation of county mill levies if the law allowed for a vote of the people before the consolidation occurred.

Citizen Member Malcomb said the Association of Townships just completed two weeks of workshops across the state and discussions at these workshops indicated that township funding is a major concern. He said due in part to the urbanization of rural areas, townships are maximizing township tax levies but are still not getting enough money to provide the necessary township services, such as 911 and required road signing. He said he would be interested in the commission pursuing possible state lottery funds for transportation infrastructure costs for use by the state, counties, cities, and townships.

Representative Maragos said he would prefer that the township officers propose legislation because he does not think the commission should advocate for any particular group such as townships.

In response to a question from Citizen Member Nielson, Citizen Member Malcomb said townships are allowed to levy 18 mills, a one cent gas tax, and an optional nine temporary mills.

In response to a question from Representative Maragos, Citizen Member Malcomb said approximately 1,100 of the 1,200 townships in the state are organized. He said approximately one-third of the townships have levied the optional nine mills.

In response to a question from Citizen Member Frantsvog, Citizen Member Malcomb said although optional county funding by townships is a possibility, this option is only available in emergency situations. He said that county consolidation of mill levies under 2003 House Bill No. 1024 did not result in any drastic changes for the townships.

MOTOR VEHICLE BRANCH OFFICE PILOT PROJECT

Vice Chairman Bowman called on Mr. Keith Magnusson, Department of Transportation, for comments regarding the status of the motor vehicle branch office pilot project. Mr. Magnusson provided a copy of the July 11, 2003, *Performance Audit Report of the Office of Driver and Vehicle Services North Dakota Department of Transportation* and statistical data regarding four of the motor vehicle branch offices, copies of which are on file in the Legislative Council office. The audit is available online at www.state.nd.us/auditor/reports.htm.

Mr. Magnusson said motor vehicle registration and licensing services are currently available through the mail, branch offices, the Internet, and the main Department of Transportation office in Bismarck. He said regardless of which system is used to register or license vehicles, it is a closed system and adding another mechanism does not increase the total number of registrations or renewals. He recognized that although all the services may be performed remotely through the mail or through the Internet, some individuals prefer person-to-person contact through a branch office or through the Bismarck office.

Mr. Magnusson said that under the pilot project, the three counties--Bowman, Emmons, and McKenzie--are specified by name. However, he said, generally the Governor determines the appropriate location of a motor vehicle branch office. He said the branch office pilot project is designed to expire after June 30, 2005. Regardless of the branch office pilot project, he said, the department is authorized to designate branch offices and upon the expiration of the pilot program the three pilot project branch offices would likely remain because these offices are well-run. He noted that the authorizing legislation (2001 Senate Bill No. 2027) provided for a Legislative Council study of the pilot project but the Legislative Council did not give priority to this study.

Mr. Magnusson said although the three pilot project branch offices are not currently using the vehicle registration and titling system (VRTS), they will be moving to this system. He said all three pilot program branch offices fund their operations by charging a surcharge. He said the initial setup cost in the pilot project branch offices was less than expected and the cost of implementing the automated system will likely be recognized as a cost-savings.

Mr. Magnusson said the performance audit report of the Office of Driver and Vehicle Services dated July 11, 2003, made a variety of recommendations. He said the Department of Transportation will be consulting with the Governor to determine how to address these recommendations.

Mr. Magnusson said in reviewing current trends in vehicle registration, Arkansas provides for renewals at Wal-Mart stores. Another trend, he said, is to provide for less human contact in providing these services. He said the department will continue to consider trends and technology advances as it plans for the future.

In response to a question from Senator Bowman, Mr. Magnusson said in conducting the performance audit the auditors did go to some of the branches; however, they did not consider issues such as customer satisfaction due to being able to receive this service locally. He said economic development includes considering smiles on people's faces. To keep in perspective some of the recommendations made under the performance audit report, he said, the auditors actually recommended decreasing the number of staff and increasing the processing time for services.

Vice Chairman Bowman called on Ms. Linda Svihovec, McKenzie County Treasurer, for comments regarding the three motor vehicle pilot project branch offices. Ms. Svihovec provided written testimony, a copy of which is on file in the Legislative Council office.

Ms. Svihovec reported that the pilot project has been very successful in all three counties. She said as a result of changing duties of treasurers, such as automation in county government, it has become possible for treasurers to add services such as motor vehicle registration.

Ms. Svihovec said the pilot project branch office surcharge follows the established maximum fee schedule set by the department. Because the surcharge fees collected with each transaction are retained by the counties in their general funds, she said, the counties benefit from providing this service. Additionally, she said, because of individuals coming to register motor vehicles, local businesses benefit from having a branch office in the community.

Ms. Svihovec requested that the pilot project status be removed from the three county branch offices and that the commission explore the possibility of adding additional county motor vehicle branch offices.

In response to a question from Senator Bowman, Ms. Svihovec said she would support having the commission recommend removing the pilot project status. Although she does not support the idea of having a motor vehicle branch office in every county, she said, she would support a selection process to determine which sites might be appropriate. She said that although the current chamber of commerce

offices set up in some communities seem to be working well, if these sites were bid out in the future, counties would likely have an advantage due to the infrastructure and technology available to the counties. She said that not every county wants to have a branch office because providing the services is a lot of work and requires a significant investment in equipment.

Senator Bowman said he would like the North Dakota Association of Counties to consider suggesting locations for additional branch offices.

In response to a question from Citizen Member Smestad, Ms. Svihovec said she would support making additional sites permanent and not subjecting them to pilot project status.

Citizen Member Nielson said it is important for the commission to keep in mind the accountability of the state. She said because the state bears ultimate responsibility, it makes sense for the state to choose motor vehicle branch office site locations. She said there should be an ongoing evaluation of site locations.

Senator Bowman suggested that the counties and the Department of Transportation work together to develop criteria for a selection process of motor vehicle registration sites. Additionally, he said, the criteria could provide for deselection of sites. He requested that the counties and department provide additional information at an upcoming meeting.

In response to a question from Citizen Member Nielson, Mr. Magnusson stated that the use of onsite motor vehicle registration is not necessarily because individuals are uncomfortable with using mail and online procedures, but it is instead because many people wait until the last possible moment and onsite registration is the fastest method.

In response to a question from Citizen Member Malcomb, Mr. Magnusson said the department may designate additional branch offices without new legislation. He said that upon expiration of the pilot program for the three branch offices, the department will retain the three branch office sites. He said the only real stand-alone sites are in Fargo and Grand Forks. Although the department is willing to work with counties in considering branch office locations, he said, the department needs to consider the motor vehicle registration system as a whole and whether the proposed site benefits the system.

Senator Bowman said he is very satisfied with the results of the pilot project branch offices. In considering commission action, he said, it is important to remember not to overlegislate and also to make sure to consider costs to help ensure that the state does not inherit unexpected expenses.

Citizen Member Frantsvog said he thinks the location of a branch office is best established by the Department of Transportation or in consultation with the department.

Senator Bowman said the commission should recognize that the Department of Transportation initially opposed the pilot project bill. Additional opponents, he said, included Minot because creation of a new branch office negatively impacted the motor vehicle registration provided in that community.

Citizen Member Nielson said if Cass County wanted to change from having a private branch office to having an office located with the county treasurer, there may be benefits to using the county's T-1 line.

Senator Bowman said although it may be valuable to avoid the conflict of taking a motor vehicle office away from a chamber of commerce and moving that office to a county, the topic of where to locate branch offices may be important to discuss. He said although he does not want this branch office issue legislated by specifically naming a community, if certain statutory criteria is met, the Department of Transportation should be required to establish a branch office in a community.

In response to a question from Senator Bowman, commission counsel said that although a specific branch location may be named in statute, such as was done under the legislation creating the three pilot project branch offices, from a drafting perspective, the long-term applicability of a statute may be better served by listing statutory criteria for selection and deselection of branch office sites.

Senator Bowman said his instinct is to set branch location criteria legislatively.

Senator Bowman said he would like to see the county treasurers work with the Department of Transportation to try to come to an agreement and the commission can take further action once it is determined whether an agreement can be met.

Citizen Member Smestad asked who should be responsible for establishing site selection criteria. She said if criteria were established and a branch office continues to meet that criteria, that branch office should continue to exist.

Citizen Member Malcomb said the commission should be careful not to make branch office creation too easy.

Citizen Member Nielson suggested branch office site location be limited to county government offices.

Citizen Member Malcomb asked why a branch office location should be limited to a county treasurer and why it could not be located with a clerk of court.

Citizen Member Nielson said counties like to assign duties to specific officeholders.

Senator Bowman said testimony of some of the counties indicates that some counties are unable to afford the staff time necessary to provide branch office services.

In response to a question from Representative Maragos, Senator Bowman said although Ms. Svihovec did not offer a specific mechanism by which to pick additional counties for branch office locations, it appears as though she would be willing to

supply a list of counties that are interested in pursuing a branch office.

The commission requested that commission counsel notify the county recorders and Department of Transportation of the discussion regarding the possibility of establishing a criteria for branch location determination if an agreement can be met and whether an agreement can be met between the parties regarding cost-sharing.

DOCUMENT PRESERVATION FUND

Vice Chairman Bowman called on Ms. Ann Johnsrud, McKenzie County Recorder, for comments regarding the status of the document preservation fund. Ms. Johnsrud provided written testimony, a copy of which is on file in the Legislative Council office.

Ms. Johnsrud provided a summary of the history behind 2001 Senate Bill No. 2173, which provided for the document preservation fund. She explained that following the Red River Valley flood of 1997, disaster preparedness for the future became a popular topic of discussion. She said that with the assistance of Cass County and the Federal Emergency Management Agency (FEMA) a workable plan was developed and implemented to microfilm all real estate records in all 53 counties and to provide for storage of that microfilm at a secure, offsite location. She stated that a grant from FEMA for \$1.2 million was applied for and granted allowing all counties in North Dakota to put in place tools to ensure that valuable records can be replaced in the event of a disaster.

Ms. Johnsrud said as part of this FEMA grant a central repository was built for storage of electronic records. She said that this system not only provides a safeguard for records but also delivers to users public access to records via the Internet. However, she said, many county recorders do not have the necessary funds to upgrade their operations to include a computer or even maintain the ongoing microfilming process for security. She said that Senate Bill No. 2173 provided funding for this by increasing the first page recording fee by \$3 and creating a document preservation fund in each county. She said this \$3 fee increase has provided the funds necessary for counties to begin the process of computerization, technology upgrades, and the ongoing process of microfilming and storing records offsite.

Vice Chairman Bowman called on Ms. Sheila Dalen, Ward County Recorder, for comments regarding the status of the document preservation fund. Ms. Dalen provided written testimony, a copy of which is on file in the Legislative Council office.

Ms. Dalen said she is requesting that the commission recommend a bill to remove the June 30, 2005, sunset clause. She said the document preservation funds collected have been spent wisely and have provided counties with security in caring for county records. She said the following is a list of goals and

accomplishments that need the document preservation fee to remain in place to be a continued success:

- Microfilming land records.
- Creating an electronic repository.
- Creating microfilm from digital records.
- Creating a North Dakota recorder's web site.
- Publishing land records data to the Internet.

In response to a question from Citizen Member Nielson, Ms. Dalen said county land records include information regarding land purchases, sales, mortgages, and leases.

In response to a question from Senator Bowman, Ms. Dalen said a survey of counties indicates that all of the counties need the funds collected through the document preservation fee. She said the counties have either used the money collected or are saving the money collected to be able to afford new technology.

In response to a question from Citizen Member Nielson, Ms. Johnsrud said the use of money collected through the document preservation fee is limited to designated uses related to document preservation.

In response to a question from Citizen Member Frantsvog, Ms. Johnsrud said a web site is available to access documents; however, under the current system there is a monthly fee to access this information. She said the plan is that if the sunset clause is removed, upon the collection of appropriate funds this online service would be made free to the public.

In response to a question from Citizen Member Malcomb, Ms. Johnsrud said the online access to records is for records across the state.

In response to a question from Citizen Member Smestad, Ms. Johnsrud said the \$3 fee helped to pay for an onsite storage facility in Fargo and a microfiche storage facility in a salt mine in Kansas.

Representative Maragos suggested the commission request a bill draft to remove the sunset clause on the document preservation fee. Citizen Member Smestad agreed.

Vice Chairman Bowman requested that commission counsel prepare a bill draft to remove the sunset clause on the document preservation fee. He requested that Ms. Johnsrud or Ms. Dalen be available to present information and answer questions at the next meeting of the commission.

SHERIFF SERVICE OF PROCESS

Vice Chairman Bowman called on Mr. Terry Traynor, North Dakota Association of Counties, for comments regarding issues relating to payment to the sheriff for service of process. Mr. Traynor provided written testimony, a copy of which is on file in the Legislative Council office. He said the issue regarding sheriff service of process payment relates to a difference in opinion by the Attorney General's office and the court system with regard to whether a county sheriff should charge the court when personal

service of a summons, writ, subpoena, notice, or order is requested by the court.

Mr. Traynor said that in addition to being a policy issue, this issue of service of process is a fiscal issue. He said counties incur costs related to sheriff service and the ultimate question may be whether these costs are more appropriately supported by the county mill levies or whether these costs are more appropriately supported through an appropriation for the judicial branch. He said the appropriate parties are working together as a study committee to examine this issue, and hopefully a joint solution can be reached. If legislation is necessary to implement that solution, he said, he will notify the commission.

In response to a question from Citizen Member Nielson, Mr. Traynor said it will be difficult to calculate the costs related to sheriff service; however, the counties are preparing to calculate this figure, which will be in the hundreds of thousands of dollars.

In response to a question from Senator Bowman, Mr. Traynor said that in the past, counties have always served process; however, the difference of opinion relates to who should pay for the service.

Vice Chairman Bowman called on Mr. Ted Gladden, State Court Administrator, for comments regarding the issues relating to payment to the sheriff for service of process. Mr. Gladden provided written testimony, a copy of which is on file in the Legislative Council office.

Mr. Gladden said the matter of payment for sheriff service of process was on a recent agenda of the Council of Presiding Judges. After considerable discussion, he said, the council directed him to contact the sheriffs indicating that it would not pay for personal service carried out by the sheriffs. He said the judiciary has not budgeted for the payment of personal service in these cases. He said information is being gathered regarding the circumstances under which personal service is being initiated by the courts and in how many cases personal service is being used.

In response to a question from Citizen Member Nielson, Mr. Gladden said the class of child support cases known as IV-D child support cases are not allowed to charge for service of process. He said in most instances in which there is an issue of payment for service, it is when a court orders fines and costs. He said in this type of case a payment schedule is established and if payment is not made there is an order to show cause for nonpayment. In this instance, he said, a state's attorney is usually not at this hearing but instead the clerk of court essentially prosecutes the action. In contrast, he said, if a party in civil litigation wants service, the individual pays for service. He would suggest a similar system for fines and costs.

In response to a question from Senator Bowman, Mr. Gladden said it appears counties have taken the position that the state is providing services for the

state courts and as such the state should pay for the cost of service. However, he said, the state benefits from the collection of fines and costs through depositing these funds into the common schools trust fund and the general fund.

In response to a question from Representative Maragos, Mr. Gladden said the issue of payment for sheriff service of process is one of the last issues still remaining unresolved from court unification.

Mr. Gladden said most courts and judges are moving toward service by first-class mail. He said the trend is that courts and judges are only using personal service as a last resort.

Representative Maragos said the issue of payment for service of process appears to be related to court consolidation and as such is more appropriate for consideration by the Judiciary Committee rather than the Advisory Commission on Intergovernmental Relations.

Citizen Member Nielson said it is a positive step for the interested parties to be discussing this topic. She suggested that the commission be apprised of the ongoing status of these discussions.

Citizen Member Smestad said as a part-time clerk of court she uses certified mail instead of personal service. She said certified mail has a high success.

Mr. Gladden said although certified mail can be useful, some people are sophisticated enough to refuse receipt of certified mail so this is not a simple solution to the matter. He said what type of service to use is basically a philosophical difference between judges. He said some judges take the position that first-class mail is fine, as the parties have been informed in open court of their obligations; whereas, other judges take the position that notice is required to be by personal service due to the loss of liberty that could result from the action being taken.

In response to a question from Senator Bowman, Mr. Gladden said the fact that different judges viewed this issue differently does not indicate that there is a problem with the judges but that there is a difference in judicial philosophy. For example, he said, in Senator Bowman's district almost all service is provided by first-class mail.

POSSIBLE AREAS OF STUDY

Vice Chairman Bowman called on commission counsel to provide information regarding the timeline for the constitutional initiative relating to tax increases requiring 60 percent voter approval. Commission counsel distributed information from the Secretary of State's web site regarding the language of the tax petition, the timeline for constitutional initiative, and the list of petition contacts. She said this information is available online at the Secretary of State's web site at

www.state.nd.us/sec/electvote/elections/pending-measures-html.

Following the luncheon recess, Vice Chairman Bowman reconvened the meeting at 1:30 p.m. at Building 35 at Fraine Barracks, Bismarck.

STATE EMERGENCY PREPAREDNESS ACTIVITIES

Vice Chairman Bowman called on Mr. Douglas Friez, State Director, Division of Emergency Management, for comments regarding the consolidation of State Radio Communications with the Division of Emergency Management, the state's homeland security strategy, and the use and distribution of federal homeland security funds. Mr. Friez distributed written material, copies of which are on file in the Legislative Council office.

Mr. Friez said the consolidation of State Radio Communications with the Division of Emergency Management provides a statewide system for effective communications and for the prevention, appropriation for, response to, and recovery from manmade or natural disasters. He said the consolidation includes 55 full-time and temporary staff who may be needed during disaster response and recovery. He said the agency is growing and the growth has in part been based upon the receipt of federal funds.

Mr. Friez said the Division of Emergency Management, after the consolidation with State Radio, is responsible for providing statewide public safety communications; providing emergency planning, training, and program assistance to political subdivisions, tribal governments, and the state; preparing and maintaining a state emergency operations plan; and coordinating public, private, and individual homeland security efforts. He briefly reviewed the *North Dakota Emergency Operations Plan* for 2003, a copy of which is on file in the Legislative Council office.

Mr. Friez said the state's homeland security strategy contains several goals and objectives, including:

- Attaining radio communication interoperability among federal, state, local, and tribal first responders.
- Developing a prevention, response, and recovery capability to ensure accurate deployment of resources.
- Fostering the sharing of law enforcement sensitive information.
- Upgrading state terrorism and weapons of mass destruction response capability.
- Developing a tiered response capability to ensure statewide terrorism and weapons of mass destruction incident response.
- Improving the ability of the state to prevent, respond, and recover from acts of terrorism or of weapons of mass destruction through refinement of the state emergency operations plan, state multihazard mitigation plan, jurisdictional emergency operations plans, and jurisdictional multihazard mitigation plans.

- Assuring continuation of essential government functions in the state.
- Training first responders and community leaders to recognize, prevent, and respond to a terrorism or weapons of mass destruction incident.
- Institutionalizing command system training in the state.
- Expanding and supporting homeland security training into established academic institutions.
- Evaluating the competency of plans, training, and equipment and personnel resources through a progressive exercise program.
- Providing adequate professional and support staff to monitor, implement, and evaluate homeland security programs at a state and local level.

Mr. Friez said that the goal of radio communication interoperability will primarily be reached through converting analog communications to digital communications. Additionally, he said, the goal of accurate employment of resources will in large part be met through geographic information system (GIS) mapping. He said the time, energy, and financial resources necessary to reach these goals is significant. It is a myth, he said, that states have more homeland security money than they know what to do with. Additionally, he said, several entities are partnering to help reach these goals, thereby providing an alternative to growing state government and the Division of Emergency Management.

In response to a question from Senator Bowman, Mr. Friez said his hope is that local stakeholders will work together to coordinate emergency preparedness and homeland security activities.

Mr. Friez reviewed the fiscal year 2004 homeland security grant, which totals \$19,536,000. He reviewed the homeland security distribution formula as well as allocations for previous years.

In response to a question from Citizen Member Smestad, Mr. Friez said that the \$308,000 of fiscal year 2004 homeland security grant money made available to the Citizen Corps is allocated via geographical boundaries; therefore, funds do not actually go to county commissioners, but if a county partners with a city, the funding may be distributed by the Division of Emergency Management to the agreed-upon local entity.

In response to a question from Senator Bowman, Mr. Friez said in the case of the posed hypothetical attack on an airbase in the state or an attack on the State Operations Center, the Division of Emergency Management would recognize and evaluate the event as well as activate first responders. He said he would prefer to recognize an emergency situation before it actually occurs and thus far the state has not experienced this type of attack activity.

In response to a question from Senator Bowman, Mr. Friez said the goal of attaining radio

communication interoperability will be difficult and there are some limitations.

Vice Chairman Bowman called on Mr. Russell R. Timmreck, State Radio Communications, for comment regarding the consolidation of State Radio Communications with the Division of Emergency Management. Mr. Timmreck said in order to aid during the transition, there have been transitional workshops with eight process improvement teams. He said these teams address issues as they arise and the plan is to finish this transition process within the next six months.

In response to a question from Citizen Member Smestad, Mr. Friez said he is doing homeland security funding applicant briefing across the state. He said as these applications relate to requests for funds for radios, the homeland security grant money is limited to APCO 25 compliant systems. He said there is a broad range of technology available, with the possibility of buying analog radios that can be upgraded to digital. Mr. Timmreck said as new radio towers and equipment are put in place, the needs of both analog and digital radio systems are being met.

In response to a question from Citizen Member Malcomb, Mr. Timmreck stated that the transition from an analog to digital system is in large part being pushed by the industry. He said that some equipment on radio towers is so old it is either impossible or too expensive to replace or repair. Citizen Member Nielson said another benefit of digital is the improved quality of transmission. Mr. Timmreck agreed that digital systems have better quality transmission.

In response to a question from Citizen Member Smestad, Mr. Timmreck said there are samples of state and private cooperative agreements on radio towers.

Vice Chairman Bowman called on Mr. Wes Hendrickson, State Radio Communications, for comments regarding reverse 911 systems and whether the Division of Emergency Management will invest in such a system. Mr. Hendrickson said reverse 911 systems were developed for public safety

agencies and emergency groups to assist in emergency notification in the event of natural disasters, hazardous material releases, and severe weather and to assist in evacuations and safe returns. He stated some of the drawbacks of reverse 911 systems include saturation of phone systems and the question of the actual effectiveness of the systems. Beneficial elements of a reverse 911 system, he said, may include the effectiveness for notifying individuals in a specified area as well as providing excellent redundancy and rapid list capabilities. He stated that the initial startup costs for a reverse 911 system for the Division of Emergency Management radio communication counties would be approximately \$50,000 for each of the first two years and \$15,000 for each year thereafter. He said additional information is being gathered regarding the cost and additional details regarding a reverse 911 system.

Mr. Friez stated that Ward County in Minot is the only reverse 911 system in the state of which he is aware.

In response to a question from Citizen Member Nielson, Mr. Friez and Mr. Hendrickson said they were not certain whether a reverse 911 system would provide an individual who is receiving a reverse 911 call with caller identification information. Mr. Friez said that the Division of Emergency Management is doing additional research to determine whether to pursue a reverse 911 system.

Vice Chairman Bowman recessed the meeting and members of the committee were provided a tour of the State Operations Center and State Radio Communications. The tour ended and the meeting adjourned at 4:00 p.m.

Jennifer S. N. Clark
Commission Counsel

ATTACH:1