

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EMERGENCY SERVICES COMMITTEE

Thursday and Friday, September 9-10, 2004  
Meadowlark Room 12, Alerus Center  
Grand Forks, North Dakota

Representative Todd Porter, Chairman, called the meeting to order at 1:05 p.m.

**Members present:** Representatives Todd Porter, William R. Devlin, James Kerzman, Joe Kroeber, Bob Martinson, Mary K. Nester, Clara Sue Price, Gerald Uglen; Senators Robert S. Erbele, Ralph L. Kilzer, Tim Mathern, Michael Polovitz

**Members absent:** Representatives Keith Kempenich, Andrew Maragos, Jon O. Nelson

**Others present:** Ken Svedjan, State Representative, Grand Forks

Ray Holmberg, State Senator, Grand Forks

Constance Triplett, State Senator, Grand Forks

Al Carlson, State Representative, Fargo

Terri Gustafson, Cavalier County Health District, Langdon

Kelly Carlson, State Department of Health, Jamestown

Julie Ferry, Nelson-Griggs District Health Unit, McVille

Dean Lampe, North Dakota Emergency Medical Services Association, Bismarck

Donavon Rasmuson, University of North Dakota Police Department, Grand Forks

Wally Helland, Don Shields; Grand Forks Public Health Department, Grand Forks

Lisa Clute, First District Health Unit, Minot

Hazel Sletten, Grand Forks Public Works Department, Grand Forks

Wayne Baron, Division of Emergency Management, Bismarck

Mike Flermoen, Peter O'Neill; Grand Forks Fire Department, Grand Forks

Keith Johnson, Custer Public Health, Mandan

Adam Jonasson, Roxanne Fiala, Allen Grasser, Pete Haga; City of Grand Forks, Grand Forks

Jim Campbell, Grand Forks Emergency Management, Grand Forks

Kenneth Vein, David Zimmerman; Altru Health System, Grand Forks

Howard Swanson, Grand Forks City Attorney, Grand Forks

Tim Wiedrich, State Department of Health, Bismarck

Byron Sieber, Grand Forks Police Department, Grand Forks

Allen Morken, Grand Forks 911 Dispatch Center, Grand Forks

**It was moved by Representative Devlin, seconded by Senator Erbele, and carried on a voice vote that the minutes of the June 7-8, 2004, meeting be approved as distributed.**

#### PUBLIC HEALTH UNIT STUDY

At the request of Chairman Porter, committee counsel reviewed a bill draft [50148.0100] that authorizes the Attorney General to provide legal counsel to boards of health.

In response to a question from Senator Mathern, committee counsel said the last sentence of the bill draft authorizes the Attorney General to enter an agreement with a board of health for reimbursement of expenses. He said the sentence addresses a concern expressed at a previous meeting by a representative of the Attorney General's office regarding the fiscal impact on the Attorney General's office of providing legal counsel to boards of health.

Representative Porter said the authorization does not specifically require the Attorney General to enter reimbursement agreements but addresses concerns regarding the fiscal impact on the budget of the Attorney General.

Ms. Kelly Carlson, State Department of Health, said although the Attorney General has no general authority to provide counsel to local boards of health, the Attorney General has provided legal assistance to boards of health through the State Department of Health.

Mr. Keith Johnson, Custer Public Health, said although the process of working through the State Department of Health helps local public health units, the process does not address all the needs of the local health units. He said the bill draft would give local health units direct access to the Attorney General.

In response to a question from Representative Price, committee counsel said public health units have broad general statutory authority which would appear to include the authority to contract with or hire legal counsel.

**It was moved by Senator Mathern, seconded by Representative Devlin, and carried on a roll call vote that the bill draft relating to the authority of**

**the Attorney General to provide legal counsel to boards of health be approved and recommended to the Legislative Council.** Representatives Porter, Devlin, Kerzman, Kroeber, Martinson, Nester, Price, and Uglem and Senators Erbele, Kilzer, Mathern, and Polovitz voted "aye." No negative votes were cast.

At the request of Chairman Porter, committee counsel reviewed a bill draft [50147.0100] that removes the requirement that a local health officer be a licensed physician. Committee counsel said the bill draft would require a health officer to hold, at a minimum, a bachelor's degree in an allied health profession and have experience and knowledge in public health.

Senator Mathern said he is concerned that the phrase "allied health profession" is too general.

Senator Kilzer said requiring experience in public health is also too vague.

Mr. Johnson said some public health units have no physicians in the county or a physician who is hostile to the public health unit. He said he is concerned that those public health units have the ability to hire a health officer that is qualified and has an interest in public health.

In response to a question from Senator Mathern, Mr. Johnson said he would have some concern with the authority of an individual who is not a physician to impose a quarantine.

Representative Price said because of the significant authority granted to local health officers, she is concerned with reducing the qualifications of the health officers.

In response to a question from Representative Porter, Ms. Terri Gustafson, Cavalier County Health District, said it has not been a problem getting a physician to serve as a local health officer for the Cavalier County Health District.

Ms. Lisa Clute, First District Health Unit, said the role of a public health officer in an emergency is to serve as a conduit for information. She said if the health officer is not a physician, the credibility of the health officer could be affected. Because finding physicians with public health backgrounds is often difficult, she said, public health units may need to go through a training process to orientate the physician to the public health system.

Senator Mathern said the bill draft could be revised to provide that the health officer must hold a master's degree in public health.

Representative Porter said because of the broad authority of the public health officer in establishing quarantines and setting medical protocols, a master's degree may not be adequate for the public health officer.

Representative Kerzman questioned why local health officers are required to be physicians and the State Health Officer is not required to be a physician.

Representative Porter said if the State Health Officer is not a physician, an advisory board of

physicians is appointed to assist the State Health Officer.

Mr. Johnson said the problems addressed by this bill draft may pale next to the problems created. He said health officers serve for far less compensation than they are worth. He said serving as a local health officer is generally a community service by the physician.

Chairman Porter called on Ms. Carlson for comments regarding the statewide public health assessment and public health core functions and capacity. Ms. Carlson submitted written comments, a copy of which is on file in the Legislative Council office. She said the State Department of Health is coordinating the statewide completion of the national public health performance standards assessment. She said the assessment is designed to determine the components, activities, competencies, and capacities of the state's public health system and how well essential services are provided. She said the assessment focuses on the overall system and ensures that the contributions of all entities are recognized in assessing the provision of public health services in the state. Although it is expected that 24 of the state's 28 public health units will voluntarily complete the assessment by March 2005, she said, nine local public health units and the state level system have completed the assessment.

Ms. Carlson said the statewide summary indicates the essential services of diagnosing and investigating health problems are being performed well by the state's public health systems. The planning performance aspect of the essential service, she said, scored the highest while the readiness to respond aspect scored the lowest. She said those scores reflect the focus on planning for emergencies supported by a Centers for Disease Control and Prevention emergency preparedness and response grant.

Ms. Carlson said because some federal funding for public health is decreasing and other funding does not provide adequate resources to provide the needed level of capacity, local public health units, particularly smaller health units, have been significantly impacted. She said local health units are limited to a levy of five mills, which may not be adequate funding to meet service expectations in some of the larger health districts. In addition, she said, the mill levy amount may not provide adequate funding for equitable public health services. She said public health units have been asked to provide increased services and to focus efforts on priorities such as disease control, emergency response, and tobacco control. Because necessary funding to offset the cost of providing those services has not been provided, she said, some smaller health units may not be able to sustain the current level of services, which may result in greater disparities in services among the various health units.

Ms. Carlson said to ensure that residents of the state receive comparable and necessary public health services, the following issues must be considered:

1. What is the level of services that local public health units should be mandated to provide and for which the public health units should be held accountable?
2. What is the best method to organize delivery of those services?
3. How will adequate resources be provided to fund those services?

Ms. Carlson said options for providing adequate funding for the services include increasing the mill levy cap, leveraging additional federal funds, and increasing the amount of state aid distributed to local public health units. Although local governing bodies have the authority to establish public health units in the format most suitable for their jurisdictions, she said, local governments must ensure the provision of essential public health services to their residents. She said the state must monitor the effectiveness of local efforts and become involved when gaps are identified. She said legislative direction concerning expected local public health services would help promote equality and help local governments justify and leverage adequate funding.

Chairman Porter called on Mr. Tim Wiedrich, State Department of Health, for comments regarding the committee's study of public health units. Mr. Wiedrich said the efforts of the Centers for Disease Control and Prevention have focused on planning. He said the State Department of Health and local public health units have taken a phased-in approach because big infrastructure changes must be undertaken. Because there are more demands than financial resources, he said, it will take time before local public health units and the state achieve the goals set forth by the Centers for Disease Control and Prevention.

Chairman Porter called on Ms. Gustafson for comments regarding the committee's study of public health units. Ms. Gustafson submitted written testimony, a copy of which is on file in the Legislative Council office. She said Cavalier County formed the Cavalier County Health District in 1993 and serves a population of approximately 4,800. Although there has been a 20 percent decrease in the county's population since 1990, she said, the public health needs of the county have increased. Because the local hospital discontinued the service of delivering babies and the nearest obstetric services are 70 to 115 miles away, she said, the health district implemented a newborn home visiting program. In addition, she said, much time is spent attempting to find home health services for county residents because there is no longer a home health service in the county.

Ms. Gustafson said the health district employs her as the administrator and director of nursing, a full-time administrative assistant, a half-time women, infants, and children (WIC) nutritionist, and an 80 percent time

nurse. She said the total revenue for the district in 2003 was \$174,500. Of that amount, she said, 26 percent was from the county levy, 17 percent from WIC funds, 11 percent from tobacco funds, 9 percent from client fees, 8 percent from Medicare and Medicaid, 7 percent from state aid funds, and the remainder from miscellaneous sources such as mini-grants. She said the programs provided by the district are primarily driven by the funding sources. Although the district received six minigrants in each of 2003 and 2004, ranging from \$350 to \$5,000, she said, the funds provided by the grants are not sufficient to justify hiring additional staff for the specific grant programs. She said public health has become more complicated and the amount of time for management of programs has greatly increased, while funding levels have not increased.

Ms. Gustafson said not all public health units are able to provide comprehensive services due to limited resources. She said if the state required public health units to meet minimum standards, funding must be available to meet the standards and to build the necessary infrastructure. She said the district's ability to respond to a public health emergency would be limited because of the small staff of the district. Therefore, she said, the district would need to rely on regional and state resources for assistance. She said the responsibilities of public health agencies with respect to disaster preparedness and response are more complicated than in most other typical public health activities. She said in the Cavalier County terrorism plan, the public health unit is responsible for 11 different duties, most of which are new to the health unit.

Ms. Gustafson said the health district did not receive funding from the homeland security grant provided to Cavalier County because the district had not requested funding for communications needs. She said it would have been helpful to have guidelines for priority items that may be necessary for responding to an emergency. With the assistance of a regional emergency response coordinator, she said, those issues may be able to be addressed in the future.

Ms. Gustafson said tabletop exercises on different emergency situations are necessary. She said Cavalier County has participated in two tabletop exercises, which have been helpful in getting the various agencies communicating and working together. She said education is important in determining how public health fits into the entire emergency response picture. She said available funding for training and education of the public health workforce must be ongoing and secure funding must be available on a regular basis.

In response to a question from Representative Porter, Ms. Gustafson said Cavalier County levies three mills for the public health district, which amounts to approximately \$50,000 per year.

In response to a question from Representative Martinson, Mr. Wayne Baron, Division of Emergency Management, said the Department of Homeland Security requires equitable distribution of homeland security funding throughout the state. He said all first responders and community leaders were required to be involved in developing a plan that has a nexus to the statewide homeland security plan. He said other factors considered in the allocation of funding include population, threats, vulnerabilities, presence of specialized teams, and a county's proximity to the international border.

Chairman Porter called on Mr. Don Shields, Grand Forks Public Health Department, for comments regarding the committee's study of public health units. Mr. Shields submitted written comments, a copy of which is on file in the Legislative Council office. He said the Grand Forks Public Health Department, which was established in 1894, is one of the oldest health departments in the state. He said the department has been operating as a combined city and county department through a contract with Grand Forks County since 1981. He said the department operates under the direction of an appointed board of health with the final authority for city issues being the Grand Forks City Council and for county issues the Grand Forks Board of County Commissioners. He said the board of health has representatives from the city council and the county commission, as well as an individual representing public health, a physician, a dentist, and a community representative. He said the department has three appointed health officers with one of the physicians serving as the primary health officer. He said the health officers are available on an on-call basis and are paid a monthly stipend under a contractual agreement with Altru Health System. He said the department has 65 full-time and part-time staff which include environmental health specialists, mosquito control workers, administrative specialists, health educators, public health nurses, and dietitians.

Mr. Shields said the Grand Forks Public Health Department serves 64,736 residents of Grand Forks County, including 51,810 within the city of Grand Forks. He said the 2004 budget for the department is \$2,481,401. He said 41 percent of the revenue for the budget is derived from grants, 24 percent is derived from mosquito control revenue, 21 percent is derived from the city mill levy, and 14 percent is derived from the county mill levy.

Mr. Shields said the department serves areas beyond Grand Forks County for a variety of programs. He said the area served is dependent upon the programs or the services involved. He said the department provides regional environmental health services through an environmental health specialist funded with bioterrorism funds from the Centers for Disease Control and Prevention. In addition, he said, the bioterrorism funds provide a public health emergency response coordinator. He said the department

provides public information officer support on a regional basis from bioterrorism funds. He said the department has accessed homeland security funding for emergency response equipment in cooperation with the local emergency manager.

Mr. Shields said one complexity with respect to serving the region is there are four different health departments with completely different capabilities. He said the department serves as a regional resource and provides regional support. He said the regional public health administrators meet periodically as part of the Northeast Regional Bioterrorism Coalition and share emergency response templates and personnel with regional partners.

Mr. Shields said the services provided by the Grand Forks Public Health Department fall within the core functions of assessment, policy development, and assurance. He said a community health assessment was initiated for the greater Grand Forks area in 1994. He said the assessment identified health indicators along with five action teams and provided a list of 15 priorities for the community. Since the initial assessment, he said, the United Way of Grand Forks has surveyed and published several updated community needs assessments, the most recent being in 2004. In addition, he said, there have been several specialized assessments completed. With respect to the core function of policy development, he said, the department has been involved with several initiatives to inform and educate the public regarding health issues and mobilize community partnerships to identify and solve health problems. He said the key aspects of the assurance core function involved assuring a competent public health workforce, providing care or linking people to needed personal health services, and assuring the provision of direct health services when otherwise unavailable. In addition, he said, through this function, the department enforces laws and regulations that protect health and ensure safety. He said this function encompasses many of the programs implemented by the department, including environmental health programs, immunizations, home visits to the elderly, smoking cessation, nutritional policies in schools, correctional health, and mosquito control.

Mr. Shields said public health providers have learned many lessons from responding to emergencies. He said one of the lessons learned is that public health officials are good at coordinating with the necessary partners, organizing mass clinics, and developing creative ways to handle public health issues. He said it is also clear that all the community health partners play a critical role in helping identify and respond to public health emergencies. He said the Grand Forks mayor's health and human services cabinet is a group that facilitates a key role by communicating regularly with approximately 22 groups throughout the community.

Mr. Shields said it is important that all citizens in the state have access to a core of public health services. He said public health has not been funded to perform basic core functions or to respond to emergencies but has traditionally been funded to address specific requirements for specific purposes. He said responding to emergencies and infectious disease outbreaks places a tremendous burden on local public health departments. Through bioterrorism funding, he said, public health units have the opportunity to plan for emergency response. He said there has been a very collaborative partnership in Grand Forks involving public health, fire, law enforcement, Altru Health System, and other key agencies in bioterrorism planning and funding. He said the local emergency manager has included all those parties in the discussion, prioritization, and decisionmaking process for homeland security funds. He said the Grand Forks Public Health Department has used homeland security funds to purchase equipment, which enhances public health core functions and allows better response to emergencies.

Mr. Shields said if local health departments are unable to provide the minimum core functions of public health, it is very difficult to respond to a public health emergency. He said he would like to see homeland security funds be available for facility construction to house the equipment or staff required to support homeland security efforts and would like to see funding available for local public health emergency response.

In response to a question from Representative Porter, Mr. Shields said Grand Forks County levies 2.57 mills and the City of Grand Forks levies 5.95 mills for support of the health department.

In response to a question from Senator Kilzer, Mr. Shields said mosquito control comprises approximately 24 percent of the department's budget. He said the funding is derived from a utility bill fee in Grand Forks of \$2.50 per month. In addition, he said, the Grand Forks Board of County Commissioners approves funding for mosquito control.

Chairman Porter called on Ms. Clute for comments regarding the committee's study of public health units. Ms. Clute submitted written comments, a copy of which is on file in the Legislative Council office. Ms. Clute said the greatest challenges faced by the First District Health Unit as a result of the train derailment in Minot were obtaining legal assistance and representation; providing compensation for the additional hours the staff incurred; coordinating the federal, state, and local efforts; maintaining existing services and programs; and assuring that the health unit could cashflow the disaster.

Ms. Clute said to assure that the public health system is prepared to respond to a public health crisis there must be recognition that local public health units will bear the financial and legal risks of any public health disaster, a determination of core duties and

responsibilities required to be performed by all local public health units, availability of funding to assure core duties and responsibilities of public health units, improvement of coordination and implementation of a statewide emergency response system, and provision of legal assistance and representation to local public health units.

In response to a question from Representative Porter, Ms. Clute said funding for overtime work by the public health unit staff when responding to the derailment was paid through a contract with the railroad responsible for the derailment.

Chairman Porter called on Mr. Johnson for comments regarding the committee's study of public health units. Mr. Johnson submitted written comments, a copy of which is on file in the Legislative Council office. He said the problem that confounds every initiative is funding. He said this is the third year of a major emergency management funding cycle and the focus is finally turning from the federal and state level to the local level. However, he said, funding is becoming more scarce and more stringent requirements are being placed on the entities receiving the funds. He said public health units are short of office space, vehicles, and the other nuts and bolts of service delivery. He said those needs will not be met by the present funding through the Centers for Disease Control and Prevention or the United States Department of Justice.

Mr. Johnson said many smaller health units will not be able to respond to emergencies that continue over long periods of time. He said incentives should be in place to encourage public health units to enter joint powers agreements. Another area that should receive consideration, he said, is removal of the five-mill cap for public health unit levies. He said the mill levy cap is a disincentive for large city public health units to join with less populous areas outside the cities.

## **EMERGENCY RESPONSE AND PREPAREDNESS STUDY**

Chairman Porter called on Mr. Jim Campbell, Grand Forks Emergency Manager, for comments regarding emergency response and homeland security and other grant funding in Grand Forks and Grand Forks County. Mr. Campbell submitted a summary of grant funding for Grand Forks and Grand Forks County for 2003 and 2004, a copy of which is on file in the Legislative Council office. He said 2003 weapons of mass destruction funding amounted to \$500,000 for various entities in Grand Forks County, including the sheriff's office, Grand Forks Police Department, Grand Forks Public Health Department, Grand Forks Fire Department, Grand Forks Public Works Department, University of North Dakota Police Department, and Altru Health System. He said the 2003 supplemental homeland security grant provided \$1,068,000 in funds to cities and other entities in Grand Forks

County. He said the 2004 homeland security grant for Grand Forks County totaled \$1,381,698.

Mr. Campbell said a joint powers agreement between the Grand Forks City Council and the Grand Forks Board of County Commissioners in 1989 established the Emergency Management Office. He said the agreement provides that the office be governed by representatives from the city council and the board of county commissioners and one public member.

Mr. Campbell said the grant allocation process in the county was done by a consensus of elected officials from cities in the county and first responders. He said the elected officials from the cities and the counties took an active role in the planning so that the various political subdivisions purchased compatible equipment and to ensure a coordinated response.

In response to a question from Senator Mathern, Mr. Campbell said a compatibility assessment is being completed and all communications equipment that has been purchased has been compatible.

In response to a question from Representative Devlin, Mr. Campbell said six different formulas were considered when determining the allocation of funding to the various cities in the county. He said the formula used took into consideration the number of landline telephones served by each fire department rather than simply using the city population base.

Chairman Porter called on Senator Constance Triplett for comments regarding allocation of homeland security grant funds. Senator Triplett submitted written comments, a copy of which is on file in the Legislative Council office. She said she has been involved in the grant allocation decisionmaking process in her role as chairman of the Grand Forks Board of County Commissioners. She said the local emergency manager did an exceptional job of bringing together the various stakeholders in the community and helping them to identify and prioritize their needs. She said the board perceived its role as providing an overview policy direction for the local process of allocating homeland security grant funds and providing closer scrutiny of the requests made by county departments. She said the board took a policy position that required a split of the funds so that approximately 70 percent of the funds were spent within the city of Grand Forks and 30 percent of the funds were divided proportionately among the small cities and rural fire departments throughout the county.

Senator Triplett said although rural communities are likely at a very low risk for a terrorist attack, the presence of the Grand Forks Air Force Base, the Grand Forks airport, and a variety of transmission facilities and transportation routes through the county means that rural emergency services are as likely to be called into service in the event of a terrorist attack as are city services. She said the board of county commissioners has suggested that decisions be based on an assumption that the federal grant funds

may not be an ongoing source of revenue and that political pressures at the national level may lead to an allocation of more resources to larger cities. Because of that uncertainty, she said, the agencies receiving the funds must be careful not to overextend by buying equipment that the agencies may not be able to maintain adequately in the future. In addition, she said, the agencies should avoid buying equipment in phases that depend upon future allocations.

In response to a question from Senator Mathern, Senator Triplett said governmental entities in Grand Forks County have an excellent cooperative relationship with officials at the Grand Forks Air Force Base.

Chairman Porter called on Lieutenant Byron Sieber, Grand Forks Police Department, for comments regarding the committee's study of emergency response. Lieutenant Sieber said the Grand Forks Police Department used homeland security funds to purchase personal protection equipment, including gas masks and protective suits. He said funds have also been used to provide equipment for the special incident team and the bomb squad, which both serve as regional teams. In addition, he said, computers are being placed in police cars. He said the police department has cooperated with the sheriff's office, the University of North Dakota Police Department, and other agencies to purchase equipment that is compatible. He said the police department and other response teams will train together on a regional basis and be involved in planning at the state level.

Chairman Porter called on Mr. Peter O'Neill, Chief, Grand Forks Fire Department, for comments regarding the committee's study of emergency response. Mr. O'Neill said the fire department began homeland security planning in 2000 and has worked with the other large fire departments in the state. He said the homeland security allocations in Grand Forks County have gone smoothly. Although the fire department requires approval from the mayor of the city before responding to a fire or other emergency outside the city limits, he said, the mayor has been very supportive of the fire department responding to incidents in rural areas and other communities. He said the city of Grand Forks owes a debt to other communities for the help provided during the 1997 flood and homeland security funds have been a great help to assist Grand Forks in providing service to other cities in the region.

Mr. O'Neill said the fire department has purchased maintenance agreements when possible to help address future costs of maintenance of equipment purchased with homeland security funds. He said it is important to find support and funding for future maintenance and purchases to replace equipment. In addition, he said, the costs of training personnel on the use of the new equipment are very high. Nonetheless, he said, the city of Grand Forks is committed to being a regional responder.

In response to a question from Representative Porter, Mr. O'Neill said Grand Forks has a mutual aid agreement with East Grand Forks and is ready to respond to other communities in the region, including communities in Minnesota. He said there will also be mutual agreements in place with Fargo, Bismarck, and Minot within the near future. He said the fire department and other city entities generally will respond to an emergency in another jurisdiction without a formal agreement in place. Although fire departments have traditionally been reactionary in nature, he said, fire departments are now becoming more proactive in addressing emergencies.

Chairman Porter called on Mr. Allen Morken, Grand Forks 911 Dispatch Center, for comments regarding the committee's study of emergency response. Mr. Morken submitted written comments, a copy of which is on file in the Legislative Council office. He said the Grand Forks dispatch center operates under a joint powers agreement that was established in 1992. He said the goal of the dispatch center was to provide the most efficient and effective delivery of public safety emergency communications services for the city of Grand Forks, Grand Forks County, and the University of North Dakota. In addition, he said, the Grand Forks dispatch center dispatches for approximately 30 rural agencies in Grand Forks County.

Mr. Morken said agencies within the county operate under a VHF radio system and a UHF radio system. He said the Grand Forks Police Department, Grand Forks Fire Department, and University of North Dakota Police Department operate under the same type of radio system and the sheriff's office has similar radios in sheriff department vehicles. He said that radio system was installed in 1998 and should be capable of meeting the needs of the agencies for another five years. He said the dispatch center is working toward using a type of console that will address interoperability issues and will be working to provide interoperable communications with East Grand Forks. Although the current radio system is an analog system, he said, it will continue to work toward a digital radio system.

Mr. Morken said about 45 percent of the 911 calls received at the dispatch center are from cellular phones. Although the dispatch center has Phase 1 and Phase 2 equipment, he said, some of the cellular companies are still testing their Phase 2 equipment.

Mr. Morken said he is working with the Grand Forks City Information Services Department under a weapons of mass destruction grant to implement a reverse 911 system for the county. He said almost \$60,000 in grant funds have been received for that project. He said the local emergency manager has included all the necessary agencies to ensure that homeland security funds have been spent to meet the needs of all the residents of Grand Forks County.

In response to a question from Representative Kroeber, Mr. Morken said the maintenance of the reverse 911 system should not be very expensive. He said he would like to see the system used on a daily basis to notify various groups of people of information.

In response to a question from Representative Porter, Mr. Morken said he is looking at various possibilities for dealing with unlisted and unpublished telephone numbers in the use of the reverse 911 system.

In response to Representative Price, Mr. Morken said another issue that needs to be addressed is the possibility of not being able to contact individuals who have only cordless telephones in the event of a power outage. He said he is working to inform the public regarding that issue.

Chairman Porter recessed the meeting at 4:30 p.m. and reconvened at 9:10 a.m. on September 10, 2004.

Chairman Porter called on Mr. Pete Haga, City of Grand Forks. Mr. Haga welcomed the committee to Grand Forks on behalf of Mayor Mike Brown. Because the mayor was out of town, he said, the mayor was unable to attend this meeting. He thanked the committee for meeting in Grand Forks and taking an interest in the level of emergency preparedness in the Grand Forks region.

Chairman Porter called on Lieutenant Donavon Rasmuson, University of North Dakota Police Department, for comments regarding the committee's study of emergency preparedness. Lieutenant Rasmuson said a tabletop planning exercise will take place on October 20 in an effort to prepare for the World Junior Hockey tournament to be held in December and January. He said the tabletop exercise will help responders evaluate response and plans and address the possibility of a chemical terrorist incident. He said the exercise will also evaluate the interface with federal, state, and local agencies.

Chairman Porter called on Mr. Baron for comments relating to homeland security funding. Mr. Baron said legislation and amendments pending before Congress could affect homeland security funding for North Dakota. He said it is important that funding not be reduced because the state has infrastructure that must be protected and has an international border. He said legislation under consideration would allocate funding based on threat and vulnerability as determined by entities in Washington, D.C. He said he is concerned that those entities will not consider assets in our state as assets that need to be protected. He said every state is likely to be guaranteed one-fourth of 1 percent of the \$3.6 billion allocation. Under that formula, he said, the state would receive about \$9 million. In addition, he said, because of the international border, funding would likely be increased to approximately \$16 million,

which is a decrease in funding of about \$3 million from 2004.

Mr. Baron said the legislation will likely allow volunteers to be paid a stipend to attend training sessions, which will help for training of emergency medical services providers and firefighters. He said the legislation will also likely allow states to apply for additional funding based upon a competitive grant process. In addition, he said, states will likely be able to provide funds directly to nongovernmental organizations rather than passing the funds through the counties.

Chairman Porter called on Mr. David Zimmerman, Altru Health System, for comments regarding emergency response preparedness. Mr. Zimmerman submitted written comments, a copy of which is on file in the Legislative Council office. He said disaster preparedness is a fundamental responsibility of all health care systems and the threat of terrorism has redefined what health care systems must consider in serving as a resource in the community and region. He said the role of emergency management within the hospital setting has been expanded after September 11, 2001. He said the first priorities after an event are to protect the facility, respond to the needs of the community and region, and continue operations.

Mr. Zimmerman said Altru Health System has had success in receiving homeland security funding because its ambulance service is hospital-based and ambulance services are considered as first responders and because the system has had a positive relationship with emergency responders in the community. Although a homeland security presidential directive identifies hospitals as first responders, he said, hospitals generally have not been successful in receiving homeland security funds. He said Grand Forks City and County agencies have been interacting in a manner that considers the best interests of the entire response system. He said Altru has an effective relationship with the Grand Forks Air Force Base which is supported by a memorandum of understanding that will likely allow the relationship to expand. He said Altru's advanced life support ambulance service responds on a regional basis in North Dakota and Minnesota and provides support to other responding agencies. Therefore, he said, Altru has mutual aid agreements with several regional ambulance services. He said Altru has an ongoing relationship with Minnesota hospitals and clinics and compacts outlining those relationships are under development.

Mr. Zimmerman said there is a concern with preparing for surge capacity. Another concern, he said, is the capability to lock down the facility and control access to the facility. He said it is essential that access is controlled but most facilities do not have the staff or the time to adequately perform a secure lockdown. He said Altru has purchased large

amounts of personal protective equipment and a decontamination system with homeland security funding. However, he said, there are concerns whether the decontamination system will be effective in the winter and there are issues relating to training of personnel with respect to the equipment. He said there is no homeland security funding available for training of hospital staff. He said other issues that must be addressed by hospitals include modifications in air-handling service areas and location of intakes and exhausts, securing a domestic water supply, securing energy sources, establishing triage areas, establishing decontamination areas, creating isolation rooms, separating facilities such as central receiving and mailrooms, establishing an isolated pandemic facility, building of storage facilities, and establishing video security.

Mr. Zimmerman said Altru has begun to address access control through the use of grant funds and should complete the access control project with the use of 2004 homeland security supplemental funds. He said very little of the grant funds from the Health Resources and Services Administration (HRSA), which is supposed to be focused on hospitals, has had a direct impact on the health care facilities in the state. He said the funding is centralized and earmarked for several initiatives, few of which have required the amount of funding allocated. Because much of the funding has been designated, but has not been spent, he said, future opportunities for funding may be jeopardized.

In response to a question from Representative Porter, Mr. Zimmerman said the HRSA funding in Minnesota was passed down to the local levels. However, he said, in North Dakota the funding has been centrally focused and has not allowed for direct funding to hospitals. He said North Dakota received almost \$2 million during the last round of funding.

In response to a question from Representative Price, Mr. Zimmerman said Altru has an in-house laundry and has examined the need to maintain a higher number of linens on hand to address emergency situations.

In response to a question from Senator Kilzer, Mr. Zimmerman said representatives of Altru have researched different types of events to identify best practices to follow in the event of an emergency. He said it is important that the health care facilities in the region have similar types of equipment so that staff can be sent to other hospitals and use the equipment in those facilities. He said it is also important to identify resource lists so that resources can be shared if necessary.

Chairman Porter called on Mr. Howard Swanson, Grand Forks City Attorney, for comments regarding emergency preparedness and disaster response. Mr. Swanson submitted a model local disaster or emergency ordinance and a document entitled *Is Your Disaster Ordinance Destined to Create a Disaster During a Time of Emergency*, copies of



which are on file in the Legislative Council office. He also reviewed a PowerPoint presentation, a copy of which is on file in the Legislative Council office.

Mr. Swanson said there is frequently a misconception that a disaster or emergency will happen to someone else or occur somewhere else. He said state law for cities does not provide much guidance for addressing disasters. Therefore, he said, local government officials must ensure that they are legally prepared to respond to a disaster. Although the Legislative Assembly has established general parameters for a state response to an emergency, he said, the authority of local governments is not as clear. He said questions that must be addressed are who can declare an emergency, what is the duration of the declaration, and what is the authority of the local government in responding to the disaster or emergency.

Mr. Swanson said there are two sources of emergency law--state statutes and home rule powers of local governments. He said not all statutes and ordinances make a distinction between an anticipated event and an actual event. He said most laws do not allow declaring an emergency in anticipation of an event.

In response to a question from Representative Porter, Mr. Swanson said local governments need broad, flexible laws to address a variety of disasters or emergencies. He said a disaster or emergency can be a combination of events with one event triggering another.

Mr. Swanson said the power to declare an emergency should rest with a single individual rather than an entire governing body because it may be difficult to get a quorum of the governing body in an emergency. Although many laws provide for an initial duration of the emergency of three days after the declaration of the emergency, he said, the initial term should be at least seven days.

Mr. Swanson said the extent of emergency authority should allow for the establishment of curfews; issuance of evacuation orders; closure of businesses and suspension of sales; regulation of alcohol, firearms, and explosives; control of access to the area of the emergency or disaster; establishment of transportation routes; acquisition of supplies and equipment; redirection of staff functions; delegation of authority; and the authorization of mutual aid. In addition, he said, emergency authority should extend to the control of water usage, limiting of burning, canceling or postponing of meetings and hearings, hiring of staff and contractors, providing for applying for aid, managing of utilities, and establishing quarantine and isolation.

Mr. Swanson said preparation and flexibility are important. He said it is also important that the attorneys for the political subdivision be familiar with state and local laws regarding disasters and be

located in or near the emergency operation center during an emergency or disaster.

Mr. Swanson said public officials should predraft resolutions, declarations, and orders and allow for waivers and suspensions of ordinances and codes during an emergency.

In response to a question from Representative Porter, Mr. Swanson said his impression is that North Dakota statutes relating to emergencies or disasters are more advanced than those in many other states. Because Grand Forks relied upon its home rule authority when responding to the 1997 flood, he said, the city had more flexibility and was able to do things that non-home rule political subdivisions may not be able to do.

Chairman Porter called on Mr. Dean Lampe, North Dakota Emergency Medical Services Association, for comments regarding the committee's study of emergency preparedness and response. Mr. Lampe submitted written testimony, a copy of which is on file in the Legislative Council office. He said the Emergency Medical Services Association represents approximately 1,500 emergency medical services providers in the state. He said the association used funding from the United States Department of Health and Human Services and an HRSA grant to conduct an assessment of emergency medical services preparedness to respond to a variety of mass casualty incidents. He said the assessment revealed that two-thirds of the squad leaders had met with their county emergency managers regarding emergency planning and funding but less than 5 percent of the \$19.5 million awarded to the state was provided to emergency medical services providers. He said rural, volunteer-based services have a difficult time keeping the services operating and the urban, private ambulance services have a difficult time generating the profit necessary to remain viable. Therefore, he said, emergency medical services need more than the 3 to 5 percent share of grant funding to reach and maintain an effective state of mass casualty incidents preparedness.

Mr. Lampe requested the support of committee members in assisting the association in establishing minimum benchmark requirements for future grant allocations for emergency medical services. He said when grant funds are allocated by county through the county emergency managers, a logical tendency is to have 52 separate emergency plans without a clear statewide vision. Another example of a lack of a statewide plan, he said, is the absence of a state plan for mass scene decontamination. He said major hospitals likely have decontamination equipment to perform decontamination but rural areas of the state have not been addressed.

Chairman Porter called on Ms. Roxanne Fiala, City of Grand Forks Information Services, for comments regarding the committee's study of emergency response preparedness. Ms. Fiala said Grand Forks

has used grant funds for security for its Public Transportation Department, communications equipment, and security for the water treatment plant. She said the security enhancements for the water treatment plant will allow information regarding an intrusion to go directly to the police. She said it is important that the individuals involved with technology for governmental agencies be involved with response and planning.

Chairman Porter called on Mr. Adam Jonasson, City of Grand Forks, for a demonstration of homeland security geographic information system software and a PowerPoint presentation. Mr. Jonasson said the city has invested in geographic information systems that can easily show the user where a chemical spill would drain or demonstrate the elevation of utilities. He said the software also can tell a homeowner if a particular water level of the river will threaten the homeowner's property.

Mr. Jonasson said the city received a grant from a software vendor which provided for the creation of a system where police and firefighters can log into the system and create a mobile command center which enables them to provide quick calculations and assessments for first responders. He said Grand Forks was one of three recipients of the grant.

In response to a question from Representative Kroeber, Mr. Jonasson said the system is password-protected on a secure server which limits access to firefighters and police officers. He said the data in the system is updated hourly and the data is linked to other geographic information systems' packages used by the city.

In response to a question from Senator Mathern, Mr. Jonasson said data compiled by the city is shared with Grand Forks County.

Mr. Swanson said steps were taken during the last legislative session to protect some security data from

open records requests. However, he said, there is a need to evaluate what type of information should be deemed confidential.

Chairman Porter called on Mr. Wiedrich for comments regarding the allocation of grant funds. Mr. Wiedrich said the state received \$6.7 million last year from the Centers for Disease Control and Prevention and \$5.2 million this year. He said it appears that there will be an ongoing commitment for some funding but much of the funding may be allocated to larger cities. He said he hopes that the funding allocation for hospitals will be maintained.

### MISCELLANEOUS DISCUSSION

Chairman Porter thanked the committee members for their dedication and participation in the committee's deliberations. He said the discussions from the meetings held around the state have been an eye-opening experience.

**It was moved by Representative Price, seconded by Representative Devlin, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill draft recommended by the committee and to present the report and the recommended bill draft to the Legislative Council.**

**It was moved by Senator Mathern, seconded by Representative Uglem, and carried that the meeting be adjourned sine die.** No further business appearing, Chairman Porter adjourned the meeting sine die.

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John Bjornson  
Committee Counsel