2009 HOUSE POLITICAL SUBDIVISIONS

HB 1048

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1048

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 9, 2009

Recorder Job Number: 6753

Committee Clerk Signature

Minutes:

Chairman Wrangham opened the hearing on HB 1048.

Roxanne Woeste, Legislative Counsel: Read and explained the bill. (see attached #1). Definition of the code.

Greg Wilz, Deputy Director, Dept of Emergency Services: (see testimony #2). The current language in Century Code is not recognized by FEMA.

Rep. Klemin: We do have procedures for adopting those administrative rules and that requires public input, comments and a hearing and reviewed by our administrative rules committee. Guidelines are governed by different rules and they are subject to change at the discresion of the administrative agency that is doing them. I have a concern with taking something out of statue and giving it to an agency that is not subject to public comment.

Greg Wilz: We have to fix what we have. The agency did a search nationwide of the mutual aid contracts such as this and took the best things we could and sealed it down to what we thought were necessary with 9 key things to address. I will get you that list. This agreement needs to be signed at the local level and agreed upon and then those federal dollars will come to the state. The language we are recommending in these mutual aid agreements provides a lot of written documentation. In the old days these agreements were hand shake agreements

and had no value really. We need to know when and what kind of things will be covered and when will you come and what will you charge. What is the release authority? The current section of the code does not cover this.

Rep. Klemin: What would be the problem with following the procedure with the public comment and public hearing that we now have set out by the Administrative Agencies Practices Act?

Greg Wilz: We do not believe the state should mandate that they have to do this.

Rep. Jerry Kelsh: Is there any need for an agreement between states?

Greg Wilz: Yes, local jurisdiction that need or want to extend their jurisdictions across borders can do that. The state has EMAC now. There is another bill coming between firefighting entities at the state level for the Forest Service. They want a separate compact because of their need to react more quickly than EMAC will react on a state to state basis.

Chairman Wrangham: Did the task force just look at that part of the bill to satisfy the needs of FEMA.

Greg Wilz: We did, but it was hard to find the language to change all the communities and towns and the costs involved. Discussed the problems and costs for our services around the state. FEMA did not reimburse because of agreement problems.

Chairman Wrangham: The changes you are proposing would pass FEMA?

Greg Wilz: the nine points we have pulled out of the Mutual Aid Agreements on the study that we did we have actually run those by FEMA and they said yes.

Rep. Klemin: Questioned the section in code.

Greg Wilz: I will take this question and check the code and get back to you later so we don't hold up the testimony.

Rep. Kilichowski: Is there any other states that are having this problem?

Greg Wilz: Yes across the national most states are having problems with mutual agreements.

Rep. Kilichowski: Do you know how these other states are handling them?

Greg Wilz: Some states have chosen to go update their language in the existing section codes and other states have taken the approach we have taken which is individual Mutual Aid Agreements. Discussed agreement being made among the adjoining counties and establishing a working relationship there.

Rep. Jerry Kelsh: If the counties cover each other do they still have to do each one individually with fire departments**?**

Greg Wilz: We think given the makeup of some counties that is acceptable. It depends on the multiple jurisdictions of the response disciplines that are in the county. We are not mandating; we are saying here is the template with the rules and criteria and rules that you must have in them.

Rep. Klemin: Discussed laws and regulations on the definition of 37-17.1-24.
What would happen if they do not meet the requirements?

Greg Wilz: We would notify them in writing and then let them know they may not be able to receive federal funds. If it was our opinion that the agreement was not up to the federal requirements we would let them know. If they refuse to change it then we would let them know they probably won't be eligible for federal funds.

Rep. Headland: With the new political president coming it that could change the mission of Homeland Security. Is this bill flexible to meet those changes?

Greg Wilz: I think it is. We will put in the right language so that it would be able to work under any administration.

Chairman Wrangham: Are you saying this would not be mandatory on all jurisdictions.

Greg Wilz: That is why I want a language change in my bill to make it mandatory that every jurisdiction to have this. See lines 14, 15 & 16.

Chairman Wrangham: I understand this but you are still referring to 37-17.1-07. So by putting that part of the century code it just seems it is going to involve everything.

Greg Wilz: This language change may need to be revised.

Joel Boesplug, ND Fire Chief's Assoc.: We are in full support of this bill. We appreciate the work put forth to help the emergency responders and protect our citizens and responders.

Chairman Wrangham: Is this local guy in Richardton going to feel more comfortable knowing the Police Chief in Richardton and Taylor have a hand shake agreement or is he going to be worried if they have to go through a manual to get the job done?

Joel: It does provide paperwork, but during that paperwork process you determine what you can and cannot do. I think in the long run it would be better to have the proper paperwork.

Connie Sprynczynatky, ND League of Cities: The counties and cities have to have a good working relationship. This includes all the first responders and if a disaster arises like Grand Forks. One thing that was a big problem was organization and storage of supplies for the people involved. This bill is trying to put the emergency entities in place ahead of a disaster so that you know exactly what to do. I now represent the National League of Cities and from state to state that a system is needed to cover everything necessary. Also have it set up so that it would be reimbursable. All states are dealing with this issue. Man made or natural disasters are hard to deal with and everyone comes to help so we will assist you if there is a subcommittee to get this bill passed because it is necessary.

Greg Wilz: In Sections 37-17.1-25, Sub 4 is being repealed. I agree with Connie Sprynczynatky and I would like to help with this bill if it goes to a subcommittee.

I think the department needs to come up with a good bill.

Chairman Wrangham: If we do form a subcommittee for this bill if any of you want to be notified let the clerk know. No other testimony.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1048

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7596, 7599

Committee Clerk Signature

Minutes:

Chairman Wrangham reopened the hearing on HB 1048.

We are waiting for the amendment.

Had trouble with the amendment so will hold until this afternoon.

Chairman Wrangham reopened the hearing on HB 1048.

Rep. Koppelman moved the amendment. Seconded By Rep. Hatelstad.

Discussion:

Rep. Koppelman: this is the same amendment that Mr. Wilz presented and there was some concern about local law enforcement that the original wording of the bill depended on shall participate and the concern was they didn't know what the definition participate really meant. They were concerned about participation being dictated. The main issue here is federal funding. This amendment has clarified this and maintains the EMS organization to access funds which insures eligibility for federal funds.

Rep. Zaiser: What is the objective of this bill?

Rep. Koppelman: there was some concern that the statues in ND were not the way they needed to be in light of other areas over mutual aid. Locals were concerned that maybe the

state would be forcing the locals to participate; could there be a huge disaster in a neighboring communities and their entire budget for the year could be used up.

Rep. Zaiser: this is just not simply a way to get federal funds?

Rep. Koppelman: It complies with the federal funding requirements without requiring them to do something.

Rep. Zaiser: Is there administration funds that goes to the state.

Rep. Koppelman: I am not certain about that.

Rep. Jerry Kelsh: What happens if you have an emergency and do not have an agreement like this in place if a disaster occurs?

Rep. Conrad: Rep. Klemin talks about guidelines?

Rep. Klemin: My concern was the department being in the position of approving anything the local entities do so the way it would work the Department of Emergency Services would prepare these agreements that the local entities could use. Then the department shall ensure that any public entity that complies with these guidelines. The answer to having to send those agreements in every time for approval was yes. So I don't have a problem with Rep. Koppelman's amendment, but I think we should also delete the language on line 11-14 so it does not include a bureaucratic approval situation.

Discussion on more changes on the amendment.

Rep. Hatlestad: How do the local political subdivisions know that what they have done complies with federal requirements? How would the state know they are complying with the guidelines?

More discussion on the amendment.

Rep. Pietsch: I have a note that they were going to go over the current agreement that they have on file. Apparently some already have them and it goes to FEMA and it is the one that has the final review.

Rep. Conrad: I suggest we take out that whole sentence so in order to get these monies we will want that so we do not say the department has to do it.

Rep. Koppelman: Moved that we adopt the amendment before us and also delete the line beginning with the department on page 11 and ending with reimbursement on line 16.

Chairman Wrangham: The words in the amendment is all that has to be corrected. The amendment we have now would accept these we have in writing plus take out the words on line 2 beginning with the and ending on reimbursement on 14.

Roll call on amendment. Vote 7 Yes 6 No 0 Absent. Amendment passed.

Rep. Corey Mock: Bring us up to date on what the bill says now?

Rep. Koppelman: Explained the amendment.

Motion Made As A Do Pass As Amended By Rep. Hatlestad Seconded By Rep. Koppelman

Rep. Koppelman: It covers fire, ambulance and emergency services.

Chairman Wrangham: If the purpose of this bill is to answer problems that FEMA has with paying for responders within the state, this bill says in order to access state funds the disaster during a non federal declared disaster; if it is non federally declared what does FEMA have to do with it?

Rep. Conrad: FEMA says we have to have this agreement regardless.

Rep. Jerry Kelsh: I think it says here the reason FEMA rejected it was because nobody made any payments until the federal government gave them money. So you have to be paying bills before FEMA.

Vote: 10 Yes 3 No 0 Absent Carrier: Rep. Kilichowski

Hearing closed.

FISCAL NOTE

Requested by Legislative Council
01/28/2009

Amendment to: HB 1048

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

We do not believe this bill will have a fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Holly Gaugler	**Agency:**	Adjutant General
Phone Number:	(701) 333-2079	**Date Prepared:**	01/29/2009

FISCAL NOTE

Requested by Legislative Council
12/08/2008

Bill/Resolution No.: HB 1048

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

We do not believe this bill will have a fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Holly Gaugler	**Agency:**	Adjutant General
Phone Number:	333-2079	**Date Prepared:**	12/31/2008

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Adopted by the Political Subdivisions Committee
January 22, 2009

VR
1/23/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1048

Page 1, line 11, replace "The department" with "To access state funds for disaster response and recovery during a nonfederally declared disaster, counties and cities shall participate in intrastate mutual aid and shall take all necessary steps to ensure eligibility for federal funds."

Page 1, remove lines 12 through 16

Renumber accordingly

Roll Call Vote #: 1

Date: 1-22-09

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1048

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass Do Not Pass (Amended)

Motion Made By Rep Koppelman Seconded By Rep Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Senator Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Senator Jerry Kelsh		✓
Rep. Patrick Hatlestad	✓		Senator Robert Kilichowski		✓
Rep. Nancy Johnson		✓	Senator Corey Mock		✓
Rep. Lawrence Klemin	✓		Senator Steve Zaiser		✓
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓	✓			
Rep. Vonnie Pietsch	✓				

Total (Yes) 7 No 6

Absent 0

Floor Assignment

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

amendment carried

Roll Call Vote #: 2

Date: 1-22-09

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1078

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken (Do Pass) Do Not Pass (or Amended)

Motion Made By Rep Hatlestad Seconded By Rep Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Senator Kari Conrad		
Rep. Craig Headland, Vice Chairman			Senator Jerry Kelsh		
Rep. Patrick Hatlestad			Senator Robert Kilichowski		
Rep. Nancy Johnson			Senator Corey Mock		
Rep. Lawrence Klemin			Senator Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) 10 No 3

Absent 0

Floor Assignment Rep. Kilichowski

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

REPORT OF STANDING COMMITTEE

HB 1048: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1048 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "The department" with "To access state funds for disaster response and recovery during a nonfederally declared disaster, counties and cities shall participate in intrastate mutual aid and shall take all necessary steps to ensure eligibility for federal funds."

Page 1, remove lines 12 through 16

Renumber accordingly

2009 SENATE POLITICAL SUBDIVISIONS

HB 1048

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1048

Senate Political Subdivision Committee

☐ Check here for Conference Committee

Hearing Date: February 27, 2009

Recorder Job Number: 9842

Committee Clerk Signature Troy Schuchard

Minutes:

Chairman Andrist: Opened the hearing on HB 1048, all members present.

Todd Porter: Representative, District 34 introduced HB 1048, testified that this bill discusses mutual aid agreements, more directly the fact that they do not meet the federal statutes and requirement. This creates an issue when it comes to reimbursements from federal money.

Senator Anderson: I notice the repeal, what is that about?

Todd Porter: The purpose for the repeal is for the outdated language.

Greg Wilz: Deputy Director of the Department of Emergency Services and Director of Homeland Security for the state of North Dakota testified in support of HB 1048. (See attachment #1).

Senator Bakke: How come this did not come to light in the aftermath of the Flood of '97 in Grand Forks? Did we know about this problem then?

Greg Wilz: What is in the Century Code today is post '97 Flood.

Senator Dotzenrod: When there is an event on the border, for example ND and MN, is there ever a time when responders come across the border that might be outside this scope? The language states *intra-state* and I'm curious if *inter-state* is an issue that this addresses?

Greg Wilz: There are other compacts that address those situations; however those require a governor's declaration of an emergency to mobilize those units across the borders. I cannot attest to the full legality of them, but far be it for me to challenge something that is working in those rural areas. This bill really facilitates our moving ahead in North Dakota to develop regional capabilities of response; specialized units like hazardous chemical, nuclear response, bomb squad, S.W.A.T Teams, and others so our smaller communities across the state that may have a need for that asset that cannot afford it can have access to them as quickly as possible and be a part of the solution setting.

Senator Judy Lee: I'm thinking about the diving teams that go in when somebody is suspected of falling in the Red River and there not sure which side the person fell in from. So there are already local intra-state agreements, correct? Fargo SWAT goes into Moorhead and vice versa.

Greg Wilz: Correct. This is not geared towards that. This is geared towards the rural areas because they simply don't have the people, money, and the equipment to sustain these specialized forces.

Terry Traynor: Representing the Associations of Counties and we are very supportive of this piece of legislation. We have worked for the development of the language that you are repealing with this long and hard with the Dept. of Homeland Security and found them to be open to concerns of local governments and feel they are the agency that needs to take the lead in this and we are happy to see them do that. We recognize what we currently have is not meeting the federal requirements and that does not help the state or local governments.

Connie Sprynczynatyk: Representing North Dakota League of Cities testified in support of HB 1048. This idea of mutual compact agreement is not a new idea; it is the way the rest of the country is going. It is abundantly clear to me that just as ND is good at putting partnerships

together, the rest of the world is moving in the same direction and we have to be part of that solution because if and when *"it"* hits the fan, during a disaster is not the time to be developing relationships.

Senator Bakke: Made a Do Pass motion

Senator Anderson: Seconded

Chairman Andrist: Motion for Do Pass is recommended 6-0, Senator Anderson will carry.

Date:
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate **Political Subdivisions** Committee

☐ Check here for Conference Committee 1048

Legislative Council Amendment Number

Action Taken ☑ Do pass ☐ Do not pass ☐ Amend

Motion Made By Bakke Seconded By Anderson

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	X		Senator Arden C. Anderson	X	
Vice Chairman Curtis Olafson	X		Senator JoNell A. Bakke	X	
Senator Judy Lee	X		Senator Jim Dotzenrod	X	

Total (Yes) 6 No 0

Absent

Floor Assignment Anderson

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

REPORT OF STANDING COMMITTEE

HB 1048, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1048 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1048

#1

37-17.1-24. Definitions.

In this section and section 37-17.1-25, unless the context otherwise requires:

1. "Assisting unit" means an emergency response unit that renders mutual aid assistance to a requesting unit.

2. "Emergency response unit" includes a fire department, law enforcement agency, emergency medical services operation, and any other public, tribal, and private group that responds to a request for assistance at the scene of an incident.

3. "Incident" means any situation that requires actions to immediately protect lives and property, to provide for public health and safety, or to avert or lessen the threat of a disaster.

4. "Incident command system" means a standardized, on-scene incident management concept designed specifically to allow responders to adopt an integrated organizational structure equal to the complexity and demands of any single incident or multiple incidents without being hindered by jurisdictional boundaries.

5. "National incident management system" means a system that provides a consistent nationwide approach for federal, state, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

6. "National response plan" means a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents, incorporating best practices and procedures from incident management disciplines and integrating them into a unified structure to guide national support of state and local governments and the private sector.

7. "Requesting unit" means the emergency response unit with responsibility for responding to an incident which seeks mutual aid assistance from another emergency response unit.

Source. S.L. 2005, ch. 315, § 1; 2007, ch. 308, § 14.

37-17.1-25. Intrastate mutual aid.

A system of intrastate mutual aid between emergency response units in North Dakota is created by section 37-17.1-24 and this section in order to provide a framework for coordinated response and to ensure, to the fullest extent possible, eligibility for emergency grant funds or other reimbursement assistance. Unless other terms have been specifically agreed upon, an emergency response unit may render mutual aid to another emergency response unit in the state under the following terms and conditions:

1. An incident commander must be designated by the requesting unit, and the incident command system must be used. The incident commander may request mutual aid and is responsible for all resources assigned to or responding to an incident.

2. The individual in charge of an emergency response unit may determine whether personnel or equipment is sent beyond the area of responsibility of the unit to respond to a call by a requesting unit. An emergency response unit declining to provide assistance outside its area of responsibility is not liable for damage to a requesting unit.

3. All resources assigned to an incident are under the operational control of the incident commander. The individual in charge of an assisting unit may retain the ability to withdraw personnel or resources upon notification to the incident commander. An assisting unit withdrawing from an emergency response operation is not liable for damage to the requesting unit.

4. With the exception of volunteers, each assisting unit shall continue to provide the same salaries and benefits to its personnel assigned to render assistance to a requesting unit as the personnel would receive if on duty within their area of responsibility. If emergency grant funds or other assistance becomes available to the requesting unit, the requesting unit shall reimburse any assisting units, whether paid or volunteer within their own area of responsibility, on an equitable basis at rates consistent with the policies of the agencies or entities providing emergency grant funds or other reimbursement assistance, for costs incurred by the assisting units for salaries and benefits. The cost of repair and maintenance of equipment used or expended while rendering assistance must be borne by the emergency response unit owning the equipment unless emergency grant funds or other assistance becomes available to cover the costs. An emergency response unit taking independent action outside a mutual aid request by the requesting unit is not eligible for reimbursement or compensation of costs.

5. Personnel of an assisting unit who sustain injury or death in the course of their employment are entitled to all applicable benefits normally available to personnel while performing duties for their unit.

Source. S.L. 2005, ch. 315, § 2; 2007, ch. 308, § 15.

#2

TESTIMONY – HB 1048
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS
JANUARY 9, 2009
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDES) and Director of Homeland Security for the state of North Dakota. Today I am here as a representative of the task force established at the request of the interim Public Safety Committee. The Public Safety Committee asked that the task force be established to request improvements to emergency services by adding organizational changes, system upgrades, process or protocol changes and statutory changes to ensure the future viability and capability of emergency services in North Dakota. My intent is to provide background information as was discussed within the task force and not to take an agency position on HB 1048.

Shortly after the tornado decimated the city of Northwood, the Governor declared a state emergency and requested a Presidential Declaration. FEMA denied payment to responding mutual aid entities because the intrastate mutual aid agreement as outlined in NDCC 37-17.1-14 requires payment only when federal dollars become available. FEMA ruled mutual aid as written in North Dakota Century Code did not fulfill the true meaning or intent of mutual aid. Thus, the federal opinion negated funding to first responder groups acting in good faith to aid neighbors in need.

North Dakota has a proud heritage of neighbor helping neighbor. Current law attempts to quantify intrastate mutual aid in order to more easily facilitate this longstanding tradition but has been unsuccessful. It would be preferable to enact mutual aid legislation that satisfies the needs of all response disciplines. However, the complexities that exist today with diverse capabilities, response funding streams, response protocols, and trust relationships, preclude a boiler plate approach.

The real power of mutual aid agreements lies in the ability to provide needed resources to save lives and protect property in a timely, comprehensive manner. By doing so, mutual aid addresses inequity and creates more level playing fields. Jurisdictions that require certain response capabilities should have access to resources; however, jurisdictions that use taxpayer dollars to continually support entities with fewer assets should and must recoup costs in order to sustain investments in equipment, training, and human resources. Currently there are relatively few formal, legally approved documents that serve to protect response agencies and provide cost reimbursement to sustain viability of the mutual aid partner.

HB 1048 charges NDDES to undertake a process to put in place local mutual aid agreements. We embrace this charge because the merits inherent in local mutual aid are absolutely vital to the success of regional response.

The last sentence in HB 1048 states, "Each city or county that maintains an emergency management organization under section 37-17.1-07 shall participate in the system of intrastate mutual aid developed by the department." Task force members did not and do not feel this should be mandated in law. The original recommendation made to the

Interim Committee on Public Safety tied compliance to the ability to access state funds for disaster response and recovery (HB 1046). Because the outcome of that bill is uncertain, the following language change is offered.

1) Each city or county that maintains an emergency management organization under section 37-17.1-07 and participates in intrastate mutual aid will ensure eligibility for federal funds during federally declared disasters and may access state funds when made available for disaster response and recovery.

The adoption of the recommenced language:

- Assures access to federal funding streams to aid citizens and local governments in times of crisis.
- Enhances formal working relationship among counties, cities, and citizens.
- Fosters the identification and targeting of resources for regional response to a chemical, biological, nuclear, radiological and explosive event through the cooperative placement of technical and operational resources.
- Enables jurisdictions to cooperatively prioritize regional responding resources through joint training, planning, and execution.
- Assures a planned, coordinated response to incidents beyond the scope of resources held by a single entity.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1048

Page 1, line 14, replace "Each city or county that maintains an" with "In order to access state funds for disaster response and recovery during a non-federally declared disaster, counties and cities shall participate in intrastate mutual aid and shall take all necessary steps to ensure eligibility for federal funds."

Page 1, remove lines 15 through 16

Renumber accordingly

TESTIMONY – HB 1048
SENATE COMMITTEE – POLITICAL SUBDIVISIONS
FEBRUARY 27, 2009
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am Deputy Director of the Department of Emergency Services (NDDES) and Director of Homeland Security for the state of North Dakota. Today I am here as a member representing the task force established at the request of the interim Public Safety Committee and am acting in my official capacity for NDDES. My intent is to provide background information as was discussed within the task force and to support HB 1048.

Shortly after the tornado decimated the city of Northwood, the Governor declared a state emergency and requested a Presidential Declaration. FEMA denied payment to responding mutual aid entities because the intrastate mutual aid agreement outlined in NDCC 37-17.1-14 requires payment only when federal dollars become available. FEMA ruled mutual aid as written in North Dakota Century Code did not fulfill the true meaning or intent of mutual aid. Thus, the federal opinion negated funding to first responder groups acting in good faith to aid neighbors in need.

North Dakota has a proud heritage of neighbor helping neighbor. Current law attempts to quantify intrastate mutual aid in order to more easily facilitate this longstanding tradition but has been unsuccessful. It would be preferable to enact mutual aid legislation that satisfies the needs of all response disciplines. However, the complexities that exist today with diverse capabilities, response funding streams, response protocols, and trust relationships preclude a boiler plate approach.

The real power of mutual aid agreements lies in the ability to provide needed resources to save lives and protect property in a timely, comprehensive manner. By doing so, mutual aid addresses inequity and creates more level playing fields. Jurisdictions that require certain response capabilities should have access to resources; at the same time, jurisdictions that use taxpayer dollars to continually support entities with fewer assets should and must recoup costs in order to sustain investments in equipment, training, and human resources. Currently there are relatively few formal, legally approved documents that serve to protect response agencies and provide cost reimbursement to sustain viability of the mutual aid partner.

HB 1048 charges NDDES to undertake a process to put in place local mutual aid agreements. We embrace this responsibility because the merits inherent in local mutual aid are absolutely vital to the success of local and regional response.

The adoption of the recommenced language:

- Assures access to federal funding streams to aid citizens and local governments in times of crisis.
- Enhances formal working relationship among counties, cities, and citizens.
- Fosters the identification and targeting of resources for regional response to a chemical, biological, nuclear, radiological and explosive event through the cooperative placement of technical and operational resources. (CBRNE)
- Enables jurisdictions to cooperatively prioritize regional responding resources through joint training, planning, and execution.
- Assures a planned, coordinated response to incidents beyond the scope of resources held by a single entity.

behalf of the state, the division of homeland security shall administer the disaster or emergency recovery program according to state procedures based on federal laws or regulations. After a county or group of counties have been declared a major disaster or emergency area by the president, the division shall submit a request to the emergency commission for:

a. Approval to make an application for a loan from the Bank of North Dakota;

b. Approval for additional personnel required to perform the anticipated recovery activities; and

c. Authority to spend additional state and federal funds for the recovery program.

2. If the request is acceptable, the emergency commission shall approve the request and issue a notice of its action to the division, Bank of North Dakota, and the office of management and budget. The division shall keep the emergency commission apprised of the progress of the recovery operation and submit a final report upon completion of the project. The emergency commission is responsible to repay any loan, including accrued interest, from the Bank of North Dakota which is provided under this section. If at the end of the biennium a balance exists on the loan, the emergency commission shall request the legislative assembly for a deficiency appropriation to repay the loan.

37-17.1-24. Definitions. In this section and section 37-17.1-25, unless the context otherwise requires:

1. "Assisting unit" means an emergency response unit that renders mutual aid assistance to a requesting unit.

2. "Emergency response unit" includes a fire department, law enforcement agency, emergency medical services operation, and any other public, tribal, and private group that responds to a request for assistance at the scene of an incident.

3. "Incident" means any situation that requires actions to immediately protect lives and property, to provide for public health and safety, or to avert or lessen the threat of a disaster.

4. "Incident command system" means a standardized, on-scene incident management concept designed specifically to allow responders to adopt an integrated organizational structure equal to the complexity and demands of any single incident or multiple incidents without being hindered by jurisdictional boundaries.

5. "National incident management system" means a system that provides a consistent nationwide approach for federal, state, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

6. "National response plan" means a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents, incorporating best practices and procedures from incident management disciplines and integrating them into a unified structure to guide national support of state and local governments and the private sector.

7. "Requesting unit" means the emergency response unit with responsibility for responding to an incident which seeks mutual aid assistance from another emergency response unit.

37-17.1-25. Intrastate mutual aid. A system of intrastate mutual aid between emergency response units in North Dakota is created by section 37-17.1-24 and this section in

order to provide a framework for coordinated response and to ensure, to the fullest extent possible, eligibility for emergency grant funds or other reimbursement assistance. Unless other terms have been specifically agreed upon, an emergency response unit may render mutual aid to another emergency response unit in the state under the following terms and conditions:

1. An incident commander must be designated by the requesting unit, and the incident command system must be used. The incident commander may request mutual aid and is responsible for all resources assigned to or responding to an incident.

2. The individual in charge of an emergency response unit may determine whether personnel or equipment is sent beyond the area of responsibility of the unit to respond to a call by a requesting unit. An emergency response unit declining to provide assistance outside its area of responsibility is not liable for damage to a requesting unit.

3. All resources assigned to an incident are under the operational control of the incident commander. The individual in charge of an assisting unit may retain the ability to withdraw personnel or resources upon notification to the incident commander. An assisting unit withdrawing from an emergency response operation is not liable for damage to the requesting unit.

4. With the exception of volunteers, each assisting unit shall continue to provide the same salaries and benefits to its personnel assigned to render assistance to a requesting unit as the personnel would receive if on duty within their area of responsibility. If emergency grant funds or other assistance becomes available to the requesting unit, the requesting unit shall reimburse any assisting units, whether paid or volunteer within their own area of responsibility, on an equitable basis at rates consistent with the policies of the agencies or entities providing emergency grant funds or other reimbursement assistance, for costs incurred by the assisting units for salaries and benefits. The cost of repair and maintenance of equipment used or expended while rendering assistance must be borne by the emergency response unit owning the equipment unless emergency grant funds or other assistance becomes available to cover the costs. An emergency response unit taking independent action outside a mutual aid request by the requesting unit is not eligible for reimbursement or compensation of costs.

5. Personnel of an assisting unit who sustain injury or death in the course of their employment are entitled to all applicable benefits normally available to personnel while performing duties for their unit.