

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## INSURANCE AND HEALTH CARE COMMITTEE

Thursday, April 23, 1998  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Karen K. Krebsbach, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Karen K. Krebsbach, Jerry Klein; Representatives Michael Brandenburg, Mike Callahan, Ron Carlisle, Al Carlson, David Drovdal, Pam Gulleeson, Kenneth Kroepflin, Clara Sue Price, Wanda Rose

**Members absent:** Senator Judy L. DeMers; Representatives Thomas T. Brusegaard, Alice Olson, John M. Warner

**Others present:** See Appendix A

**It was moved by Representative Carlisle, seconded by Representative Drovdal, and carried on a voice vote that the minutes of the March 5, 1998, meeting be approved as distributed.**

### HAIL SUPPRESSION STUDY

Chairman Krebsbach called on Representative Drovdal to present three bill drafts relating to alternative hail suppression pilot projects. Representative Drovdal provided a written cost analysis that evaluates the estimated cost of implementing each pilot program, a copy of which is on file in the Legislative Council office. The first pilot program would provide hail suppression services statewide for a six-year cost of \$15 million; the second pilot project would provide hail suppression services to the western region of the state for a six-year cost of \$7.7 million; and the third pilot project would provide hail suppression services to the western and central regions of the state for a six-year cost of \$10.7 million. Representative Drovdal encouraged the committee to adopt the bill draft for the pilot program that provides services to the western and central regions of the state. He said the western and central region pilot program would include two radars and 15 airplanes.

In response to a question from Representative Kroepflin, Representative Drovdal said the reason he supports the pilot program that covers the western and central portion of the state is that increased rainfall is a secondary effect of hail

suppression and the Red River Valley could be harmed by increased rainfall.

In response to a question from Representative Gulleeson, Representative Drovdal said hail suppression does stimulate rain, but the primary purpose of the pilot program would be to suppress hail. Mr. Bruce A. Boe, Director, Atmospheric Resource Board, said the increased rainfall resulting from hail suppression is 10 percent or one inch per year, and this is a benefit that actually exceeds the benefit of hail suppression.

In response to a question from Representative Carlson, Representative Drovdal said hail suppression is used in six counties in the state through a cooperative county- and state-funded program.

In response to a question from Senator Klein, Mr. Boe said in those six counties, crop insurance often was not available before the program, but since the program was implemented, crop insurance is available, although expensive.

In response to a question from Representative Gulleeson, Mr. Boe said hail is significant in all portions of the state and is not geographically limited to particular counties.

In response to a question from Representative Rose, Mr. Boe said the 1997 Atmospheric Resource Board report uses statistics from the 1980s because after 1988, the boundaries of the target area changed and the data was no longer based on the same geographical area. He said more recent insurance company loss-to-cost ratios support the 43 percent hail suppression benefit figure.

In response to a question from Senator Krebsbach, Mr. Boe said he does not know the cost of performing a new study and is not certain of the length of time needed to gather accurate statistics. He said he will report cost information to the committee at a future meeting. He said the county hail suppression program funding formula provides for approximately 80 percent county funds and 20 percent state funds.

In response to a question from Representative Carlisle, Representative Drovdal said each of the three hail suppression program bill drafts he presented would be funded from the general fund.

Representative Rose said insurance companies benefit from hail suppression programs; therefore, the committee should consider having insurance companies fund hail suppression programs.

Representative Drovdal said the insurance companies testified at earlier meetings that the amount of premium tax going to the state general fund exceeds the cost of implementing a hail suppression program. Mr. Boe said the premium tax going to the general fund is approximately \$35 million per biennium.

**It was moved by Representative Drovdal, seconded by Representative Price, and carried on a voice vote that the committee adopt for further consideration the three bill drafts relating to hail suppression pilot programs.**

### **STATUS OF THE CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) STATE PLAN**

Chairman Krebsbach called on Mr. David Zentner, Director, Medical Services, Department of Human Services, for comments regarding the status of the children's health insurance program state plan. Mr. Zentner reviewed the basic federal requirements under the children's health insurance program; reviewed the comments received at the two state children's health insurance program public hearings; and responded to committee questions raised at the last committee meeting. Mr. Zentner provided written testimony, a copy of which is attached as Appendix B, and he provided a copy of the public hearing notice, general information and history of the children's health insurance program plan, and a copy of the state employee benefit program on which the children's health insurance program state plan is based. A copy of this information is on file in the Legislative Council office.

In response to a question from Representative Gulleason, Mr. Zentner said it may be possible to include the children's health insurance program state plan benefits with the Health Passport pilot program, but the department will need to evaluate this because federal requirements prohibit the state from spending more than 10 percent of program cost on administrative and outreach programs. He said the department will need to look into the problem of duplicating existing services.

In response to a question from Representative Rose, Mr. Zentner said Medicaid recipients with recipient liability may choose between the children's health insurance program and Medicaid. He said there will be a gatekeeper provision under the children's health insurance program state plan.

In response to a question from Representative Carlson, Mr. Zentner said he cannot speculate on the provisions of the final state plan because the final plan will be subject to the Governor's approval. He said the state plan is still in the conceptual phase, but the department plans on having a state plan within one or two weeks and plans on submitting the state plan to the federal government by the end of May 1998. The federal government, he said, should approve the plan by October 1, 1998. Mr. Zentner said funding for the period of time from approval of the state plan until the next biennium will come from Medicaid savings. He said the state plan will use 40 to 60 percent of the funds allowable under the federal grant program.

In response to a question from Representative Callahan, Mr. Zentner said the Medicaid savings are the result of fewer Medicaid clients and basic care clients. He said the current Medicaid match is 69 percent, and the federal money allowed under the children's health insurance program is based on Medicaid statistics.

In response to a question from Representative Price, Mr. Zentner said the federal government has budgeted the children's health insurance program for 10 years, with funding decreases in the fifth through seventh years; therefore, it is important that the children's health insurance program allows states to carry over children's health insurance program funds to future years. He said the children's health insurance program is part of the Budget Reconciliation Act of 1997, and he is not aware of any children's health insurance program money coming from tobacco settlements.

In response to a question from Representative Brandenburg, Mr. Zentner said the statistics the state is using in developing the state plan are relatively solid. He said children will not be eligible for the children's health insurance program if they are also eligible under Medicaid. The number of uninsured children in North Dakota, he said, includes children who are Medicaid-eligible but have not applied for Medicaid.

In response to a question from Representative Kroeplin, Mr. Zentner said the state plan will not provide for retroactive eligibility; eligibility will only begin on the date of application.

In response to a question from Representative Rose, Mr. Zentner said the children's health insurance program is designed for children, not pregnant women over the age of 19; although, Michigan has requested a federal waiver to cover entire families at 150 percent of the poverty level.

In response to a question from Representative Callahan, Mr. Zentner said the state plan administrative expenses will be less than Medicaid administrative expenses, and the state plan will look less like welfare than Medicaid does.

In response to a question from Representative Drovdal, Mr. Zentner said the state plan will cover children up to 150 percent of the poverty level, and an increase to 200 percent would double the cost of the program. He said 200 percent of the poverty level is equivalent to a relatively high income in North Dakota.

In response to a question from Representative Rose, Mr. Zentner said under the children's health insurance program, it is possible to implement a cost-sharing plan for children who exceed the 150 percent eligibility requirement. He said the services provided under the state plan will be similar to indemnity insurance packages.

In response to a question from Senator Krebsbach, Mr. Zentner said under the state plan, counties will determine eligibility. He said it makes sense to have counties determine eligibility because the counties currently establish Medicaid eligibility, and Medicaid eligibility needs to be determined at the same time as children's health insurance program eligibility. He said attendees at the two public meetings included representatives from state agencies, health care providers, and citizens. He said the state plan benefit package will be less comprehensive than the services offered under Medicaid.

In response to a question from Representative Drovdal, Mr. Zentner said the state plan cost figures do not include the cost of administering the state plan at the county level.

In response to a question from Representative Callahan, Mr. Zentner said a statewide managed care program is not available in the state, and the department has asked the federal government whether bidding is required under the children's health insurance program or whether sole sourcing is allowed.

In response to a question from Representative Carlson, Mr. Zentner said 60 to 70 percent of the comments received by the department have been written.

In response to a question from Representative Brandenburg, Mr. Zentner said use of the 150 percent of poverty level figure is intended to provide health services to children most in need.

He said the lower a person's income, the more likely the person will be in poor health. He said Minnesota's Medicaid eligibility for newborns to two-year-olds is currently 260 percent of the poverty level, and the state plan increases eligibility to 280 percent; Montana's state plan provides for eligibility up to 150 percent of the poverty level, no asset test, and a three-month waiting period. The state plans in Colorado and Utah, he said, provide for eligibility up to 185 percent of the poverty level, and South Dakota's state plan provides for eligibility up to 133 percent of the poverty level.

In response to a question from Representative Drovdal, Mr. Zentner said although the state plan does not include special provisions for special needs children, it is important to remember that the children eligible for the children's health insurance program are children who are without insurance coverage. Representative Price said the health care services offered under the state plan are more deluxe than the services provided for state employees.

In response to a question from Representative Drovdal, Mr. Zentner said he is unsure whether it will be possible to temporarily waive the asset test for children of farmers and children of the temporarily unemployed. He said in the case of farmers, income-producing assets are not considered as assets under the children's health insurance program.

In response to a question from Senator Krebsbach, Mr. Zentner said the state plan will not include a mechanism to prevent insurance companies from dropping health insurance coverage for otherwise-eligible employees. He said insurer dropping has not been a problem in most states, although some states are looking at legislation to prevent insurer dropping.

In response to a question from Representative Callahan, Mr. Zentner said the state plan will probably consider the conditions under which a child's health insurance is lost, for example, due to loss of a job or death of a family member.

Chairman Krebsbach called on Ms. Mary Glazer, an interested person, for comments regarding the state plan. Ms. Glazer said as a parent of a child with autism, she is concerned about mental health parity issues.

## **PUBLIC HEALTH STRATEGIC PLANNING STUDY**

Chairman Krebsbach called on Mr. Murray G. Sagsveen, State Health Officer, Department of Health, for comments regarding strategic planning for public health. Mr. Sagsveen presented

the background of public health in the state, including his duties as health officer and the background of House Concurrent Resolution No. 3030, which provides for the study on strategic planning for public health. He also presented the department's initiatives in the area of strategic planning for public health. He provided written testimony, a copy of which is attached as Appendix C. A copy of the information regarding the core health functions of public health, contact information for each of the public health departments in the state, public health funding information, and public health department classification information is on file in the Legislative Council office.

In response to a question from Representative Callahan, Mr. Sagsveen said he plans to identify people in the department who have expertise in the area of public health and to coordinate the drafting and implementation of a public health strategic plan. He said strategic planning should include public comment and public participation.

In response to a question from Representative Price, Mr. Sagsveen said the First District Health Unit just completed a strategic plan, which was very inexpensive and is a great model for other public health departments. He said although it is a good idea to coordinate computer software compatibility between the Department of Health and the Department of Human Services, first priority is to coordinate the compatibility of the software within the Department of Health and then to coordinate the compatibility of software between the Department of Health and the public health system.

In response to a question from Senator Krebsbach, Mr. Sagsveen said although additional funding would be helpful in implementing public health strategic planning, he plans on using available funds to implement the public health strategic planning.

Chairman Krebsbach called on Ms. Lisa Clute, Executive Officer, First District Health Unit, for comments regarding strategic planning for public health. She said local public health administrators have identified the following three issues as priorities for all local public health units in the state: the development of a shared vision for public health by the local health units and the Department of Health, the development of an effective communication system between the local health units and the Department of Health, and the development of a continuing education and training program that includes training on essential population-based functions of public health and training on emerging trends. Ms. Clute provided written testimony, a copy of which is attached as Appendix D.

In response to a question from Senator Krebsbach, Ms. Clute said the First District Health Unit covers a very large geographical area and has a county officer in each of its counties as well as additional outreach and several additional offices.

In response to a question from Representative Price, Ms. Clute said the First District Health Unit strategic plan cost \$1,000, will be 50 to 60 pages in length, and will define the process to use when prioritizing the activities of the unit. She said strategic planning is a necessary part of the administration of public health.

In response to a question from Representative Callahan, Ms. Clute said she is not aware of any plans for a statewide public health system.

In response to a question from Representative Rose, Ms. Clute said money does not drive the strategic plan, local communities drive the plan. She said the unit's strategic plan will allow public health to change course if public health needs change.

Chairman Krebsbach asked the committee whether there is an interest in consolidating North Dakota Century Code Chapters 23-03, 23-04, 23-05, and 23-15, as suggested by Mr. Sagsveen. Committee counsel said Mr. Sagsveen's proposal would consolidate existing language but not make any major changes to the substance of the law.

Representative Gulleon said committee counsel should work with Mr. Sagsveen and Ms. Debra Anderson, Local Health Coordinator, Department of Health, to consolidate the public health chapters.

Representative Carlson said a top-down approach to consolidating the public health law will result in comments and concerns at the local levels. Mr. Sagsveen said consolidating the chapters will result in more consistency and there are similarities between all health districts. Representative Carlson said it is a good idea to consolidate the chapters if time allows.

Representative Callahan recommended that committee counsel look into how extensive the consolidation would be.

**It was moved by Representative Price and seconded by Representative Carlson that the Legislative Council staff be requested to prepare a bill draft that consolidates the public health law.** Representative Brandenburg said he supports the motion but wants to ensure that the law is being consolidated and the substance will not change. **The motion passed on a voice vote.**

## EFFECTS OF MANAGED CARE ON RURAL NORTH DAKOTA STUDY

Chairman Krebsbach called on Mr. Sagsveen for comments regarding the effects of managed care on rural North Dakota. Mr. Sagsveen said the department should be focusing its attention on the continuing outmigration of North Dakotans from rural areas, the redesignation of small rural hospitals to critical access hospitals, the continuation of emergency medical services in rural areas, and the provision of reasonable access to primary care providers in rural areas. He said data indicates that most people who belong to managed care plans in the United States live in urban areas, and this trend is true in North Dakota as well. Mr. Sagsveen provided written testimony, a copy of which is attached as Appendix E.

In response to a question from Representative Callahan, Mr. Mike Mullen, Policy Analyst, Department of Health, said the Balanced Budget Act of 1997 set a floor for Medicaid fee for service, and this floor will likely result in increasing managed care in rural North Dakota because the floor is perceived by health care providers as a chance to make more money.

Chairman Krebsbach asked the committee whether any legislation should be drafted regarding managed care.

Representative Callahan said Minnesota is taking affirmative steps to encourage managed care by designating central access providers.

In response to a question from Representative Price, Mr. Sagsveen said patient protection is being addressed in Congress by a bill known as the "Patient's Bill of Rights."

Mr. David Peske, North Dakota Medical Association, said that in 1997 the Legislative Assembly passed an antigag clause bill that was supported by the North Dakota Medical Association. He said in 1999, the North Dakota Medical Association will likely support additional bills, but the association is still in the process of evaluating ideas.

Mr. Dan Ulmer, Blue Cross Blue Shield of North Dakota, said he would prefer the Legislative Assembly would "stay out of the fight" for a while because managed care is in such a state of change on the state and federal level. He said at this point legislation would apply to things that could be, versus things that are, and legislation will slow the development and lessen the flexibility of development of health care.

## EMERGENCY MEDICAL SERVICES STUDY

Chairman Krebsbach called on Mr. Sagsveen for comments regarding the emergency medical services study. Mr. Sagsveen addressed the statutory responsibilities of the department relating to emergency medical services; the 1997 appropriations bill for the department; emergency medical services in the state; local financial support for emergency medical services; the Division of Emergency Health Services, Department of Health; the North Dakota Emergency Medical Services Association; and federal requirements relating to emergency medical services.

Mr. Sagsveen said initiatives of the department include assisting emergency medical service squads with service billing; establishing a "center of excellence" within the department; assisting emergency medical service squads to partner with regional hospitals; helping to improve the accuracy and quality of squads' billings to the federal government; increasing the recovery from the federal government; and providing a more accurate state data base.

Mr. Sagsveen said the department is in the process of preparing the budget for the next biennium, and it is unlikely the budget request will include a general fund expenditure for emergency medical services increase from the current \$470,000 to \$3.8 million.

Mr. Sagsveen said the North Dakota trauma system consists of a state trauma committee, four regional trauma committees, and a trauma coordinator committee. He said the trauma system greatly reduces unnecessary death and disability due to trauma. He provided written testimony, a copy of which is attached as Appendix F, and provided literature from the 23rd Annual Emergency Medical Service Conference held April 16-18, 1998, in Bismarck along with a videotape used to train emergency medical technicians, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Drovdal, Mr. Tim Wiedrich, Director, Emergency Health Services, Department of Health, said there are plans to reduce the redundancy of multiple forms and to provide training to ambulance units regarding proper completion of data collection forms and reimbursement forms.

In response to a question from Senator Klein, Mr. Wiedrich said because emergency medical services forms are often improperly completed, the department has initiated a pilot program that will provide for electronic forms at hospitals and

hopefully this program will help with the reimbursement issue.

In response to a question from Representative Brandenburg, Mr. Wiedrich said recently enacted federal legislation that allows retrospective reviews for Medicare services raises serious concerns.

In response to a question from Representative Callahan, Mr. Wiedrich said he is not aware of the practice in which urban ambulances bypass local facilities and deliver patients to urban hospitals.

In response to a question from Representative Carlson, Mr. Derek Hanson, President, North Dakota Emergency Medical Services Association, said the state does not have excess emergency medical services associations. He said decreasing the number of emergency medical services units in the state would result in increasing time demands on volunteers who are already overburdened.

In response to a question from Representative Carlson, Mr. Hanson said anytime a program is implemented which decreases the burden placed on a volunteer, for example, electronic forms, emergency medical services units benefit. He said although nonemergency runs add to the burden placed on volunteers, nonemergency runs are necessary because they are profitable for the ambulance units.

In response to a question from Representative Callahan, Mr. Hanson said some ambulance units are trying to use services offered by hospital billing departments, but availability depends on how many units are home-based at a particular hospital.

In response to a question from Senator Krebsbach, Mr. Hanson said some ambulance services would benefit by increasing the allowable mill levy, but use of county funds is not profitable for

all ambulance services. Representative Carlson said the failure of a county to take advantage of county money looks like the county does not care about the ambulance service. Mr. Hanson said oftentimes bake sales are more profitable than mill levies; therefore, units are concerned that a mill levy would decrease the amount of charitable giving. Mr. Brad Gibbens, Associate Director, University of North Dakota Center for Rural Health, School of Medicine and Health Sciences, said rural communities are very supportive of emergency medical services.

In response to a question from Senator Krebsbach, Mr. Hanson said the bill adopted during the 1997 legislative session which allows emergency medical technicians to be employed by hospitals has been very helpful, although there are 141 ambulance services in the state and fewer than 141 hospitals.

Mr. Hanson provided written testimony, a copy of which is attached as Appendix G.

Mr. Mark K. Haugen, Past President, North Dakota Emergency Medical Services Association, provided written testimony, a copy of which is attached as Appendix H.

Chairman Krebsbach announced that the next meeting of the Insurance and Health Care Committee is scheduled for July 1, 1998.

No further business appearing, Chairman Krebsbach adjourned the meeting at 4:30 p.m.

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Jennifer S. N. Clark  
Committee Counsel

ATTACH:8