

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMERGENCY SERVICES COMMITTEE

Thursday, December 4, 2003
Auditorium, Trinity Health Center-Riverside
Minot, North Dakota

Representative Todd Porter, Chairman, called the meeting to order at 8:30 a.m.

Members present: Representatives Todd Porter, William R. Devlin, James Kerzman, Joe Kroeber, Andrew Maragos, Bob Martinson, Jon O. Nelson, Mary K. Nester, Clara Sue Price, Gerald Uglem

Members absent: Representative Keith Kempenich; Senators Robert S. Erbele, Ralph L. Kilzer, Tim Mather, Michael Polovitz

Others present: Julie Ferry, Nelson-Griggs District Health Unit, McVille

Barbara Frydenlund, Rolette County Public Health, Rolla

Lois Mackey, Lisa Clute; First District Health Unit, Minot

Greg Anderson, Community Ambulance Service, Minot

Terry G. Hoff, Rhonda Bugbee, Randy Schwan; Trinity Health Center, Minot

Harold Haugstad, Minot Fire Department, Minot

Robert Wetzler, Minot Rural Fire Department, Minot

Michael J. Mullen, Attorney General's office, Bismarck

Tim Wiedrich, State Department of Health, Bismarck

Jill Schramm, Minot Daily News, Minot

David P. O'Connell, State Senator, Lansford

Jeff Balentine, Minot Police Department, Minot

Keith Johnson, Custer Health Unit, Mandan

Karen K. Krebsbach, State Senator, Minot

Matthew M. Klein, State Representative, Minot

Thom Mellum, Ward County Emergency Management, Minot

Mike Melius, Upper Missouri District Health Unit, Williston

Douglas Friez, Division of Emergency Management, Bismarck (appeared via telephone conference)

It was moved by Representative Price, seconded by Representative Maragos, and carried on a voice vote that the minutes of the July 28, 2003, meeting be approved as distributed.

Chairman Porter said he and members of the committee are saddened by the loss of two members of the committee--Representatives Janet Wentz and Dale Severson.

Chairman Porter thanked Representative Price for assisting in organizing this meeting and thanked the representatives of the Trinity Health Center for providing the meeting facilities. He said it is important the committee review the emergency situation that occurred last year in Minot in which there was a state and local response. He said the committee will attempt to evaluate whether the state can make any changes to improve the state response to such situations.

MINOT TRAIN DERAILMENT

Chairman Porter called on Mr. Harold Haugstad, Chief, Minot Fire Department, for a presentation regarding the January 18, 2002, train derailment near Minot. A copy of Mr. Haugstad's presentation is on file in the Legislative Council office. He said at 1:39 a.m. on January 18, 2002, 31 railcars derailed near the Tierracita Vallejo Subdivision. He said eight cars loaded with anhydrous ammonia ruptured and two cars of anhydrous ammonia were breached with a significant release, resulting in 290,000 gallons of liquid anhydrous released. He said 100,000 gallons of anhydrous soaked the ice on the river and 190,000 gallons formed a vapor cloud that generated 21,470,000 cubic feet of vapor enveloping 30 percent of Minot. He said the weather conditions at the time of the derailment included a temperature of -10°F with a windchill of -25°F and a relative humidity of 85 percent. He said there was an atmospheric inversion at 2,500 feet with southwest winds at six knots at the surface and southwest winds at 14 knots at 2,000 feet.

Mr. Haugstad said Minot central dispatch received 971 emergency calls in two hours on four 911 lines and seven additional administrative lines that rolled over from 911. He said after the derailment was reported to Minot central dispatch and the Minot Fire Department at 1:39 a.m., the fire chief was notified at 1:45 a.m. and a shelter in place order was given out to Minot central dispatch at 1:55 a.m. At 2:15 a.m., he said, the Minot rural fire chief and the Minot fire chief met to confer regarding establishing an emergency operations center at the Minot Fire Department headquarters. He said the use of cellular telephones was essential during this time because of the heavy use of the administrative lines and emergency lines. By

3:00 a.m., he said, essential personnel were at the emergency operations center and a uniform command was established. Between 3:30 and 4:00 a.m., he said, a flyover of the incident site was conducted. He said the Edison School was opened at 3:40 a.m. as a temporary treatment center. He said the first formal news briefing was given at 4:30 a.m. At 4:50 a.m., he said, the initial entry was made to the Tierracita Vallejo Subdivision.

Mr. Haugstad said the unified command established included Chief Robert Wetzler, Minot Rural Fire Department; Sheriff Vern Erck, Ward County; Captain Jeff Balentine, Minot Police Department; Mr. James Clifford, Minot Air Force Fire Department; and himself.

In response to a question from Representative Porter, Mr. Haugstad said the public notification systems in place were not effective because no one was available to answer the telephone calls at the radio and television stations responsible for the emergency broadcast system. He said the emergency sirens were sounded to warn people to stay inside; however, there was a concern with people going outside to see what was happening.

Mr. Haugstad said a number of decisions were made that resulted in positive responses to the emergency. Among those decisions were:

1. A shelter in place order was issued early.
2. The proper agencies were notified in a timely manner.
3. An alternate emergency operations center was established quickly and manned with the right key people who were able to make decisions.
4. A unified command was established.
5. Communications were established via cellular telephones.
6. Alternate triage and treatment centers were established.
7. Public information officers and other command staff components were established early.
8. Hourly news briefings were held.
9. The First District Health Unit and Trinity Health systems were on top of medical and health issues.
10. State and federal agencies were mobilized in a timely fashion.
11. Mutual aid was available.
12. Planning and training with area agencies proved to be invaluable.

Mr. Haugstad said there were also a number of less successful matters associated with the emergency response, including:

1. Public notification was not successful.
2. Agency notifications needed more depth.
3. No alternate central dispatch was available.
4. There was a lack of security at the emergency operations center.

5. There was a lack of ability to gather hard information regarding the derailment.
6. Many emergency workers were unable to get to work or were placed in danger when attempting to get to work without the establishment of staging areas for the emergency workers.
7. The rural command post was forced to relocate.
8. Because of changing conditions, establishment of perimeters and security was difficult.
9. Evacuations of the derailment area could have been coordinated better.
10. There were no established public information office assistants, and there was extensive media hype.

Mr. Haugstad said a steering committee has reviewed the emergency response and has identified several action items. He said those action items include addressing public emergency notification and public education, reviewing the roles and responsibilities of the various agencies, addressing notification of agencies, improving emergency operations center operations, updating the emergency response manual, establishing alternate emergency operations centers and dispatch locations, examining mitigation options, holding an incident audit and debriefing, addressing medical issues, addressing media interfacing, addressing health issues by the state and local health departments, and examining issues related to bioterrorism, weapons of mass destruction, and improvement of communications.

In response to a question from Representative Price, Mr. Haugstad said one problem with reverse 911 is that a message is not sent to cellular telephones and may not be sent to portable telephones if electrical power is out.

Ms. Lisa Clute, First District Health Unit, said there will be problems with any type of public notification system. She said it is important the public be educated regarding what should be in each home so residents can respond to emergency situations. Ms. Clute said she called Mr. Larry Shireley of the State Department of Health at 3:00 a.m. on the morning of the derailment. She said Mr. Shireley operated from the state emergency operations center and was of great help in identifying the potential public health threats associated with the derailment. She said the health unit received additional assistance in the form of a public information officer, a physician, and an air quality specialist. She said she also contacted the Environmental Protection Agency and the Centers for Disease Control and Prevention for potential assistance.

Ms. Clute said one of the problems the First District Health Unit faced was that public health units are not set up to operate 24 hours a day seven days a week. She said the emergency operation center was operational for 61 days and at the end of that period

there was a tremendous amount of flextime owed to employees. In addition, she said, the response resulted in the shutdown of some regular operations of the health unit.

In response to a question from Representative Porter, Ms. Clute said although it may have helped to have been able to bring employees from other public health units to assist in keeping the operations of the unit ongoing, the First District Health Unit probably did not have sufficient office space to accommodate any additional employees.

Ms. Clute said another issue the First District Health Unit faced was budget-related. She said the health unit had to front many of the costs of the response until reimbursement was received from the railroad. She said she also had difficulty in finding legal counsel to address issues such as the release of medical records.

In response to a question from Representative Porter, Ms. Clute said the Ward County state's attorney provided some legal counsel and the Attorney General's office assisted with some contracts but the First District Health Unit needed additional legal representation and counsel.

In response to a question from Representative Porter, Mr. Thom Mellum, Coordinator, Ward County Emergency Management, said the county has an emergency fund available to use in the event of a declared emergency. He said the next step is to go to the state level to have an emergency declared and then to the federal level.

In response to a question from Representative Maragos, Ms. Clute said the First District Health Unit is a political subdivision that is separate from the county. Therefore, she said, the Ward County state's attorney is not obligated to provide legal services for the health unit.

In response to a question from Representative Nelson, Ms. Clute said she worked closely with the State Department of Health to obtain specialized equipment needed for long-term public health monitoring. She said the response to this incident has increased the laboratory capabilities and expertise of the health unit significantly.

In response to a question from Representative Nelson, Mr. Haugstad said surrounding communities will look to the resources available in the Minot area for a response in the event of another emergency. He said the agencies in Minot and Ward County are capable and willing to help.

Mr. Robert Wetzler, Minot Rural Fire Department, said smaller communities in the state will rely on the major cities to provide assistance in the event of an emergency. He said it is important to look at a regional response.

Representative Price said emergency preparedness must be accessed across the state. Although some counties are prepared to respond to an

emergency, she said, most smaller counties will need assistance.

In response to a question from Representative Price, Ms. Clute said to respond to an emergency, a public health unit needs a variety of disciplines in place and must be a comprehensive, multidisciplined agency.

Captain Jeff Balentine, Minot Police Department, said the conditions during the emergency were so severe that experienced police officers got lost in the city. He said the various agencies responsible for emergency response are working to improve the public notification process and have updated a variety of systems. He said the emergency alert system has been updated because it failed miserably.

In response to a question from Representative Porter, Captain Balentine said one commercial flight left the Minot airport against the advice of local emergency personnel. He said the airline located in Minneapolis made the decision to operate the flight in spite of the dangerous conditions.

Mr. Greg Anderson, Community Ambulance Service, Minot, said his staff was reduced during the derailment because of the time of day. He said one crew was available at the ambulance station and two backup crews were on call if needed. He said Minot operates with a tiered response where police, fire, and ambulances respond together. He said the ambulance service experienced difficulty in getting its staff to the ambulance station to assist in the response due to the lack of a staging area. He said there is also a problem with establishing a good staging area for triage. Because 119 people were treated at Edison School, he said, the ambulance service transported only six people by ambulance to the hospital. He said the Burlington first responders established an offsite treatment center at a church and the Minot Air Force Base also provided support and assistance. He said outlying ambulance services were placed on alert. If the derailment had happened during the day, he said, there would not have been adequate medical supplies to address the situation. Thus, he said, there is a need to stockpile supplies. He said the response to this incident has increased the amount of personal protection equipment available for emergency responders.

In response to a question from Representative Nelson, Mr. Haugstad said because they wanted to keep people in their homes, the fire department did not use the public address system with the emergency sirens. He said using the public address system would likely have resulted in people going outside to further investigate the situation.

Ms. Rhonda Bugbee, Trauma Coordinator, Trinity Health Center, said trauma planning and training had not focused on the type of emergency such as that experienced when the train derailed. She said the hospital switchboard was overwhelmed with calls, but the hospital did not fully implement an emergency

plan because people did not come to the hospital with injuries. She said the hospital has changed its emergency plan and conducted practices since that incident.

Ms. Bugbee said because of air quality concerns during the incident, the hospital turned off air handlers and kept discharged patients in the hospital cafeteria. She said getting staff into the hospital placed people in danger, which further demonstrated the need for staging areas. She said portable radios were used to communicate, and the portable radio system will be updated with grants from the United States Department of Justice. She said the hospital had good communication with the emergency operations center during the incident, but will attempt to have a stronger physical presence at the center in future emergency situations. She said the alternate care center at Edison School worked well to relieve pressure from the hospital and the hospital received good support from other hospitals and the Minot Air Force Base. As a result of what was learned from this incident, she said, there is stronger cooperation among emergency responders and public health entities and a better first-line defense.

In response to a question from Representative Porter, Mr. Wetzler said cellular communications worked well during the incident because of the digital PCS system in place and cellular traffic was slower during that time of day.

Mr. Wetzler said the unified response worked well because the individuals involved met frequently to discuss issues and were familiar with each other. He said the individuals involved had trust and confidence in each other and there were no turf issues. He said the assistance received from the state and federal governments was excellent.

In response to a question from Representative Kroeber, Captain Balentine said the cost of the reverse 911 system is \$25,000, which includes monthly updates during the first three years. He said United States Department of Justice grant funds will be used to fund the system, but future costs will have to be covered by the county and city. He said update costs will likely run about \$10,000 per year. He said the cable telephone interrupt system only reaches a certain number of channels.

Mr. Mellum submitted written testimony, a copy of which is on file in the Legislative Council office. He said the Ward County/Minot Area Emergency Resource Council serves as a local emergency planning committee. He said that group meets monthly and has developed a sense of teamwork that has strengthened emergency management in Ward County. After the train derailment, he said, the Emergency Resource Council Steering Committee, which is a small working group of members of the Emergency Resource Council, began an extensive reevaluation of local plans, procedures, and protocols to improve all aspects of emergency response. He said

the steering committee has also taken on the task of prioritizing Ward County's allocation of Homeland Security grant funds for the purchase of specialized equipment to enhance the local capability to respond to acts of terrorism. He said the steering committee has identified two critical challenges facing emergency management officials in Ward County. The first challenge, he said, is improving public education and awareness. To achieve that, he said, block grants should be made available to be used for public education efforts to be determined locally. The second challenge, he said, is emphasizing a regional approach when prioritizing Homeland Security grant funds. He said to address that challenge the focus must remain on equipping and training the four strategic locations in the state--Minot, Bismarck, Grand Forks, and Fargo. He said a concentrated approach, rather than a scattershot distribution across the state, is the best method to utilize equipment and the specialized training associated with the equipment.

In response to a question from Representative Porter, Mr. Mellum said \$800,000 of Homeland Security grants has been allocated for Ward County. He said a very small amount of training grants has been allocated to Ward County.

In response to a question from Representative Kroeber, Mr. Mellum said in addition to the four major regional hubs, there are secondary response hubs such as Jamestown.

Captain Balentine submitted written testimony, a copy of which is on file in the Legislative Council office. He said since September 11, 2001, the Minot Police Department has made several positive changes that affect public safety. He said there is increased intelligence sharing with state and federal agencies, including a working advisory committee through which information and intelligence are exchanged. He said the City of Minot has developed a serve alert plan in which key infrastructure sites have been identified and plans have been developed to protect those sites. As a result of federal weapons of mass destruction funding, he said, the city has purchased Level C personal protection clothing, respirators, and a robot and equipment for the bomb team. In addition, he said, police officers and the bomb team have received training for weapons of mass destruction.

Captain Balentine said since the derailment, the police department has made significant improvements in its ability to notify the public of an emergency. He said the community alert network has been purchased and will be in operation in January 2004, which will allow the police to contact large numbers of residents in a rapid manner by landline telephones. He said the emergency alert system has been upgraded so that broadcast emergency messages may be sent from Minot central dispatch over the radio and television. He said by utilizing the National Weather Service to broadcast emergency messages over the weather

alert system, he said, notification of the public is easier. He said an emergency plan has been developed with key emergency personnel identified for emergency contact.

Captain Balentine said the steering committee is examining allocating funds from Homeland Security grants for improvement of Minot central dispatch equipment and the public safety answering point for northwest North Dakota. He said the problem that must be addressed is the lack of direction from the state. He said the state has told emergency services agencies that State Radio will convert from analog to digital equipment and has advised local agencies to purchase digital-compatible radios. However, he said, State Radio has not decided on which frequencies will be used or what technology will be used. Although funding from the federal government through Homeland Security funds is now available, he said, local agencies cannot commit to purchase any equipment due to the fear of buying the wrong equipment and having to replace it when the state decides what technology will be used.

Mr. Haugstad submitted written testimony, a copy of which is on file in the Legislative Council office. He said since September 11, 2001, the role of the fire department has dramatically expanded and the expectations of the community of the fire department have increased. He said the changes needed to effectively meet those expectations carry a substantial financial investment with respect to specialized equipment and specialized training. He said a state assessment done by the Division of Emergency Management illustrated the inability of many fire departments to maintain the necessary training demands as well as the use and maintenance of highly technical equipment. He said the initial approach was to build four regional response teams starting with the fire departments of the four largest cities and expanding to include others within the team--law enforcement, public health, and public works. He said interoperability was the key as each team would be able to support the other teams on a statewide basis.

Mr. Haugstad said many of the fire departments' needs and other critical agencies' needs have been addressed through federal funding for enhancement of capabilities to respond to a weapons of mass destruction event. He said the Minot Fire Department has received over \$400,000 in federal funds, but there are gaps that must be filled. In spite of the availability of federal funding, he said, the fire department has not been able to take advantage of the many training opportunities available because of the costs associated with overtime and backfilling to maintain minimal staffing levels. In addition, he said, the fire department has been unable to hire the additional staffing necessary to address the additional demands placed on the department. He said funding for weapons of mass destruction response equipment requires a

long-term commitment due to the short life expectancy and the high maintenance costs of the equipment. He said it is almost impossible to have meaningful drills and exercises with other agencies and jurisdictions without incurring heavy overtime expenses.

Mr. Haugstad said the state strategy for a regional response team is sound and should be continued. He said regional response teams need block grants to allow the flexibility to address training and staffing needs. He said a solid state plan for communications, which all emergency services can build upon, is necessary. Another item that is important, he said, is public education and preparedness of the people.

PUBLIC HEALTH UNIT STUDY

Ms. Clute submitted written testimony, a copy of which is on file in the Legislative Council office. She said the First District Health Unit serves Bottineau, Burke, McHenry, McLean, Renville, Sheridan, and Ward Counties. She said the primary office is in Minot, with satellite offices in each of the counties. She said the health unit has 58 employees and an operating budget for fiscal year 2004 of \$2,669,712. The funding for the health unit, she said, comes from the following sources:

- Mill levy - \$846,311.
- Federal grants - \$833,265.
- Consumer fees - \$464,000.
- Tobacco settlement funds - \$320,178.
- Contract for services - \$122,600.
- State aid - \$65,358.

Ms. Clute said the various divisions of the health unit are responsible for preventing epidemics and the spread of disease, protecting against environmental hazards, preventing injuries, promoting and encouraging healthy behaviors, responding to disasters and assisting communities in recovery, and assuring the quality and accessibility of health services. She said those responsibilities are met by monitoring the community health status, developing partnerships, linking people to health services, providing education programs, enforcing laws, and developing policies and plans.

Ms. Clute said the responsibilities of local health units have changed substantially since September 11, 2001. She said the majority of her time is now spent on disaster preparedness and response. She said the health unit has enhanced its working relationship with fire departments, police departments, the Highway Patrol, sheriffs, private health care providers, and emergency managers. She said in addition to the response to the train derailment, the health unit has arranged for testing of suspicious materials, developed comprehensive mass vaccination plans, assured a seamless response procedure, responded to the SARS threat, and provided information and education on the West Nile virus.

Ms. Clute said to be prepared to respond adequately, there must be a recognition that local public health units will bear the financial and legal risks of any public health disaster. She said there must be a determination of core responsibilities required to be performed by all local public health units and funding must be available to assure core duties and responsibilities of the public health units. She said improved coordination and implementation of a statewide emergency response system is necessary. She said there must be legal assistance and representation available to local public health units.

In response to a question from Representative Porter, Ms. Clute said the health unit spent no United States Department of Justice or Homeland Security grant funds that have been distributed to local entities. She said the grant funds were not available to be used for staffing needs, which is what the health unit needs most.

In response to a question from Representative Price, Ms. Clute said because the role of the public health unit has increased, there is a need for additional facilities. She said it is important that the committee examine a definition of core services that a public health unit should be required to provide.

Chairman Porter called on Mr. Keith Johnson, Administrator, Custer Health Unit, for comments regarding the committee's study of local public health units. Mr. Johnson submitted written testimony, a copy of which is on file in the Legislative Council office. He said local public health units need the resources to provide core services, even during emergencies. In addition, he said, it is necessary to have local emergency planning committees that are organized and effective local emergency managers with whom the public health units can coordinate emergency responses. He said county and city governing bodies must realize that the emergency manager is an important and vital role in county government. He said education of local officials is a vital role of the Division of Emergency Management that has not been done. He said the state should put more money into local health. Because a local public health unit needs to be staffed with more than a receptionist and a nurse to properly respond to emergencies, he said, cooperative arrangements between counties, cities, and health departments are necessary.

In response to a question from Representative Porter, Mr. Johnson said the Custer Health Unit has received a very small amount of federal funds.

Chairman Porter called on Mr. Mike Melius, Executive Officer, Upper Missouri District Health Unit, for comments regarding the committee's study. Mr. Melius submitted written testimony, a copy of which is on file in the Legislative Council office. He said the Upper Missouri District Health Unit serves Divide, McKenzie, Mountrail, and Williams Counties. He said the health unit received approximately 35 percent of its 2002 funding from federal sources,

26 percent from local sources, and 12 percent from state sources. In 2002, he said, the health unit had 19.72 full-time equivalent positions. He said the public health disciplines present at the health unit include administrator, public health emergency coordinator, public information officer, public health nurse, environmental health practitioner, tobacco coordinator, dietitian, accountant, and clerical.

Mr. Melius said when a meningococcal outbreak was experienced in Williston in 1999, it was necessary to vaccinate almost 5,000 children. He said 160 local health professionals and 210 local volunteers were needed for the response. He said neighboring health units were contacted to enlist staff for the immunization effort and the State Health Officer and State Epidemiologist came to provide support and expertise.

Mr. Melius said when an emergency exists at the state or national level, state and federal agencies will be less able to assist local response. In addition, he said, mutual aid from neighboring health districts will be unlikely due to the need to respond at all levels. He said it is important to create and test large-scale emergency plans in partnership with local, tribal, state, and federal responders. In addition, he said, developing expertise related to public health emergencies, communicable diseases, and risk communication at the local level is essential due to the likelihood that expert support will be diluted during a large-scale emergency. He said to assure local public health capacity to meet challenges created by a statewide or national emergency, it is important to improve in creating an organized system for mobilizing local volunteers, completing an inventory of locally available resources, refining and exercising communication systems and skills, verifying emergency response plans, continuing to build local expertise in public health emergency response and epidemiology, and assuring that policymakers and citizens understand what public health units are doing and how public health units can help.

Chairman Porter called on Ms. Julie Ferry, Nurse Administrator, Nelson-Griggs District Health Unit, for comments regarding the committee's study. Ms. Ferry submitted written testimony, a copy of which is on file in the Legislative Council office. She said the Nelson-Griggs District Health Unit provides public health services in Nelson and Griggs Counties. She said the district health unit responded to a case of active tuberculosis being diagnosed in a school-age child in Lakota in 1998. She said at the time, she was the only full-time nurse employed by the public health unit. She said the decision was made through conference calls with the State Department of Health and the Centers for Disease Control and Prevention to place tuberculosis skin tests on all children who attended the day care and who were in the school class or were neighbors of the family. She said volunteers were called to assist the public health staff in

placing the skin tests. In addition to dealing with the families involved, she said, the public health unit staff had to deal with a large number of media personnel. After additional positive skin tests, she said, further screenings were necessary. She said the entire process included 493 individuals being entered into a data base with 755 skin tests placed by the public health unit and 62 skin tests placed by other entities. She said there were 70 positive readings.

Ms. Ferry said the staffing needed to provide the testing included 4 staff attached to the Nelson-Griggs District Health Unit, 14 other public health nurses, 4 Centers for Disease Control and Prevention staff, 6 State Department of Health staff, and over 40 volunteers. Although the needs of the Nelson-Griggs District Health Unit may differ from a larger health unit or an even smaller health unit, she said, the common need generally relates to clear communication with state agencies and coordination of plans at the state and local level. She said although accountability is necessary, there must be a more simplified reporting system for the programs and services provided. In addition, she said, flexibility of increased funding to cover additional staff time and resources should be available.

Chairman Porter called on Ms. Barbara Frydenlund, Nurse Administrator/Director of Nursing, Rolette County Public Health, who submitted written testimony, a copy of which is on file in the Legislative Council office. She said 73 percent of the population of Rolette County is Native American, and up to 39 percent of the population is living below the poverty line. Before the mandate that all land in the state be within a public health unit, she said, Rolette County did not have a public health unit. Although Indian Health Service provided public health services to the county's Native American population, she said, 27 percent of the county's population did not have access to public health services. She said the public health district consists of her acting as administrator, director of nursing, secretary, and public health nurse. She said the community health grant has allowed for the addition of a tobacco prevention coordinator. She said the services provided through the public health district are program-driven in that the available funding for maternal child, immunization, HIV prevention, and tobacco prevention drives the offered services.

Ms. Frydenlund said the county levies two mills for funding the health district. She said two mills amounts to approximately \$18,000 per year, and the 2004 budget for the district is \$159,000. She said the remaining funding is obtained from grants.

Ms. Frydenlund said funding allocated for emergency services is limited to funding available through bioterrorism grants allocated to the county. She said the ability of the health district to respond to an emergency would be limited and the county would likely need to receive support personnel from neighboring

public health units. She said if specific core services would be required of local health districts, those services could be provided only through additional state funding. She said state aid should be calculated on a per capita basis as well as an evaluation of the poverty status of the county. She said for Rolette County to increase the services provided, additional funding will be necessary to allow for the growth of infrastructure and the hiring of staff.

In response to a question from Representative Porter, Ms. Frydenlund said Rolette County has discussed mutual aid agreements with the Lake Region District Health Unit but has not entered an agreement.

In response to a question from Representative Devlin, Ms. Clute said the State Department of Health and the Division of Emergency Management have required local public health units to complete assessments containing many of the same questions. She said the Division of Emergency Management is also having local emergency managers complete assessments of public health units. She said the assessment process has become a burden because of the volume of reports.

Mr. Douglas Friez, Director, Division of Emergency Management, said one assessment was required by the Department of Homeland Security and a second assessment was required by the Department of Health and Human Services. He said the timelines for completing the assessments were established by the two federal agencies. He said the Division of Emergency Management and other emergency managers and public health officials have attempted to have the federal agencies change the timelines. However, he said, Congress is concerned with getting federal funding out to the local governments and the assessments are part of the process required.

In response to a question from Representative Porter, Mr. Friez said the information from the assessments is being placed into a strategic plan which is required for receipt of federal funds.

Mr. Tim Wiedrich, State Department of Health, said frustration has been expressed throughout the country with respect to the assessments. Although the State Department of Health suggested 15 performance indicators in an assessment, he said, the Centers for Disease Control and Prevention has asked for 127 performance indicators.

In response to a question from Representative Porter, Mr. Friez said although there is some duplication in the public health area in the assessments, the assessments are not the same.

Mr. Johnson said about 20 of his 38 staff members have been involved in the assessment process. However, he said, no additional funding has been provided to complete the assessments.

In response to a question from Representative Price, Mr. Friez said approximately \$9 million of Homeland Security funding has been allocated in the

state and another \$9 million will be allocated. He said the state has attempted to build a public health/emergency management coalition in an expedient manner. He said he will provide information to the committee at a future meeting regarding how the \$9 million has been expended and how the subsequent allocation of \$9 million will be expended.

Chairman Porter called on Mr. Michael J. Mullen, Assistant Attorney General, for comments regarding the powers of the state and a local department of health to respond to an emergency. Mr. Mullen submitted written testimony, a copy of which is on file in the Legislative Council office. He said 2003 House Bill No. 1414 was amended to prohibit the State Health Officer from commandeering a hospital or other health care facility for use in responding to a health emergency. He said the limitation requires the State Health Officer to negotiate the terms under which a hospital or other health care facility may be utilized if it is necessary for the isolation or treatment of individuals suffering illness or injury as a result of a natural disaster or bioterrorism incident. He said North Dakota Century Code Section 23-07.6-02 authorizes the State Health Officer or a local health officer to order an individual or group into confinement by a written directive if there are reasonable grounds to believe that the individual or group is infected with any communicable disease, the individual or group poses a substantial threat to the public health, and confinement is necessary and the least restrictive alternative to protect the public health. He said the State Health Officer must file a petition for continued isolation or quarantine in a district court within 10 days after issuing the written directive if it is necessary to continue the quarantine or isolation. He said it is important to remember that the State Health Officer must utilize the least restrictive means necessary to protect the public health. He said under Chapter 37-17.1, the Governor may declare a disaster and may invoke additional powers, including requesting assistance from the State Department of Health and local public authorities if necessary.

Mr. Mullen said although the Attorney General's office does not usually provide legal assistance to political subdivisions, the Attorney General has authorized his staff to provide legal advice to public health units on certain questions.

In response to a question from Representative Porter, Mr. Mullen said the Attorney General's staff is generally available to provide general advice at the state emergency operations center and to help address some local issues during an emergency. He said the Centers for Disease Control and Prevention is stepping up efforts to provide better training to attorneys and others necessary to respond in emergency situations. He said the Health Insurance Portability and Accountability Act provides some authority to disclose health information to public health officials. He said another provision of the Act addresses

disclosure during disasters or emergencies. He said if an emergency is declared by the Governor, a disaster or emergency worker has immunity from ordinary negligence.

In response to a question from Representative Price, Mr. Mullen said quarantine questions and other issues related to tribal jurisdiction are important issues to address with respect to emergency response.

In response to a question from Representative Devlin, Mr. Mullen said some federal funds may be available to the Attorney General's office through Homeland Security funding. He said if funds are available he is certain the Attorney General will attempt to maximize the use of those funds.

STATE RADIO

Chairman Porter requested Mr. Friez to update the committee regarding the merger of State Radio functions with the Division of Emergency Management. Mr. Friez said two general concerns were expressed with respect to the transition. He said one concern was with respect to current staff. He said during the transition, workshops were held with the staff to get ideas for the change and to discuss what has worked well in the past. He said the stakeholders in the State Radio system also expressed concerns with the transition. He said a committee was created to discuss issues such as the transition from analog to digital systems, and regular meetings have been held with the concerned stakeholders to address their concerns. He said the transition from analog to digital systems will be costly and will take time but will be a major priority with Homeland Security funds.

In response to a question from Representative Porter, Mr. Friez said information has been provided to local stakeholders regarding the equipment decisions that have been made with respect to the transition to a digital system.

Representative Devlin requested Mr. Friez to update the committee at future meetings regarding the concerns that have been expressed regarding the transition of State Radio functions to the Division of Emergency Management and the transition from an analog to a digital system.

Mr. Friez invited the committee to hold a meeting at the state emergency operations center.

In response to a question from Representative Porter, Mr. Friez said concerns with respect to the costs of training and exercises have been expressed at the federal level. However, he said, the federal government will not allow the payment of volunteers for time spent at training. He said a statewide committee has been established to provide training for public officials and first responders through the North Dakota Association of Counties and the North Dakota League of Cities.

Representative Kroeber requested Mr. Friez to provide the committee with information regarding the

expenditure of Homeland Security funds and requested that local emergency managers be invited to address the committee at future meetings.

In response to a question from Representative Porter, Mr. Friez said 80 percent of Homeland Security funding has gone to local governments. However, he said, reverse 911 systems are not the type of expenditure funding Homeland Security funds were generally intended to be used.

No further business appearing, Chairman Porter adjourned the meeting at 4:05 p.m.

John Bjornson
Committee Counsel