

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS SUBCOMMITTEE.

The meeting was called to order by Chairperson Senator Pete Brungardt at 2:30 p.m. on March 5, 2002 in Room 423-S of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
 Dennis Hodgins, Legislative Research Department
 Theresa Kiernan, Office of the Revisor
 Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

 Maj. Gen. Greg Gardner, Adjutant General, State of Kansas
 Dr. Michael Moser, KDHE
 Randy Duncan, Sedgwick Emergency Management Association
 Helen Pedigo, Deputy Counsel/Legislative Advisor, Governor's Office

Others attending: Please see attached

Chairman Brungardt asked Theresa Kiernan, Office of the Revisor, to give the subcommittee an overview of:

SB 541—Relating to emergency management; terrorism preparedness.

Ms. Kiernan stated that the bill was requested by the Governor's office, and the entire committee had heard the bill on the 13th of February. She stated that it would add to the current provisions of the powers and duties of the Division of Emergency Management and would be directed to developing a minister of programs to provide financial assistance to cities, counties, or inter-jurisdictional disaster agencies for the development and implementation of terrorism preparedness programs. She stated that it would also be directed to develop, implement, and administer, with the assistance of the commission on emergency planning and response, a plan for regional emergency medical response teams.

Adjutant General Greg Gardner presented testimony in favor of the bill. **(Attachment 1)** He also presented the committee with a copy of the article: Buntin, John. "Disaster Master" Governing Dec. 2001: p. 34-27.

Chairman Brungardt asked Maj. Gen. Gardner what the source of funds is, and Maj. Gen. Gardner stated that the source of funds in all of the things that the Governor mentioned in the State of the State address is if additional revenue comes, not what already exists. Chair Brungardt asked if there were any specifically dedicated Federal funds for the idea of homeland security. Maj. Gen. Gardner stated that the big picture on Federal funds was that about 12 million is coming through HHS to be managed by KDHE to go to the public and private health system. He stated that 3.5 billion is being set aside to go to first responders for equipment, training, intelligence sharing, and other things. He said that he does not know the amount which will be divided per state, and that will be managed by FEMA. He stated that one other source for federal funds for equipment is the Department of Justice grants which started in 1999. Those, right now, for the fiscal year 2003, are being battled for between FEMA and DOJ. He stated that as of now, there are no federal funds dedicated to things he has discussed, but that does not mean that there will not be in the future, and he will continue to look for them.

Russell Mills stated that the fiscal note prepared by the Division of the Budget for the bill indicates State General Fund at this point.

Senator Gooch stated that a similar bill was being advanced under the State Fire Marshal, and asked Maj. Gen. Gardner if he was aware of that. Maj. Gen. Gardner stated that the State Fire Marshal's bill was the reason why he was trying to separate what the regional Hazmat teams do, and what these teams do, because they have completely separate functions. He stated that as an example, if a propane tank truck falls over the side of the road, the regional Hazmat team will come there and put a cordon around it and try to hold the liquid. He stated that then if they are an offensive team, they may try to do part of the cleanup, or that may be contracted. He stated that if the truck had run into a school bus and contaminated kids, the regional medical emergency response teams would decontaminate the children, stabilize them, and transport them to a hospital. He stated

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that they have completely separate functions; think of one team that responds to hazardous materials, and the other team that basically takes care of the people that are injured.

Senator Gooch asked if the people who are trained are volunteers, and the Adjutant General stated that there are two parts to the bill, one that talks about terrorism training, which is for a large number of first responders that are half volunteer, and the second part for the regional medical response teams, which are mostly ambulance drivers that are employees of cities or counties.

Senator Gooch stated that he was concerned about the liability of the volunteers; he was concerned that a well-employed volunteer might hurt himself volunteering and then not be able to work.

Helen Pedigo, Deputy General Counsel and Legislative Advisor, Governor's Office, stated that if we are looking at a volunteer, first responder, or ambulance attendant, those are covered under worker's compensation. She stated that there was a law passed last year that amended statute 44-511. Senator Gooch asked under who's workmen's comp, and Randall Duncan, Sedgwick County, stated that in the case of his county, the county carries workmen's comp insurance with all volunteers, just as if they were paid employees.

Ms. Pedigo stated that she did not know if it is a state-wide mandatory thing that cities cover their volunteers or not. Senator Gooch stated that he had asked the question twice, but not yet gotten an answer.

David Lake, Board of EMS, stated that volunteers who have been injured doing volunteer work need to be an employee under workmen's comp. He stated that they would be reimbursed at the rate that a normal paid full-time firefighter or first responder would be paid. He stated that the dilemma is that if I am a banker and I am a volunteer firefighter and get hurt so that I cannot work as a banker, my workmen's comp will be based upon what a firefighter makes, and that is a very good point as to how are they fairly compensated. He stated that at some point in time, volunteers are going to find that they can't afford to be volunteers anymore because there is too much risk there, whether it is from a cost of renewal of fees, of training, of so on to maintain that, and then also in the event of a bad situation.

Senator Gooch stated that he wondered how well prepared they are going to be aware of what situation they are in and if their families will know what the risks are.

Theresa Kiernan stated that there are two kinds of volunteers: one is a paid volunteer, and the second is a good samaritan volunteer, who is not covered. She stated that the first type of volunteer realizes the risks he is taking going in, but the second type may not, even though he is uncovered.

Ms. Pedigo stated that the Fire Marshal asked to have volunteers treated as state employees and have state defense available to them in the event of an incident. She stated under this bill, the volunteers would still be covered under the tort claims act, but it is the local entity, the city or county. She stated that she did not think that it is terribly clear in the statute whether these folks are considered state employees and are covered in that manner or whether they retain their county or city coverage. Ms. Kiernan stated that this issue needed to be addressed, and Ms. Pedigo stated that as she read it right now, they keep their county or city coverage. Ms. Kiernan agreed.

Chairman Brungardt introduced Dr. Michael Moser, KDHE. Dr. Moser stated that KDHE had been consulted in the preparation of **SB 541**. He stated that KDHE supports the provisions of this bill; he stated that they believe it is consistent with the integrated approach to disaster management which has been the model in Kansas whereby there is under the general direction and coordination of the Adjutant General the different state agencies. He stated that KDHE does not view this in any way competitive or duplicative, but, rather as a way of better addressing public health needs in these type of situations; on that basis, they support **SB 541**.

Senator Barnett stated that on page 2 lines 17-19 talking about the regional medical response teams, he stated that he is assuming that is going to be taken further to hospitals and other providers as it continued to be coordinated. He stated that he knew Coffey county had done a great job with Wolfe Creek, but it seems like that needs to be part of the planning. He stated that someone from Shawnee County had contacted him and expressed a concern with liability, so he would like to know if they would be covered under their liability, or if other doctors came in from out of state to help or provide care. Dr. Moser stated that, in regard to the hospitals linkage to regional teams, that is very definitely a part of the approach KDHE is taking in the plan to utilize the new funds to use homeland security funds which are available this year and hopefully will be

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in the future. He stated that they are required to spend the predominant amount of funds that are coming under hospital bio-terrorism preparedness on hospitals; however, they are also required to integrate that with development of emergency medical capacity development with other funds from FEMA or the Department of Justice or from wherever they may come. He stated that with respect to the issue of liability, they have had opinions from a number of other people on that, and he was not an attorney, but it is his understanding that in the context of a gubernatorially declared emergency, there is liability protection for out of state service providers who come to Kansas to provide activities to support medical care, under the provisions of the emergency management assistance compact.

Senator Barnett asked if that was paid for by the Federal Government or Kansas Health state provision fund, and the Adjutant General replied that it is paid for by Kansas, but he did not know the exact answer. When the state signed up for the emergency management compact, he did not think that it was ever defined how we intended to pay for some of the actual claims, but we would figure that out when it happened.

Randy Duncan, Sedgwick Emergency Management Association, presented testimony in favor of the bill. **(Attachment 2)**

Ms. Pedigo stated that under the tort claims act, government entities are covered, but volunteer agencies such as Red Cross and the Salvation Army were not. She stated that it would be her recommendation that at least volunteer agencies be added, not to make them state employees, but so that would provide them with a level of immunity.

Senator Barnett stated that he thought that was a good idea, but that he would feel more comfortable if he knew from where the funds were coming. Ms. Pedigo stated that such a part would not require funding because they could they would get their own attorneys, but putting them under the tort claims act would give them one level of protection.

David Lake, Board of Emergency Medical Services, presented testimony in favor of the bill. **(Attachment 3)**

In response to further questions or recommendations from the committee from Chairman Brungardt, Senator Gooch stated that he was concerned that some people might still be left hanging out with the thought that something was some way and was not. He stated that while being helpful, they might find that they have been destroyed, with good intentions on both sides, and he would like to be better convinced that people are covered.

Chairman Brungardt opened the hearing on:

SB 629–Adjutant General and Division of Emergency Management; Regional management

Theresa Kiernan briefly went over the bill for the committee and presented a proposed balloon amendment. **(Attachment 4)**

In response to a question from Senator Brungardt, the Adjutant General stated that they did think that all the bills could be put into one bill, but that some parts might be able to be implemented with money and some without money. Ms. Kiernan stated that if they both pass, they would have to be put together. Chairman Brungardt stated that finances were certainly a consideration in this kind of a budget year.

The Adjutant General presented the committee with a copy of a proposed amendment to the balloon. **(Attachment 5)**

Senator Gooch moved to amend the balloon. Senator Barnett seconded the motion. The motion passed.

Randy Duncan, Sedgwick Emergency Management Association, presented testimony in favor of the bill. **(Attachment 6)**

The committee discussed the difficulties of the Adjutant General's small staff. Maj. Gen. Gardner stated that Iowa has a staff of 50 for a population of about 30 million, and Kansas has a staff of 22 for a population of about 27 million.

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Following more discussion, the Chairman Brungardt stated that the subcommittee would recommend the bills favorably back to the committee, stating that they had been interested in possibly combining them, and that there had been interest in the issues of both liability and disability coverage.

The meeting was adjourned at 3:55 p.m.