

## STAFF SUMMARY OF MEETING

## LEGISLATIVE EMERGENCY EPIDEMIC RESPONSE COMMITTEE

Date: 02/08/08

ATTENDANCE:

Time: 01:35 PM to 02:46 PM

Place: SCR 353

This Meeting was called to order by  
Senator Bob HagedornThis Report was prepared by  
Dan Chapman

Michael Adams	X
Rep. David Balmer	E
Dan Chapman	X
Marilyn Eddins	X
Karen Goldman	X
Debbie Haskins	X
Rep. Claire Levy	E
Dianne Ray	X
John Ziegler	X
Sen. Bob Hagedorn	X
Sen. Mike Kopp	X

X = Present, E = Excused, A = Absent, \* = Present after roll call

**1:35 p.m. — Call to Order**

The meeting was called to order by Senator Bob Hagedorn. Senator Hagedorn made a motion that a temporary chairman be selected for today's meeting and that the meeting be conducted under senate rules. Senator Kopp moved the nomination of Senator Hagedorn and the motion passed without objection. Dan Chapman, Legislative Council staff, reviewed the day's agenda (attached). Sen Hagedorn recounted the history of the three pandemics of the 20th century (H5N1 Avian Flu). Sen. Hagedorn distributed three articles (attached) describing the impact of previous outbreaks in 1918, 1957, and 1968. He stated that the articles point to the importance of keeping distance between individuals in the first wave of a pandemic; he said that the challenge to the committee was to devise a method for the legislature to conduct business, perhaps virtually, in the event of a state pandemic. He said that the budget would be one item that would have to be addressed, but this is complicated because the state constitution requires the legislature to regard Denver as the seat of government. He noted that the legislature could submit an interrogatory to the state supreme court on how pandemic preparations might be addressed.

**1:42 p.m. — Dr. Ned Calonge**

Dr. Ned Calonge, Chief Medical Officer, Department of Public Health and Environment, supported the notion of preparing a plan for continuing operation in the event of an outbreak of pandemic flu. He said that he believed that the United States would have about a month to prepare for the first wave of a pandemic flu. Dr. Calonge spoke to the availability of vaccines and anti-viral agents and the amount of time that it takes to produce them. He said drug resistance is a big variable as far as the efficacy of treating these unique strains of flu. Sen. Kopp asked if any other states are studying this problem. Sen. Hagedorn suggested contacting NCSL and other state health

departments to see if similar planning efforts are underway. Dr. Calonge said that pandemics typically last 6-8 weeks and often come in two or three waves. He also noted that other state departments and agencies are also in the planning mode relative to pandemic events.

**2:13 p.m. — Debbie Haskins, Office of Legislative Legal Services**

Ms. Debbie Haskins, committee member, testified that the main activity of the legislature is passage of the annual budget bill; however, she said that there would be an opportunity for the governor and the leadership to set an abbreviated agenda in light of a health emergency. Dr. Calonge commented on the use of Executive Orders and how the Governor's Expert Emergency Epidemic Response Committee (GEERC) might be instrumental in drafting emergency Executive Orders that could cover 30-day periods during an emergency. Ms. Haskins distributed copies of constitutional provisions that could affect the operations of the General Assembly (attached). Sen. Hagedorn asked if some type of emergency software could provide a technological solution to the problem. Dr. Calonge said that technology holds some promise for solutions but also poses a number of logistical problems. Ms. Goldman, committee member, commented on rule changes and other modifications that could be made in advance to continue the work of the legislature. Ms. Haskins also pointed out rules that preclude electronic voting that might have to be amended to accommodate the emergency provisions. John Ziegler, committee member, commented on how the budget process could be affected under emergency conditions.

Sen. Hagedorn said that the main threat would be experienced in the first wave of a pandemic, and Dr. Calonge added that there is a good chance that the legislature could meet between waves. Karen Goldman noted that a number of administrative details would have to be attended to if the legislature were to experience long periods of closure.

**2:46 p.m. — Wrap Up**

Senator Hagedorn suggested that each member begin to think about how the pandemic problem would affect their respective areas and return with suggestions at the committee's next meeting. Dr. Calogne said that it would be important to avoid negative consequences of different policies emanating from the three branches. The issue of interrogatories was again raised and Debbie Haskins said there may be some other methods of achieving the same ends. Sen. Hagedorn asked what options exist without interrogatories and what route would have to be followed if an interrogatory was necessary. The committee scheduled its next meeting for February 29 at 1:30 p.m.

*Meeting Adjourned*

## A G E N D A

### Legislative Emergency Epidemic Response Committee

Senate Committee Room 353  
State Capitol

Friday, February 8, 2008  
1:30 p.m.

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#### *Call to Order*

- I. Call to Order and Introduction of Members
  - Senator Bob Hagedorn
- II. Background on SB 07-229
  - Ms. Christy Chase, Office of Legislative Legal Services
- III. Discussion of Issues Related to Emergency Response Planning and Continuing Operations of the General Assembly
- IV. Proposed Action Plan
- V. Next Meeting Date

*Meeting Adjourned*

STAFF SUMMARY OF MEETING

LEGISLATIVE EMERGENCY EPIDEMIC RESPONSE COMMITTEE

Date: February 29, 2008

ATTENDANCE:

Time: 1:41 p.m.

Michael Adams X

Rep. David Balmer X

Dan Chapman X

Place: SCR 353

Marilyn Eddins X

Karen Goldman X

This meeting was called to order by:

Debbie Haskins X

Chairman Bob Hagedorn

Rep. Claire Levy X

Dianne Ray A

This report was prepared by:

John Ziegler \*

Dan Chapman

Sen. Bob Hagedorn X

Sen. Mike Kopp E

\* Present after roll call.

**1:41 p.m. — Call to Order**

Senator Hagedorn called the meeting to order and noted that a quorum was present. He recapped the discussion held during the first meeting for the House members. Sen. Hagedorn noted that previous testimony indicated that there might be a four to six week period between waves of influenza that would permit a change in scheduling that would allow the General Assembly to meet to allow the passage of a budget bill and any other required measures. The legislature then could meet in special session to conclude its business and take up any budget reduction measures necessitated by reduced revenues resulting from the pandemic. He also discussed the possibility of holding a virtual session via teleconferencing and the internet. Sen. Hagedorn responded to a question from Rep. Balmer that the governor could draft a series of emergency executive orders to initiate a response to a pandemic event. He said that the worst case scenario would be a pandemic that struck in the late fall, but the timeline would allow the legislature to meet before the start of the next fiscal year on July 1. He added that questions of succession and the governor's power of appointment would need to be addressed.

**1:55 p.m. — Ms. Diana Herrero, Dept. of Public Health and Environment**

Ms. Diana Herrero, Pandemic Preparation Manager, Colorado Department of Public Health and Environment (CDPHE), provided handouts which included slides outlining the elements of CDPHE pandemic flu planning and the structure and functions of the Governor's Expert Emergency Epidemic Response Committee (GEERC) (see Attachment A). Ms. Herrero reviewed the planning process employed by CDPHE which she said tends to err on the side of caution based on a worst case scenario modeled on the 1918 pandemic. Sen. Hagedorn raised the issue of disposal of dead bodies which would stress existing resources even under a moderate pandemic scenario. The same situation would affect the ability of hospitals to treat large numbers of pandemic victims. Ms. Herrero also discussed the draft of the executive orders which have been prepared by the GEERC to address a disaster emergency, emphasizing that the orders are not in effect now; they would have to be signed by the Governor at the time of the emergency (Attachment B).

**2:25 p.m. — Mr. Daniel Chapman, Legislative Council Staff**

Mr. Daniel Chapman, Assistant Director for Administration, Legislative Council Staff, presented a transmittal memo (Attachment C), which summarized continuity of government information from other states which had been compiled by a survey conducted by the National Conference of State Legislatures (NCSL) in 2006. Mr. Chapman stated that the 50 state survey identified a number of commonalities between the states in terms of dealing with disaster emergency scenarios. He said that the majority of states surveyed had statutory provisions for emergency interim succession acts as well as contingency plans for relocation of the seat of government in the event of disaster events or enemy attack. He noted that nearly every state that has adopted an emergency succession act has provided some type of parallel mechanism for local governments and other political subdivisions. Mr. Chapman concluded that the states are almost evenly divided between those whose emergency succession plans that are built exclusively on statutory enactments (22 states) and those which contain some constitutional provisions (28 states) governing emergency contingency plans.

**2:36 p.m. — Ms. Debbie Haskins and Ms. Christie Chase, Office of Legislative Legal Services (OLLS)**

Ms. Debbie Haskins, OLLS, distributed two documents, a list of measures that the General Assembly needs to pass annually (Attachment D) and a memo from OLLS detailing the constitutional and statutory provisions and legislative rules that are potential barriers to meeting at another location than the State Capitol or to holding a virtual session. Ms. Goldman noted that the legislative appropriation bill needs to be added to the list of annual measures that the General Assembly must pass. Ms. Haskins noted the existence of the emergency supplemental process which might play a role in the event of a disaster emergency. Mr. John Ziegler commented that the budget issue could be managed either during an abbreviated regular session or during a special session called by the governor. He said that it would take at least a twelve week event to disrupt the normal passage of a budget, but there are alternate methods in place to deal with emergency funding requests. Ms. Haskins reviewed the remainder of the items on the list of required measures that the legislature would need to deal with on an annual basis. She noted that the General Assembly might also wish to meet to participate in emergency decision making in conjunction with the

executive branch. In response to a question from Rep. Levy, John Ziegler discussed the fiscal implications of lost revenues during a pandemic event and the interaction between the executive and legislative branch and how the TABOR reserve might come into play if state funds fell below a specific level. Ms. Haskins concluded her discussion with reference to the OLLS memo which indicated that carefully crafted amendment might permit the General Assembly to meet in location other than Denver or through an electronic "virtual" session. She also said the idea of sending interrogatories to the state Supreme Court would not be likely to be achievable during the remainder of this legislative session.

Committee discussion focused on legislative participation in the governmental reaction to a pandemic. Sen. Hagedorn speculated about other forms of epidemics that might impact the operations of state government, and the committee discussed other venues in the city and county of Denver that could provide an alternative to the State Capitol for an emergency session of the legislature. Senator Hagedorn suggested that the committee study the issues raised by the Legal Services memo before the next meeting. In the meantime, he suggested that leadership be contacted to determine the feasibility of running a delayed bill this session that would amend statutes or a resolution to amend rules to address the emergency changes needed to operate under the constraints that had been discussed. Ms. Goldman said that the House and Senate would need to think about the logistics of such an emergency session including the procedural, administrative, and financial aspects of the respective Houses. She said procedures should be in place and approved by leadership in advance of any type of emergency session. Marilyn Eddins used the example of remote meetings held by the state of Alaska as an alternative to conventional committee hearings. Ms. Haskins and Mr. Adams suggested a decision tree exercise as means of plotting out the logistics and procedures needed for an emergency session. Senator Hagedorn concluded the meeting by suggesting the decision tree exercise be explored at the next meeting and suggested that the next committee meeting be held on March 14 at 1:00 p.m.

*Meeting Adjourned.*

## STAFF SUMMARY OF MEETING

### LEGISLATIVE EMERGENCY EPIDEMIC RESPONSE COMMITTEE

Date: March 14, 2008

ATTENDANCE:

Time: 1:25 p.m.

Michael Adams X

Rep. David Balmer X

Dan Chapman X

Place: SCR 353

Marilyn Eddins X

Karen Goldman X

This meeting was called to order by:

Christie Chase X

Senator Bob Hagedorn

Rep. Claire Levy E

Dianne Ray A

This report was prepared by:

John Ziegler E

Dan Chapman

Sen. Bob Hagedorn X

Sen. Mike Kopp E

\* Present after roll call.

#### **1:25 p.m. — Call to Order**

The meeting was called to order by Senator Bob Hagedorn, committee chairman.

#### **1:22 p.m. — Other States' Activities in Continuity of Operations Planning**

Ms. Kae Warnock and Ms. Brenda Erickson, National Conference of State Legislatures, presented information regarding other states' efforts in developing continuity of operations plans. Ms. Warnock and Ms. Erickson distributed a series of handouts (see Attachments A-E) on the subject of maintaining continuity of the legislature during a pandemic event. Ms. Erickson offered three examples of actual emergencies that occurred in recent years in state capitols: fires in Idaho and Texas; an earthquake in Washington, and; an attack on the capitol in California. She said that continuity of government plans need to include several key factors: plans for lines of succession and for maintaining contact with legislative members; the ability to change the seat of government, and; the ability to protect public records fo the legislature. She noted that developing lines of succession are critical to achieving a quorum in an emergency and, if necessary, the ability to quickly redefine the requirements for a quorum. Ms. Warnock spoke to the Washington example to illustrate the ability fo the legislature to depart from constitutional requirement in the event of an emergency.

Ms. Warnock discussed the handouts that detail the continuity of government statutes in other states and examples of other emergency succession acts.

Ms. Brenda Erickson spoke to the issue of remote voting in other states, which included methods such as vote pairing and proxy voting. She said that there several advantages to these techniques, but the biggest obstacle to remote voting is protection of the integrity of the process by guarding against fraud. She also said that remote voting is more commonly allowed in committee settings and is not used in others states' floor sessions. Very few states allow proxy voting, she said. The integrity of the process remains the highest concern among most state legislators. Open public meetings and notice to the public remain among the main concerns of state policy makers. Ms. Erickson said there are no states currently allowing remote voting although some states such as Alaska and Nevada do provide for testimony to be taken from remote locations. Ms. Erickson concluded by noting the number of states that allow for some type of special session which is a possible option in the instance of a pandemic event. In response to committee questions, Ms. Erickson noted that no states are currently exploring technological alternatives to holding legislative sessions, other than the committee situation in Alaska described above. Ms. Warnock concurred that states with continuity of government plans focused on moving the legislature and do not contemplate and electronic solution.

#### **1:54 p.m. — Continuation of Discussion with Office of Legislative Legal Services**

Ms. Christy Chase, Office of Legislative Legal Services (OLLS), continued the discussion begun at the last meeting on the subject of constitutional and statutory provisions and legislative rules affecting legislative responses to pandemic events. Ms. Chase discussed current constitutional provisions restricting the seat of government to the city and county of Denver. She referenced the memorandum distributed at the last meeting (Attachment F) which details these potential barriers to meeting at another location than the State Capitol or to holding a virtual session. She also discussed constitutional and statutory provisions on when the General Assembly meets as well as the length of the legislative session. Ms. Chase spoke to legislative rules that prohibit electronic participation and possible remedies to these restrictions. Senator Hagedorn said that by utilizing special sessions, the General Assembly could address critical legislation between waves of a pandemic

#### **2:10 p.m. — Decision Tree Exercise**

Michael Adams, Legislative Information Services, presented a decision tree model for dealing with a pandemic event both when the legislature is in session and when it is in recess (Attachment G). Mr. Adams demonstrated the decision tree model and discussed its key components, including the emergency call tree which is already in place. He said that adopting rule changes in advance of an epidemic would be key is rephrasing the legislative session to work around a pandemic event.



**2:23 p.m — Other Business/Next Meeting Dates**

Senator Hagedorn concluded that while running a bill this session might not be necessary, it would be important to have the rule changes prepared prior to the start of the next legislative session. Emergency rules could be adopted in special session or at the beginning of the 2009 session, he said. The next meeting was scheduled for April 11.

STAFF SUMMARY OF MEETING

LEGISLATIVE EMERGENCY EPIDEMIC RESPONSE COMMITTEE

Date: April 11, 2008

ATTENDANCE:

Time: 1:01 p.m.

Michael Adams X

Rep. David Balmer E

Dan Chapman X

Place: SCR 353

Marilyn Eddins X

Karen Goldman X

This meeting was called to order by:

Debbie Haskins X

Senator Mike Kopp

Rep. Claire Levy X

Dianne Ray X

This report was prepared by:

John Ziegler X

Dan Chapman

Sen. Bob Hagedorn X

Sen. Mike Kopp X

\* Present after roll call.

**1:01 p.m. — Call to Order**

The meeting was called to order by Senator Mike Kopp.

**1:05 p.m. — Testimony of Mr. Kent Smiley and Mr. Chris Lindley**

Mr. Kent Smiley, COOP and COG Manager, Office of the Governor, presented testimony on plans for executive branch interaction with the legislature before and during a pandemic event. Also present was Mr. Chris Lindley, Director of Emergency Services, Department of Public Health and Environment. Mr. Smiley described his work in coordinating Continuity of Operations Plans with all of the executive departments, including best practices and policies for dealing with pandemic events. Mr. Lindley said that the key point is the projected forty percent absenteeism expected by pandemic illness and how state government will respond to provide essential services and protect public health. He said that the charge to the legislature is how to carry out business and still maintain minimum distances between persons (six feet is recommended); he cited some of the committee memoranda as a good starting point for developing the legislature's own pandemic response plan. Mr. Lindley responded to questions by noting that the federal

government would play a role in governing travel restrictions, but most public health issues would most likely be left in the hands of the individual states. Mr. Lindley concluded by saying that the federal role would be more focused on controlling the borders and international ports than the internal policies of each state.

### **1:29 p.m. — Committee Discussion**

Mr. Dan Chapman, Legislative Council Staff, and Ms. Debbie Haskins, Office of Legislative Legal Services, conducted a discussion of legislative rule changes and other adaptations that would be necessary for the legislature to function during a pandemic event. Mr. Chapman said that there were three primary policy questions that would dictate the shape of a legislative response: 1) whether the legislature would require an alternate location to conduct business; 2) should a succession plan be put in place (as suggested by NCSL) to allow for replacement personnel to conduct legislative business, and; 3) should a relocation plan be developed or would the minimum requirements for a reduced session still be conducted at the Capitol. Ms. Haskins discussed her work with the Chief Clerk of the House and Secretary of the Senate to determine which legislative rules would need to be changed to accommodate the special requirements of a declared emergency. She indicated that there were three main areas of consideration (see Attachment A), including the counting of calendar days, the plan of succession, and the ability of the Senate President to suspend the rules in an emergency, similar to the authority of the House Speaker. Ms. Haskins discussed a joint rule that would set out the general operating procedures that would govern the legislature's actions during the declared emergency (see Joint Rule 43).

Committee discussion focused on the timing of adoption of the emergency rules; Ms. Goldman said that the new rules could be adopted as early as next session. Senator Kopp commented that moving from the temporary rules to the permanent rules would be one exercise that might need to be suspended during a declared emergency. Senator Hagedorn asked whether the legislative agenda could be limited in scope during the duration of the emergency, similar to the governor's call during a special session. Discussion focused on the role of the Executive Committee in determining when and if the legislature needs to meet. Mr. Chapman concluded the discussion by noting that the committee is required to submit a continuity of operations of plan by July 1, 2008.

### **2:01 p.m. — Next Committee Meeting**

Topics for the next committee meeting were identified as staffing, logistics, and administration. Senator Hagedorn said that the report should contain responses to the 15 points detailed in the committee handout (see Attachment B) as well as the flow chart distributed at an earlier meeting (Attachment C). He said that the proposed rule changes should also be included in the final draft for reactions from other legislators; he added that all members of the General Assembly should receive a copy of the final report. He also said that the committee should seek input from Dr. Ned Calonge on the viability of remaining in the Capitol during a pandemic event. Staff was instructed to prepare a draft

report for circulation among the committee members between now and the end of the legislative session. He said that if everyone was given an opportunity to comment on the draft report it may not be necessary to meet again during the 2008 legislative session. A final meeting would then be held after adjournment sine die for adoption of the final report to be submitted on July 1.

**2:25 p.m. — Meeting Adjourned**

STAFF SUMMARY OF MEETING

LEGISLATIVE EMERGENCY EPIDEMIC RESPONSE COMMITTEE

Date: June 13, 2008

ATTENDANCE:

Time: 1:15 p.m.

Michael Adams X

Rep. David Balmer X

Dan Chapman X

Place: SCR 353

Marilyn Eddins X

Karen Goldman X

This meeting was called to order by:

Debbie Haskins X

Representative Claire Levy

Rep. Claire Levy X

Dianne Ray A

This report was prepared by:

John Ziegler A

Dan Chapman

Sen. Bob Hagedorn A

Sen. Mike Kopp X

\* Present after roll call.

**1:15 p.m. — Call to Order**

The meeting was called to order by, Representative Claire Levy. The first item on the agenda was a review of the committee charge (page 5, draft final report). There were no comments on the committee charge, but Representative Levy noted that the statute calls for the committee to be ongoing and to meet at least once a year.

**1:18 a.m. — Review of Committee Report**

Ms. Debbie Haskins, Office of Legislative Legal Services, and Dan Chapman, Legislative Council staff, reviewed changes and modifications to the final draft of the report. Ms. Haskins noted that a new bill had been added to address succession planning for members of the General Assembly who are unable to serve due to illness or death. Committee discussion focused on the actual replacement process for disabled or deceased members. Ms. Haskins defined the issue as one of needing a more streamlined process for filling vacancies in the event of a pandemic emergency. The motion to adopt the emergency succession bill passed without objections (see Resolution D).

Ms. Haskins discussed Resolutions A, B, and C regarding suspension of rules and adoption of temporary rules during a pandemic event. She elaborated on the issue of electronic participation and indicated that there needed to be a clear direction from the committee as to whether such a practice would be acceptable or not. Senator Kopp spoke to the issue of the integrity of electronic voting and said that he would opt to keep the current language governing electronic voting intact, as contemplated in Resolution B. Representative Levy recommended limiting the language permitting the use of electronic voting. The committee voted unanimously to adopt Resolution B as amended to modify the electronic voting provisions.

**2:00 p.m. — Issues and Decision Points**

Mr. Adams inquired about the possibility of taking remote testimony during a pandemic event. The committee determined that the General Assembly already has this capability. Mr. Chapman brought up the point that the General Assembly could conceivably meet outside the State Capitol and possibly outside the boundaries of the city and county of Denver. Ms. Haskins discussed the alteration to the 120 day rule in which calendar days would be replaced by separate calendar working days. The committee decided to adopt the new language regarding the 120 days. Committee members were encouraged to submit any minor changes to staff for inclusion in the final report.

Representative Balmer moved adoption of the committee report (second: Kopp). The motion passed 7-0.

**2:23 p.m — Meeting Adjourned.**