

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### PUBLIC SAFETY AND TRANSPORTATION COMMITTEE

Tuesday, July 28, 2009  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator David O'Connell, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators David O'Connell, Dwight Cook, Gary A. Lee, Elroy N. Lindaas, George Nodland; Representatives Edmund Gruchalla, Bob Hunskor, James Kerzman, Todd Porter, Arlo Schmidt, Elwood Thorpe, Gerry Uglen, Don Vigesaa, Robin Weisz

**Members absent:** Senator Richard Marcellais; Representatives Jerry Kelsh, Matthew M. Klein, Bob Martinson, Michael R. Nathe

**Others present:** See attached [appendix](#)

At the request of Chairman O'Connell, Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

Chairman O'Connell welcomed the members of the Public Safety and Transportation Committee. He said the committee has been assigned studies relating to 911 fees and infrastructure, highway construction funding, and emergency medical services funding.

At the request of Chairman O'Connell, Senator Cook explained that a portion of the 911 fees and infrastructure study has been reassigned to the Taxation Committee by the Legislative Council chairman. He said the portion of the study relating to 911 fees and taxes will be studied by the Taxation Committee while the portion of the study relating to 911 services and infrastructure will be retained for study by the Public Safety and Transportation Committee.

#### STUDY OF HIGHWAY CONSTRUCTION FUNDING

The Legislative Council staff presented a memorandum entitled [Highway Construction Funding Study - Background Memorandum](#). The Legislative Council staff said Section 25 of 2009 Senate Bill No. 2012 provides for a study of options to match federal highway funds. The study was revised by the Legislative Council to provide for a study of general highway construction funding and was assigned to the Public Safety and Transportation Committee.

The Legislative Council staff said there are approximately 86,842 miles of roads in North Dakota, including roads in the state highway system, county roads, rural roads, and city streets. The table below summarizes the miles of roadways in North Dakota:

Miles of Roadways in North Dakota - 2007	
State highway system	7,385
County roads	18,969
Other rural roads	56,621
City streets	3,867
Total	86,842

Maintenance and construction costs for roadways vary depending on roadway types and materials used. The table below summarizes the 2008 highway construction costs compared to 2004 costs:

Estimated Highway Construction Costs Per Mile	2008	2004
	Interstate concrete paving (two lanes in one direction)	\$1,700,000
Two-lane road reconstruction (includes grading and asphalt surfacing)	\$985,000	\$675,000
Asphalt surface reconstruction (includes subgrade repair and resurfacing)	\$780,000	\$450,000
Three-inch asphalt overlay	\$350,000	\$150,000
Interstate seal coat	\$31,000	\$21,000
Non-interstate seal coat	\$28,000	\$16,000

The majority of funds received from motor fuels taxes and motor vehicle registration fees are deposited in the highway tax distribution fund for allocation to the state and political subdivisions. During the 2007-09 biennium, only the state highway fund, counties, and cities received distributions from the highway tax distribution fund. Rather than receiving a distribution from the highway tax distribution fund, the township highway aid fund received one cent per gallon of motor fuels taxes and the public transportation fund received \$3 of each motor vehicle registration fee. In Sections 17, 18, 19, 22, 23, and 26 of 2009 Senate Bill No. 2012, the Legislative Assembly made the following changes to the highway tax distribution fund:

- Provided that \$13 of each motor vehicle registration fee currently deposited in the highway fund be deposited in the highway tax distribution fund.
- Repealed North Dakota Century Code (NDCC) Section 39-04.2-03 that required an additional fee of \$3 to be charged for motor vehicle registrations for deposit in the public

transportation fund. Section 39-04-19 was also amended to increase motor vehicle registration fees by \$3 to offset the decrease in fees resulting from the repeal of Section 39-04.2-03.

- Provided that the one cent per gallon of motor fuels taxes currently deposited in the township highway aid fund be deposited in the highway tax distribution fund and allowed the deposits to be refundable.
- Provided that the first \$5.5 million deposited in the highway tax distribution fund each biennium be transferred to the highway fund for administrative costs.
- Provided for the following changes in the highway tax distribution fund distribution formula:

	2007-09 Biennium	2009-11 Biennium
State highway fund	63.0%	61.3%
Counties	23.0%	21.5%
Cities	14.0%	13.0%
Township highway aid fund	0.0%	2.7%
Public transportation fund	0.0%	1.5%
Total	100.0%	100.0%

The highway tax distribution fund also provides funding for other state agencies and programs. This funding is allocated prior to any distributions being made using the distribution funding formula. The table below summarizes the other state agencies and programs that receive funding from the highway tax distribution fund:

	2007-09 Biennium Estimate	2009-11 Biennium Estimate
Highway Patrol	\$4,200,000	\$4,500,000
Ethanol production incentive fund	3,200,000	3,400,000
Tribal fuel agreements	1,000,000	0
Motorboat program and safety account	200,000	200,000
State snowmobile fund	200,000	200,000
Total	\$8,800,000	\$8,300,000

For the 2009-11 biennium, the Legislative Assembly, in Section 21 of 2009 Senate Bill No. 2012, provided that 25 percent of motor vehicle excise tax collections, after the allocation to the state aid distribution fund, be deposited in the highway fund rather than the general fund. This is estimated to result in \$30.5 million of additional highway fund revenue during the 2009-11 biennium. Section 13 of 2007 House Bill No. 1012 provided that 10 percent of motor vehicle excise tax collections, after allocation to the state aid distribution fund, be deposited in the highway fund rather than the general fund for the 2007-09 biennium. Total estimated deposits in the highway fund for the 2007-09 biennium as a result of this provision are estimated to be \$12.6 million.

Section 3 of 2009 Senate Bill No. 2012 provides a 2007-09 appropriation of \$59.9 million from the general fund to the State Treasurer for weather-related cost-sharing distributions. Of the total appropriation, \$7.5 million is to be distributed to the

state highway fund, \$41.4 million to counties and cities in accordance with the formula used to distribute funds to counties and cities under NDCC Section 54-27-19(2), \$10 million to townships in accordance with provisions used to distribute funds to townships under Section 54-27-19.1, and \$1 million to the public transportation fund to be distributed to public transit programs in accordance with Section 39-04.2-04.

Section 4 of 2009 Senate Bill No. 2012 establishes a state disaster relief fund to provide funding for defraying the expenses of state disasters, including funds required to match federal funds for expenses associated with presidential-declared disasters in the state. Sections 5 through 8 of Senate Bill No. 2012 provide for a transfer of \$43 million from the general fund to the state disaster relief fund and the appropriation of the funding to the Adjutant General for emergency snow removal grants and emergency disaster relief grants.

Up to \$20 million of the \$43 million appropriated from the state disaster relief fund to the Adjutant General may be used for emergency snow removal grants. A county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 50 percent of the costs incurred by the entity for the period January 2009 through March 2009 that exceeds 200 percent of the average costs incurred for these months in 2004 through 2008. Each entity requesting reimbursement is to submit the request in accordance with the rules developed by the Department of Emergency Services.

Up to \$23 million of the \$43 million appropriated from the state disaster relief fund to the Adjutant General may be used for emergency disaster relief grants. Any political subdivision receiving federal emergency relief funding relating to disasters occurring from January 2009 to June 2009 may apply to the Department of Emergency Services for an emergency disaster relief grant of up to 50 percent of the local match required to receive the federal emergency relief funding. Each political subdivision requesting an emergency disaster relief grant is to submit the request in accordance with rules developed by the Department of Emergency Services. The Department of Emergency Services may provide up to \$13 million of emergency disaster relief grants and may seek Budget Section approval to distribute additional grants. Any funding not distributed to political subdivisions may be used to match federal disaster relief funds received for state purposes, subject to Budget Section approval. The Department of Emergency Services is to report to the Budget Section during the fourth quarter of calendar year 2009 and the third quarter of calendar year 2010 regarding emergency disaster relief grants awarded.

The table below details estimated total highway funding provided to the state and political subdivisions from state funding sources for the 2007-09 and 2009-11 bienniums:

<b>Summary of Estimated State Highway Funding Provided to State and Political Subdivisions (Amounts Shown in Millions)</b>			
	<b>2007-09 Statutory Funding<sup>1</sup></b>	<b>Weather-Related Cost-Sharing and Disaster Funding</b>	<b>2009-11 Statutory Funding</b>
State highway fund	\$234.3 <sup>1,2</sup>	\$7.5 <sup>3</sup>	\$274.8 <sup>1,5</sup>
Counties	74.4 <sup>1</sup>	26.4 <sup>3</sup>	82.1 <sup>1</sup>
Cities	45.3 <sup>1</sup>	15.0 <sup>3</sup>	49.7 <sup>1</sup>
Townships	10.2 <sup>1</sup>	10.0 <sup>3</sup>	10.3 <sup>1</sup>
Public transportation fund	5.7 <sup>1</sup>	1.0 <sup>3</sup>	5.7 <sup>1</sup>
Disaster relief funding		43.0 <sup>4</sup>	
<b>Total</b>	<b>\$369.9</b>	<b>\$102.9</b>	<b>\$422.6</b>

<sup>1</sup>Funding provided from the highway tax distribution fund.

<sup>2</sup>Includes \$18.2 million of motor vehicle registration fees deposited in the highway fund and \$12.6 million of motor vehicle excise taxes deposited in the highway fund.

<sup>3</sup>Funding of \$59.9 million from the general fund was appropriated by the 2009 Legislative Assembly to the State Treasurer for distribution to the state highway fund and political subdivisions for weather-related cost-sharing before June 30, 2009.

<sup>4</sup>Senate Bill No. 2012 (2009) provided a \$43 million transfer from the general fund to the state disaster relief fund before June 30, 2009, and appropriated the funds to the Adjutant General for disaster relief funding during the 2007-09 and 2009-11 bienniums.

<sup>5</sup>Includes a \$4.6 million transfer from the general fund to the highway fund for Devils Lake area highway projects and \$30.5 million of motor vehicle excise taxes deposited in the highway fund.

The state receives federal funding for the construction and maintenance of highways, emergency road repairs, safety projects, and other programs. For the 2009-11 biennium, the state is estimated to receive \$603.5 million of federal funding for transportation-related projects.

In addition to regular federal highway funding, the state is also anticipated to receive transportation funding through the federal American Recovery and Reinvestment Act of 2009. The 2009-11 legislative appropriations for the Department of Transportation include \$176,082,671 of federal fiscal stimulus funds from this Act for highway infrastructure projects (\$170,126,497) and grants to rural transit programs (\$5,956,174).

The Legislative Council staff said the Legislative Council has assigned the following reports to the Public Safety and Transportation Committee relating to its study of highway construction funding:

- A report from the Tax Commissioner regarding information provided by counties, cities, and townships on funding and expenditures relating to transportation projects and programs. This report is provided pursuant to NDCC Section 54-27-26 which was enacted by the 2009 Legislative Assembly in Section 20 of Senate Bill No. 2012.
- A report from the Department of Transportation regarding the use of state, federal, emergency, and other highway funding pursuant to Section 11 of 2009 Senate Bill No. 2012. The Legislative Council directed the Public Safety

and Transportation Committee to receive this report in addition to the Budget Section.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information regarding sources of funding available for highway construction projects.
2. Receive and review information regarding the distribution of highway funding to the state and political subdivisions.
3. Receive and review information regarding the costs of maintaining and constructing highways.
4. Receive a report from the Tax Commissioner regarding information provided by counties, cities, and townships on funding and expenditures relating to transportation projects and programs.
5. Receive reports from the Department of Transportation regarding the use of state, federal, emergency, and other highway funding during the 2009-10 interim.
6. Receive testimony from other interested persons, including cities and counties, regarding the committee's study of highway construction funding.
7. Develop recommendations and any bill drafts necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Council.

Mr. Francis Ziegler, Director, Department of Transportation, presented information regarding highway construction funding available to the state. He said the Department of Transportation has a 2009-11 biennium budget of \$1.24 billion. He said the Department of Transportation 2009-11 budget includes \$170.1 million of spending authority authorized by the 2009 Legislative Assembly for funds to be received for highway infrastructure projects through the federal American Recovery and Reinvestment Act of 2009. He presented the following chart regarding the anticipated distribution of funds received through the American Recovery and Reinvestment Act of 2009:

<b>Distribution of American Recovery and Reinvestment Act of 2009 Funding (in Millions)</b>				
	<b>State</b>	<b>Cities</b>	<b>Counties</b>	<b>Total</b>
Roads	\$119.1	\$25.1	\$12.8	\$157.0
Bridges	4.0		4.0	8.0
Transportation enhancement	2.55	1.7	0.85	5.1
<b>Total</b>	<b>\$125.65</b>	<b>\$26.8</b>	<b>\$17.65</b>	<b>\$170.1</b>

Mr. Ziegler said the 2009 highway construction program is the largest ever for the state and includes 292 road improvement projects estimated to cost \$383 million. He said the Department of Transportation is also working on emergency relief

transportation projects across the state, including several in the Devils Lake area.

Mr. Ziegler said distributions from the highway tax distribution fund to the highway fund exceeded projections by 13.7 percent for fiscal year 2009 with total 2007-09 biennium distributions to the highway fund of \$240.3 million, which is \$36.8 million more than projected. He said federal highway funding remains uncertain with the federal highway trust fund expected to be depleted by August 2009. He expressed concern that future federal highway funding may be reduced for rural states. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Senator Cook, Mr. Ziegler said the state does not receive federal highway funding until a portion of a project is completed. He said the state is reimbursed for project costs rather than receiving an upfront distribution of funds.

In response to a question from Senator Lindaas, Mr. Ziegler said roadways in the Devils Lake Basin are being raised to an elevation of 1,460 feet. He said this is the maximum height to which the roads will be raised.

In response to a question from Representative Kerzman, Mr. Ziegler said traffic volume may affect the priority of highway construction projects. He said the Department of Transportation welcomes input from citizens regarding roadways in the state.

In response to a question from Senator Lindaas, Mr. Ziegler said roadways across the state received substantial damage during the winter and spring of 2009 due to adverse weather conditions and flooding. He said the 2009 Legislative Assembly provided \$7.5 million of additional funding to the highway fund for 2007-09 weather-related damages.

In response to a question from Senator Nodland, Mr. Ziegler said he would provide information at a future meeting regarding the impact to political subdivisions of weather-related transportation funding provided by the 2009 Legislative Assembly.

In response to a question from Representative Schmidt, Mr. Ziegler said the major cost of the federal REAL ID Act relates to the sharing of information among states. He said the proposed federal PASS ID Act would eliminate the requirement of transmitting information among states.

Senator O'Connell expressed concern regarding identification needed by United States citizens to enter the country at border crossings. Mr. Ziegler said he would provide the committee with information regarding the forms of identification needed to comply with the federal Western Hemisphere Travel Initiative.

In response to a question from Representative Vigesaa, Mr. Ziegler said federal transportation enhancement funds may be used for several categories of projects, including bike and pedestrian trails, historical projects, and museums.

In response to a question from Senator O'Connell, Mr. Ziegler said approximately 80 miles of roadways

can be added to the state highway system before reaching the maximum amount of roadway miles allowed by statute.

In response to a question from Representative Kerzman, Mr. Ziegler said the Department of Transportation plans to use all federal fiscal stimulus funding made available to the state for transportation projects. He said approximately half of the available funding has been obligated for projects during the 2009 construction season with the remaining funding to be used during the 2010 construction season.

In response to a question from Senator O'Connell, Mr. Ziegler said North Dakota roads require a large amount of preventative maintenance. He said the state experiences many extreme conditions that affect roadways.

Mr. Cal Klewin, Executive Director, Theodore Roosevelt Expressway Association, provided information to the committee regarding the Theodore Roosevelt Expressway. He expressed appreciation to the Legislative Assembly for designating parts of United States Highways 2 and 85 in North Dakota as the Theodore Roosevelt Expressway. He said the Theodore Roosevelt Expressway Association is working with the Heartland Expressway Association and Ports to Plains Alliance to establish a high-priority north/south transportation corridor across the country to improve economic development. A copy of the information presented is on file in the Legislative Council office.

In response to a question from Representative Kerzman, Mr. Klewin said the Theodore Roosevelt Expressway Association is conducting a study of traffic on United States Highway 85, including safety aspects.

In response to a question from Senator O'Connell, Mr. Klewin said it is important to have consistent roadway weight limits along a transportation corridor.

In response to a question from Representative Thorpe, Mr. Klewin said nine states are working together on the north/south high-priority corridor route. He said the member states are facing the same issues that relate to energy, agriculture, and population.

Representative Kerzman suggested the committee receive future updates regarding improvements planned for high-priority north/south corridors through the state.

Senator Nodland suggested the committee review the impact of oil and other energy development on roads, including related income and expenses.

Representative Thorpe suggested the committee review options for allocating motor vehicle excise tax collections for roadway maintenance and construction.

Senator Lindaas suggested the committee receive information regarding the impact of pipeline and wind energy construction on roadways.

Senator Lee suggested the committee receive updates on the status of the federal REAL ID and PASS ID Acts.

Representative Weisz suggested the committee receive information regarding historical funding for road maintenance and construction in the state.

Representative Gruchalla suggested the committee review the appropriateness of fees for overweight vehicles as they relate to actual damage done to roadways.

**It was moved by Representative Kerzman, seconded by Representative Weisz, and carried on a voice vote that the Public Safety and Transportation Committee approve the following highway construction funding study plan:**

1. **Receive and review information regarding sources of funding available for highway construction projects.**
2. **Receive and review information regarding the distribution of highway funding to the state and political subdivisions.**
3. **Receive and review information regarding the costs of maintaining and constructing highways.**
4. **Receive a report from the Tax Commissioner regarding information provided by counties, cities, and townships on funding and expenditures relating to transportation projects and programs.**
5. **Receive reports from the Department of Transportation regarding the use of state, federal, emergency, and other highway funding during the 2009-10 interim.**
6. **Receive information regarding the impact of energy development and related construction on roadways, including income and expenses.**
7. **Receive updates on the federal REAL ID and PASS ID Acts.**
8. **Receive and review information regarding the fees for overweight vehicles, including the appropriateness of the fees as they relate to actual damage done to roadways.**
9. **Receive updates regarding improvements planned for high-priority north/south corridors through the state.**
10. **Receive information regarding historical funding for road maintenance and construction and the desirability of allocating motor vehicle excise taxes for road maintenance and construction.**
11. **Receive testimony from other interested persons, including cities and counties, regarding the committee's study of highway construction funding.**
12. **Develop recommendations and any bill drafts necessary to implement the recommendations.**
13. **Prepare a final report for submission to the Legislative Council.**

## **STUDY OF EMERGENCY MEDICAL SERVICES FUNDING**

The Legislative Council staff presented a memorandum entitled [Emergency Medical Services Funding - Background Memorandum](#). The Legislative Council staff said the Public Safety and Transportation Committee was assigned a study of emergency medical services funding pursuant to Section 5 of 2009 Senate Bill No. 2050. As part of the study, the committee has been assigned to receive a report from the State Department of Health regarding the use of funding provided for grants to emergency medical services operations during the 2009-11 biennium pursuant to Section 6 of 2009 Senate Bill No. 2004.

The Legislative Council staff said NDCC Chapter 23-27 defines "emergency medical services" as the prehospital medical stabilization or transportation of individuals who are sick, injured, wounded, or otherwise incapacitated or helpless, or in a real or perceived acute medical condition, by a person that holds oneself out to the public as being in that service or that regularly provides that service. The term includes assessing, stabilizing, and treating life-threatening and non-life-threatening medical conditions or transporting a patient who is in a real or perceived acute medical condition to a hospital emergency room.

The State Department of Health is responsible for licensing emergency medical services operations. North Dakota Century Code Section 23-27-03 provides that the fee for an emergency medical services operation license to operate an emergency medical services operation or a substation ambulance services operation must be set by the Health Council at a sum not to exceed \$25 annually. This fee is to defray the costs of administration of the licensing program. The State Department of Health currently licenses 142 ambulance services annually in North Dakota.

The Legislative Council staff said the 2001 Legislative Assembly approved House Bill No. 1405, which increased the maximum mill levy rate for ambulance services from 5 mills to 10 mills. The Century Code references relating to property tax rates for ambulance services include:

**County** - Section 57-15-06.7(23) provides that a county may levy a tax of up to 10 mills for county emergency medical services.

**Township** - Section 57-15-20.2(7) provides that a township may levy a tax of up to 10 mills for emergency medical services.

**Rural ambulance service districts** - Pursuant to Section 57-15-26.5, a rural ambulance service district may levy a tax not exceeding 10 mills on the taxable value of property within the district.

**City** - Pursuant to Section 57-15-51, a city may impose a levy of up to 10 mills upon its taxable valuation for the purpose of subsidizing city emergency medical services. Whenever a tax for county emergency medical services is levied, any city

levying a tax for emergency medical services may be exempted from the county tax levy.

Other sources of revenues for ambulance services include donations; federal funds; state grants and user fees, including insurance; and Medicare and Medicaid reimbursement. Total federal homeland security funding awarded to counties for ambulance services totaled \$3,106,653 for the period from 2002 to 2008, including \$407,336 for 2008.

Senate Bill No. 2004 (2009) includes a \$1,240,000 appropriation, of which \$940,000 is from the general fund and \$300,000 is from the community health trust fund, for emergency medical services training grants. This is the same amount and source of funding as provided for emergency medical services training grants in the 2007-09 biennium. The 2009 legislative appropriations include funding of \$2,250,000 from the insurance tax distribution fund for providing grants to emergency medical services operations. This represents a \$1 million increase from the 2007-09 legislative appropriations for emergency medical services operation grants of \$1,250,000.

The 2009 Legislative Assembly rebased Medicaid ambulance rates to the level provided by Medicare. The cost of rebasing the rates was \$2,011,114, of which \$743,710 was from the general fund. The table below provides information regarding the 2007-09 and 2009-11 biennium legislative appropriations for Medicaid reimbursement of ambulance services:

	<b>2007-09 Biennium</b>	<b>2009-11 Biennium</b>
General fund	\$1,067,942	\$1,855,093
Federal funds	1,896,077	3,794,061
<b>Total</b>	<b>\$2,964,019</b>	<b>\$5,649,154</b>

The 2009 Legislative Assembly provided the State Department of Health an appropriation of \$500,000 from the insurance tax distribution fund for a grant to contract with an organization to:

1. Develop, implement, and provide an access critical ambulance service operations assessment process for the purpose of improving emergency medical services delivery;
2. Develop, implement, and provide leadership development training;
3. Develop, implement, and provide a biennial emergency medical services recruitment drive; and
4. Provide regional assistance to ambulance services to develop a quality review process for emergency medical services personnel and a mechanism to report to medical directors.

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information regarding current funding sources for emergency medical services in the state.

2. Receive and review information regarding the feasibility and desirability of implementing a statewide funding formula for emergency medical services.
3. Receive a report from the State Department of Health regarding the use of funding provided for grants to emergency medical services operations during the 2009-11 biennium.
4. Receive testimony from other interested organizations and individuals regarding the committee's study of emergency medical services funding.
5. Develop committee recommendations and any related bill drafts.
6. Prepare a final report for submission to the Legislative Council.

Mr. Tim Meyer, Director of Emergency Medical Services and Trauma, State Department of Health, provided information to the committee regarding funding provided to the State Department of Health for emergency medical services. He said funding was first provided by the 2007 Legislative Assembly for emergency medical services staffing grants. He said legislative appropriations for the grant program during the 2009-11 biennium will be used to continue funding for staff obtained as a result of the 2007-09 grants.

Mr. Meyer said the State Department of Health is developing a competitive bid process to contract with an entity to improve emergency medical services by developing and implementing an assessment process, developing a quality review process, providing leadership development training, and conducting a personnel recruitment drive. A copy of the information presented is on file in the Legislative Council office.

Representative Vigesaa said it is important to continue providing funding for existing recipients of emergency medical services staffing grants.

In response to a question from Senator Lee, Mr. Meyer said of the 142 ambulance services in the state, 108 are designated as access critical. He said an annual call volume of at least 400 calls is used to determine if an ambulance service is access critical.

In response to a question from Senator Lindaas, Mr. Meyer said an ambulance service in Minnewauken recently discontinued its services. He said neighboring ambulance services were required to provide services to areas previously served by the Minnewauken ambulance service.

In response to a question from Senator O'Connell, Mr. Meyer said more ambulance services may consolidate in the future. He said existing ambulance stations may be used as substations after a consolidation takes place.

In response to a question from Senator Nodland, Mr. Meyer said there are no standards for response times of an ambulance service. He said the Health Council may establish rules in the future regarding ambulance response times.

In response to a question from Representative Kerzman, Mr. Meyer said ambulance services located

on Indian reservations are licensed through the State Department of Health.

In response to a question from Senator Nodland, Mr. Meyer said ambulance service districts used for taxation purposes may not be the same as the response area for the ambulance service.

Mr. Mark Weber, President, North Dakota EMS Association, commented regarding emergency medical services in the state. He said there are currently 40 to 50 ambulance services in the state that may potentially close due to a lack of personnel. He suggested the committee review how emergency medical services are funded in the state, including the amount of funding provided by the state and by political subdivisions. He said the state may need to consider consolidating ambulance services to have a total of 80 to 90 ambulance services in the state. He said options should be developed for communities regarding the level of emergency medical services to be provided.

In response to a question from Representative Kerzman, Mr. Weber said most counties in the state are defined as frontier counties under federal guidelines.

In response to a question from Senator O'Connell, Mr. Weber said the three main challenges for emergency medical services operations in the state are funding, education, and personnel.

Representative Porter suggested the committee gather information from rural ambulance services regarding challenges being faced by rural ambulance services. He also expressed concern regarding the lack of federal homeland security funding provided to ambulance services in the state.

Senator Lindaas suggested the committee review the status of rural fire departments in the state, including issues with personnel and training.

Representative Schmidt expressed concern regarding the increased burden to neighboring ambulance services when an ambulance service closes.

**It was moved by Representative Porter, seconded by Senator Lindaas, and carried on a voice vote that the Public Safety and Transportation Committee approve the following emergency medical services study plan:**

- 1. Receive and review information regarding current funding sources for emergency medical services in the state.**
- 2. Receive and review information regarding the feasibility and desirability of implementing a statewide funding formula for emergency medical services.**
- 3. Receive a report from the State Department of Health regarding the use of funding provided for grants to emergency medical services operations during the 2009-11 biennium.**
- 4. Receive information from rural ambulance services regarding challenges being faced by rural ambulance services.**

- 5. Receive information regarding issues with personnel and training affecting other rural emergency services in the state.**
- 6. Receive testimony from other interested organizations and individuals regarding the committee's study of emergency medical services funding.**
- 7. Develop committee recommendations and any related bill drafts.**
- 8. Prepare a final report for submission to the Legislative Council.**

The committee recessed for lunch at 11:55 a.m. and reconvened at 1:00 p.m.

## **STUDY OF 911 SERVICES AND INFRASTRUCTURE**

The Legislative Council staff presented a memorandum entitled [Study of 911 Services and Infrastructure](#). The Legislative Council staff said Section 2 of 2009 House Bill No. 1412 provides for a Legislative Council study of emergency services communication, including a review of the following areas:

- Equity of the 911 fee structure.
- A review of fees, taxes, and assessments for services.
- Equity of services.
- Payments among residents within service areas.
- Fee collection methods.
- Current and future funding of emergency communications in the state.

The study was assigned to the Public Safety and Transportation Committee by the Legislative Council. The Legislative Council chairman directed that the portion of the study relating to fees and taxes be reassigned to the Taxation Committee with the portion of the study relating to services and infrastructure retained by the Public Safety and Transportation Committee.

The Legislative Council staff said NDCC Chapter 37-17.3 provides for the State Radio broadcasting system as managed by the Division of State Radio for the purpose of transmitting state business and information. The Division of State Radio provides voice and data communications to federal, state, local, and tribal public safety entities through a number of different systems, including:

- **The State Radio emergency services communications system** - Provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services.
- **Mobile data terminal services** - Provides law enforcement with mobile communications (primarily laptop computers in vehicles) to access databases and vehicle information.
- **Law enforcement telecommunications system** - Provides information on wanted

felons, state-to-state information on crimes, and everyday police activities.

The Division of State Radio operates a public safety answering point, which is a 24-hour-a-day communications center that receives 911 calls from individuals within a 911 service area and, as appropriate, directly dispatches public safety services or extends, transfers, or relays 911 calls to appropriate public safety agencies. State Radio serves as the public safety answering point for 22 small population counties. A 911 call made in one of these counties is routed to State Radio. State Radio staff is responsible for collecting the necessary information and dispatching appropriate units and personnel. In addition to the public safety answering point operated by State Radio, there are 22 locally operated public safety answering points. The majority of the 22 locally operated public safety answering points are physically located and operated within law enforcement buildings and others are located in courthouses and commercial buildings.

North Dakota Century Code Section 37-17.3-08 provides the requirements relating to the establishment and charging of fees for mobile data terminal and 911 emergency services provided by State Radio. The Division of State Radio may charge fees to the 22 small population (less than 20,000 residents) counties for providing 911 emergency dispatching services. The fee to be paid by the political subdivisions is to be consistent with the actual costs of providing the service per telephone access line and wireless access line for 911 services provided to political subdivisions. As of July 1, 2009, the monthly fee charged to counties was 38 cents per telephone and wireless line.

The fees for providing mobile data terminal services to participating local law enforcement agencies must be based on actual costs incurred by the division in providing the service. The Division of State Radio's fee for mobile data terminals is \$12.32 per month for each user.

North Dakota Century Code Section 37-17.3-08 establishes the fees that the Division of State Radio is to charge for the law enforcement telecommunications system. Counties are responsible for approximately 50 percent of the system's cost based on the following schedule of charges per terminal:

- Counties with a population of less than 5,000 are to pay \$30 per month.
- Counties with a population of 5,000 to 9,999 are to pay \$60 per month.
- Counties with a population of 10,000 to 14,999 are to pay \$90 per month.
- Counties with a population of 15,000 to 24,999 are to pay \$100 per month.
- Counties with a population of 25,000 or more are to pay \$160 per month.

The fee for other law enforcement agencies to participate in the law enforcement telecommunications system is to be based on the actual cost of providing

this service. During 2008 the cost of providing the service was \$298.48 per terminal per month.

House Bill No. 1016 (2009) provided \$500,000 from the general fund for improving State Radio communications coverage in the state and is to be used for conducting a study of the effects of Next Generation 911 (\$100,000), alternatives to constructing new State Radio towers (\$75,000), and a new State Radio tower site near Wales (\$325,000).

The Legislative Council staff presented the following proposed study plan for consideration by the committee:

1. Receive and review information regarding the current emergency communications services and infrastructure in the state, including coverage areas.
2. Receive testimony from the Department of Emergency Services regarding potential changes to the 911 system in the state, including implementation of enhanced 911 services.
3. Receive testimony from other interested organizations and individuals regarding the committee's study of 911 services and infrastructure.
4. Develop committee recommendations and any related bill drafts.
5. Prepare a final report for submission to the Legislative Council.

In response to a question from Senator Cook, Mr. Mike Lynk, Director, Division of State Radio, Department of Emergency Services, said the law enforcement telecommunications system and mobile data terminal services system are available to all counties in the state. He said the State Radio communications system is utilized primarily by 22 small population counties but is also available to all counties in the state.

In response to a question from Senator O'Connell, Mr. Lynk said there are some capabilities to determine the location of cell phone users who request emergency assistance. He said some cell phones provide information regarding the location of the user making the emergency call.

In response to a question from Senator Lindaas, Mr. Lynk said the transmission towers for the State Radio system were recently converted from an analog to digital format. He presented the committee with a map detailing the approximate coverage of State Radio towers in the state. A copy of the map is on file in the Legislative Council office.

In response to a question from Senator Nodland, Mr. Lynk said each county maintains information regarding response areas for emergency services. He said the public safety answering point that receives an emergency call determines the appropriate agencies to respond to the emergency.

In response to a question from Representative Vigessa, Mr. Russ Lindblom, 911 Coordinator, North Dakota Association of Counties, said the type of cell phone used in an emergency call determines the

amount of information provided to an emergency dispatcher. He said some cell phones have the capability to provide an emergency dispatcher with the location of the caller.

In response to a question from Representative Kerzman, Mr. Lindblom said some counties do not have street signs in rural areas that can be used by emergency responders. He said the installation of street signs is generally the responsibility of the county.

In response to a question from Senator O'Connell, Mr. Lynk suggested the committee review, as part of its study on 911 services and infrastructure, the interaction between public safety answering points during emergencies and the potential implementation of Next Generation 911 services.

Senator Cook suggested the committee further review enhanced 911 services available, including potential costs as part of its study of 911 services and infrastructure.

In response to a question from Representative Kerzman, Mr. Lynk said the interoperability among public safety answering points is an important issue to consider. He said agreements between public safety answering points may already exist but a statewide review should be conducted to determine if any deficiencies exist.

Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, provided comments regarding the study of 911 infrastructure. He said that he would provide the committee with a report prepared for the Association of Counties regarding planning for Next Generation 911.

**It was moved by Representative Uglem, seconded by Representative Gruchalla, and carried on a voice vote that the Public Safety and Transportation Committee approve the following 911 services infrastructure study plan:**

1. **Receive and review information regarding the current emergency communications services and infrastructure in the state, including coverage areas.**
2. **Receive testimony from the Department of Emergency Services regarding potential changes to the 911 system in the state, including implementation of enhanced 911 services.**
3. **Receive testimony from other interested organizations and individuals regarding the committee's study of 911 services and infrastructure.**
4. **Receive and review information regarding enhanced 911 services available, including associated costs.**
5. **Receive information regarding the interoperability of public safety answering points in the state.**
6. **Develop committee recommendations and any related bill drafts.**
7. **Prepare a final report for submission to the Legislative Council.**

Representative Kerzman suggested the committee review the interoperability of public safety answering points, including the use of backup answering points during emergencies.

## **OTHER COMMITTEE RESPONSIBILITIES**

The Legislative Council staff presented a memorandum entitled [Other Duties of the Public Safety and Transportation Committee - Background Memorandum](#). The Legislative Council staff said that in addition to study assignments, the Public Safety and Transportation Committee has been assigned to receive the following reports:

- A report from the Emergency Services Communications Coordinating Committee pursuant to NDCC Section 57-40.6-12 regarding the use of assessed communication service fee revenue and recommendations regarding changes to the operating standards for emergency services communications.
- A report from the Department of Transportation pursuant to Section 4 of 2009 Senate Bill No. 2012 regarding any transfer between operating and capital assets line items when it is cost-effective for the construction and maintenance of highways.
- A report from the Department of Emergency Services regarding emergency snow removal grants distributed to counties, townships, and cities. The Legislative Council directed the Public Safety and Transportation Committee to receive this report in addition to the Budget Section, which will receive the report pursuant to Section 7 of 2009 Senate Bill No. 2012.
- Reports from the Department of Emergency Services regarding emergency disaster relief grants awarded to political subdivisions. The Legislative Council directed the Public Safety and Transportation Committee to receive this report in addition to the Budget Section, which will receive the report pursuant to Section 8 of 2009 Senate Bill No. 2012.

Mr. Lynk presented the committee with information regarding emergency snow removal grants provided to counties, cities, and townships. He said grants were available to the political subdivisions for 50 percent of the snow removal costs from January 2009 through March 2009 that exceeded 200 percent of the average cost incurred by the political subdivision for snow removal for these months in 2004 through 2008. He said of the \$20 million available for emergency snow removal grants, approximately \$7.7 million has been distributed.

## **COMMITTEE DISCUSSION AND STAFF DIRECTIVES**

Representative Gruchalla suggested the committee review traffic fines charged by the state and cities, including how the fines compare to the

other states. Chairman O'Connell said permission to review traffic fines would need to be granted by the Legislative Council chairman because the review is outside of the scope of the committee's assigned studies.

Chairman O'Connell said the next committee meeting is tentatively scheduled for October 2009 in Fargo.

**It was moved by Senator Cook, seconded by Senator Lindaas, and carried on a voice vote that the committee adjourn subject to the call of the chair.**

Chairman O'Connell adjourned the meeting at 2:30 p.m.

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Brady A. Larson  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:1