

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TAXATION COMMITTEE

Thursday, October 29, 2009
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dwight Cook, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Dwight Cook, John M. Andrist, Joe Miller, Tracy Potter, Bob Stenehjem, Constance Triplett; Representatives Larry Bellew, Wesley R. Belter, David Drovdal, Robert Frantsvog, Glen Froseth, Craig Headland, Jim Kasper, Louis Pinkerton, Arlo Schmidt, Gary R. Sukut, Dave Weiler, Lonny Winrich

Members absent: Senators Jim Dotzenrod, George Nodland; Representatives Scot Kelsh, Dwight Wrangham

Others present: Representative Merle Boucher, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

Committee counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) for the 2009-10 interim.

CHAIRMAN'S COMMENTS

Chairman Cook welcomed committee members and said in addition to assigned studies for the Taxation Committee, there will be several taxation issues to monitor. He said federal legislative issues may become significant to North Dakota legislators.

Chairman Cook said with regard to personal income tax, Congress has two bills pending--H.R.1083 and H.R.2110--to limit the authority of states to tax certain income of nonresidents for employment duties performed in the taxing state. He said under current law anything earned from day one is taxable in the state in which the employment is performed. He said the federal legislation would establish a de minimis of 15 days or 30 days of employment within a state by a nonresident before the income is subject to income taxes in that state. He said the National Conference of State Legislatures did not support either of the pending bills because they preempt states' authority to establish state tax policy.

Chairman Cook said another pending issue relates to online travel companies. He said these companies sell hotel room occupancy under agreement with the hotel. He said the travel company charges the full sales tax due for the sale price charged by the travel company. He said the travel company pays the hotel the amount agreed upon between the hotel and the travel company and transfers the sales tax on the

agreed amount to the hotel. He said the profit is retained by the travel company and the amount of sales tax collected on the retained profit is also retained by the travel company. He said federal legislation is pending that would require payment of all sales taxes collected by the travel company on the hotel room rental.

Chairman Cook said as issues arise that may be of interest to the Taxation Committee, information will be provided to the committee, and if the issue appears to require legislative action, a request can be made to the Legislative Management chairman for expanded study authority.

COMMITTEE ASSIGNMENTS

Chairman Cook called on committee counsel for preliminary information on committee assignments. Committee counsel said the committee has been assigned studies of property tax reform and relief, homestead property tax extension, and mineral impact and taxation issues by the Legislative Management. He said the Legislative Management chairman also assigned to the committee a portion of the study under Section 2 of House Bill No. 1412 (2009), which is the portion of the study relating to equity of the 911 fee structure and fees, taxes, and assessments for services; equity of services and payments among residents within service areas; fee collection methods; and current and future funding of emergency services communications in the state. He said another portion of the study was assigned to the Public Safety and Transportation Committee relating to 911 services and infrastructure.

Committee counsel said Senate Bill No. 2052 (2009) extended the deadline for imposition of penalties through 2011 for counties to fully implement use of soil type or soil classification data from detailed and general soil surveys in agricultural property assessments. He said the 2007-08 interim Taxation Committee monitored county compliance and recommended the 2009 bill to extend the deadline. He said the Taxation Committee should continue to monitor county compliance and consider whether the penalty provision should be extended or eliminated. He said this monitoring was not specifically assigned to the committee but would be an issue within the property tax reform and relief study assigned to the committee.

Committee counsel said under North Dakota Century Code Section 57-51-15, the Taxation Committee was assigned to receive a report from the Tax Commissioner within 120 days after the end of each fiscal year from compiled reports from counties receiving allocations from oil and gas gross production tax revenues to describe funds received, expended, and unexpended. He said the first fiscal year of the new allocation of funds will end June 30, 2010. He said this would mean the Tax Commissioner's first report would be due at the end of October 2010. He said the report of the Tax Commissioner will probably not be available by the time the Taxation Committee completes its interim activities. He said the timeline for the report was chosen in discussion of 2009 legislation to make the report available for consideration by the 2011 Legislative Assembly.

Committee counsel said Senate Bill No. 2035 (2009) requires the Tax Commissioner to conduct a cost-benefit analysis during the 2009-11 and 2011-13 bienniums of coal severance tax exemptions for coal used in agricultural processing facilities or facilities owned by a state or a political subdivision, including use of beneficiated coal. He said the bill requires the Tax Commissioner to report the findings of the analysis to an interim committee designated by the Legislative Management during the 2013-14 interim. He said it appears clear from the terms of the legislation that no report will be provided this interim.

PROPERTY TAX REFORM AND RELIEF STUDY

The chairman called on committee counsel for presentation of a memorandum entitled [Property Tax Reform and Relief - Background Memorandum](#).

Committee counsel reviewed how property tax liability is determined for property owners. He said 2009 property tax statements must be mailed to property owners by December 26, 2009. He said this will be the first opportunity for property owners to see how much property tax reduction they will receive as a result of the property tax relief provided by Senate Bill No. 2199 (2009) and other legislation.

Committee counsel described how the mill rate for property tax purposes is determined and how property is assessed. He reviewed property tax statistical information in the memorandum and information on state funding to political subdivisions in comparison with increases in property taxes levied by political subdivisions. He reviewed home rule sales tax and city special assessment revenues.

Committee counsel reviewed property tax relief legislation. He described the permanent and temporary provisions of Senate Bill No. 2032 (2007), which provided an income tax credit for a portion of property taxes paid on homestead property. In response to a suggestion from the committee, the chairman directed that information be provided at the next meeting on the net effect of Senate Bill No. 2032.

Committee counsel described the provisions of Senate Bill No. 2199 (2009). He said one provision that should be reexamined relates to provisions for failure of school districts to obtain voter approval for excess levies. He said the bill provides that if voter approval is not obtained by 2015, the school district will be subject to the statutory levy provisions based on the number of mills levied in the highest of the most recent three years. He said another provision in the bill provides that a school district is subject to a levy in dollars not higher than the 2008 levy. He said there is an apparent conflict between these provisions which probably should be clarified. He said other corrections may require consideration.

Committee counsel reviewed other 2009 property tax legislation and said the study directive to the committee requires consideration of the following issues:

1. Monitoring property tax effects of Senate Bill No. 2199 (2009). He said this requires review of 2009 property tax levy data, which should become available by the next committee meeting.
2. Reducing taxpayers' annual property tax bills to an amount not more than 1.5 percent of the true and full value of property. He said this will also require analysis of 2009 property tax levies.
3. Proper measure of education funding from local taxation and state resources.
4. The variability of funding resources among taxing districts.
5. Improved collection and reporting of property tax information to identify residency of property owners with minimized administrative difficulty.

Committee counsel said the issue relating to identifying residency of property owners relates to 2007 legislative deliberation of how to identify nonresident property owners. He said residency of property owners was not a significant issue in 2009 legislation and perhaps residency of property owners is no longer a significant consideration.

Representative Winrich asked whether the 12 percent per year increase in dollars for school district levy limits as amended in 2009 applies to the school district levy subject to a 185-mill limit or the reduced school district levy subject to a 110-mill limit. He said a 12 percent increase of the reduced levy amount would be a smaller permissible increase. Committee counsel said he is not certain against which levy amount the increase would be applied. The chairman requested analysis of the issue for the next committee meeting.

Senator Andrist asked whether the reduction to 1.5 percent of true and full value of property is intended to apply to property as a group or to each individual property. Committee counsel said the 1.5 percent target amount would be on a statewide basis for each property classification.

The chairman asked whether the 1.5 percent target limitation for property taxes could cause an increase in special assessments. Committee counsel said that would be a likely result because there are instances in which local governing bodies must choose between general property tax revenues or special assessment revenues for funding sources. The chairman asked if information can be gathered for the committee on the political subdivisions that use special assessment funding more than the average.

Representative Frantsvog said it is important to recognize that special assessments are not a revenue source for cities. The chairman said that is correct; however, it often comes down to a choice between using property tax revenues or special assessment revenues for funding a project.

Representative Kasper said with regard to 1.5 percent as a goal for the maximum tax rate for property, information should be provided on each political subdivision over the most recent 10 years regarding levies, effective tax rates, and other statistical information. Committee counsel said providing information for each political subdivision would be extremely difficult. He said information can be provided, but discretion must be applied to reduce the number of political subdivisions involved in the statistics.

Senator Stenehjem said special assessments relate to growth in a community. He said if there is no growth, there are probably no special assessments. He said special assessment levies are allowed to also cover engineering, administration, and other costs associated with the project. Senator Cook said information on the amount of special assessments levied compared to the actual cost of the construction would be significant information and asked committee counsel to gather information on that issue for the next meeting.

Senator Andrist said special assessments can be levied for new construction or maintenance of existing infrastructure. He said it may be necessary to differentiate the type of project because new construction projects will involve greater engineering and administrative costs.

The chairman asked Ms. Marcy Dickerson, State Supervisor of Assessments, Tax Department, when the committee could begin to look at 2009 levies by political subdivisions. She said it will be June 2010 before final information is completed for 2009 levies. The chairman asked if it would be possible to determine effective tax rates for property classifications before the effects of Senate Bill No. 2199 (2009). Ms. Dickerson said information could be presented based on 2008 tax information. Committee counsel asked whether any preliminary information on 2009 property tax levies would be available before June. Ms. Dickerson said some information may be available before that time but final information will take time to compile. Committee counsel asked whether the Department of Public Instruction would have information on school district

general fund levies for 2009 at an earlier time. Ms. Dickerson said she is not certain when information might be available from the Department of Public Instruction.

Chairman Cook asked Ms. Dickerson whether the resident versus nonresident property ownership issue had been resolved. She said nothing has been done to provide better information. She said the problem remains that property tax statements have a mailing address for the responsible party, but that address may not be the location of the owner's primary residence.

Chairman Cook asked Ms. Dickerson whether claims for the homestead credit under this 2007 legislation could be used to identify resident property owners. Ms. Kathy Strombeck, Analyst, Tax Department, said use of the claims for 2007 and 2008 could identify resident property owners but the information would be flawed because a correction bill was needed in 2009 and filings are not final yet under those changes.

Chairman Cook said committee counsel mentioned a possible change to Senate Bill No. 2199 (2009) and asked Ms. Dickerson if she is aware of other changes. She said there are some issues in the nature of cleanup corrections, and the Tax Department will discuss possible changes with committee counsel and provide information to the committee.

Chairman Cook asked whether information is available on payments in lieu of taxes and the effect of the 2009 property tax relief program on those payments. Ms. Dickerson said the State Board of Equalization has information on payments in lieu of taxes to identify the types of property subject to those payments. Chairman Cook asked Ms. Dickerson to provide information to the committee.

Chairman Cook said 2009 legislation reduced the window for approval by the State Board of Equalization of property assessments to 95 percent to 100 percent of property value as determined under the sales ratio study. He asked whether that has created any issues for the State Board of Equalization. Ms. Dickerson said the window might be too restrictive and she would recommend a range of 90 percent to 100 percent because various issues arise in assessments for various taxing districts.

HOMESTEAD CREDIT STUDY

Chairman Cook called on committee counsel for presentation of a memorandum entitled [*Homestead Property Tax Credit - Extension to All Residential Property - Programs in Other States - Background Memorandum*](#). Committee counsel said the study directive directs a study of feasibility and desirability of providing a homestead credit for all North Dakota property owners and occupants. He said since 1969 North Dakota has provided a homestead property tax credit for individuals age 65 or older with limited income. He said it appears the study directive is targeted to consideration of making homestead property tax credits available to all homeowners

without regard to income or age restrictions, similar to the approach used in several states. He said it appears the reason the study focuses on residential property relates to the disparity between the effective tax rates for agricultural property and residential property. He said for 2007 the effective tax rate for agricultural property was 0.81 percent, and the effective tax rate for residential property was 1.90 percent. He said 2009 legislative changes will change the effective tax rates for property types, and it appears the intent of the study directive is to consider homestead property tax credits to bring the effective tax rate for residential property to a percentage closer to the agricultural property effective tax rate.

Committee counsel reviewed the history of the existing homestead property tax credit, including statistical information illustrating the amount of property tax reduction for homeowners at different income levels and qualifying homeowners and renters from 1975 through 2008.

Committee counsel reviewed the information in the memorandum on homestead property tax credits for each state and the District of Columbia. He said it appears the majority of the states use a residential homestead property tax credit as part of their property tax systems. He said each state program is unique and is affected by numerous variables that are unique to the individual state. He said a homestead credit must fit within the existing framework of the property tax structure of the state, and the amount of property tax relief provided is dependent on several factors, most important of which is probably fiscal health of the state. He said most states have experienced significant budget shortfalls in 2008 and 2009 and may have been forced to reduce state assistance for homestead credit property tax relief to an amount less than the 2007 program reflected in the information provided.

Committee counsel said significant legislative changes in 2009 will affect the effective tax rates for all property types in North Dakota. He said Senate Bill No. 2244 (2009) reduced the capitalization rate in the agricultural property valuation formula for taxable years 2009 and later, which will tend to increase agricultural property assessments gradually for taxable years 2009 and later. He said this could result in shifting of property tax burdens to agricultural property, but the effects will be variable among taxing districts. He said the property tax relief provided by Senate Bill No. 2199 (2009) will reduce the effective tax rates for all property types. He said it will be necessary to await availability of property tax statistics for taxable year 2009 before current effective tax rate comparisons and consideration of relative property tax burdens can be made.

Senator Potter said the information provided in the chart on state homestead credit programs indicates that Wisconsin has a program available to all homeowners and renters for an income tax credit and provides a property tax deferral option for persons age

65 or older who meet income limits. He said he would like to review more detailed information on the programs available in Wisconsin. Committee counsel said more details can be provided at the next committee meeting.

Representative Froseth said it will be important to determine the potential fiscal effect of a homestead property tax credit for all residential property. He said this would expand relief to property that may be difficult to identify. He said he thinks the 2007 homestead income tax credit might be used to identify property that could qualify for an expanded credit. He asked if the Tax Department could be requested to identify the number of homestead residential properties in the state and the potential fiscal effect of a credit that would reduce the effective tax rate for residential property to approximately 1.5 percent.

Senator Triplett said it will be difficult to determine the reductions needed because agricultural property valuations will rise for tax purposes over the next several years, and the comparison will change each year. She said these changes must be considered in committee deliberations.

Representative Kasper said he believes it is appropriate to consider a property tax reduction for residential property. He said residential property is different from agricultural and commercial property because residential property has no income-producing aspect. He said as homeowners age, property tax burdens can become harder to bear.

TAX DEPARTMENT PUBLICATIONS

Chairman Cook called on Mr. Ryan Rauschenberger, Deputy Tax Commissioner, Tax Department, for presentation of a review of the information contained in the Tax Department publication *State and Local Taxes - An Overview and Comparative Guide 2008* (The Red Book). He reviewed the information contained in the publication and pointed out the information of particular relevance to committee study topics.

Committee counsel asked when the next publication of The Red Book is scheduled. Mr. Rauschenberger said the publication is prepared every two years and the next update will be published in late 2010.

Chairman Cook called on Ms. Dickerson for a review of information contained in the Tax Department publication *2008 Property Tax Statistical Report*. She reviewed the information available in the report and pointed out how to locate property tax information on various topics. She said the property tax statistical report is prepared each year based on information contained in tax abstracts filed with the Tax Department. She said the 2009 Property Tax Statistical Report is scheduled to be completed in June 2010.

Senator Potter said there is information in the report on the total amount levied in special assessments. He asked whether there is anything to

break down the amount of special assessments against residential, commercial, and agricultural property. Ms. Dickerson said there is no information to break down the amount of special assessments against property classifications because the information reported shows only the total amount of special assessments levied.

MINERAL RESOURCE IMPACT AND TAXATION STUDY

Chairman Cook called on committee counsel for a presentation of a memorandum entitled [Mineral Resource Impact and Taxation Issues - Background Memorandum](#).

Committee counsel said the study directive calls for a very broad study of issues relating to production of mineral resources and specifically identifies the following six issues:

1. Development of relatively new industries, such as uranium, potash, and other minerals not previously produced on a significant economic scale.
2. Environmental, economic, and governmental impact of mineral production.
3. Infrastructure maintenance and development relating to mineral production.
4. Employment opportunities and issues relating to mineral production.
5. Comparison of mineral tax structures in North Dakota and other states.
6. Water supplies and demands relating to mineral production.

Committee counsel reviewed the history of oil and gas gross production tax and oil and extraction tax imposition. He said 2009 legislative changes will allocate substantially more oil and gas gross production tax revenue among oil and gas-producing counties. He said 2007 legislation authorizing the Governor to enter agreements with the Three Affiliated Tribes of the Fort Berthold Reservation have apparently spurred substantial drilling activity on the reservation, including 163 drilling permits and 131 completed wells since July 1, 2008. He said of the 56 drilling rigs operating in the state as of October 2009, 11 are operating on the Fort Berthold Reservation. He said 2009 legislation provided an oil extraction tax rate reduction for horizontal wells from 6.5 percent to 2 percent for wells completed during the time the rate reduction is in effect. He said the legislation provided for the rate reduction to trigger into effect for the month after a month in which the average price for a barrel of crude oil is below \$55. He said the reduction remains in effect until the first day of the month after a month in which the average price of a barrel of crude oil exceeds \$70. He said the reduction triggered into effect on May 1, 2009, and will trigger out of effect November 1, 2009, because the average price of a barrel of crude oil for October 2009 will exceed \$70. He said the rate reduction can trigger into effect again if the average price for a barrel

of oil for a month drops below \$55. He said the rate reduction for wells completed during the time the reduction was in effect continues to apply for wells completed while the reduction was in effect and applies to oil produced during the first 18 months after completion of the well but is limited to the first 75,000 barrels or the first \$4.5 million of gross value of oil produced from the well.

Committee counsel said House Concurrent Resolution No. 3054 (2009) was approved to place on the 2010 general election ballot a measure to establish a constitutional trust fund called the legacy fund. He said if approved by the voters, the measure would require 30 percent of total revenue derived from taxes on oil and gas production or extraction to be transferred to the legacy fund. He said under the measure the principal and earnings of the legacy fund would not be permitted to be expended or transferred until after June 30, 2017. He said the measure provides that an expenditure of principal after June 30, 2017, would require a vote of at least two-thirds of the members elected to each house of the Legislative Assembly and not more than 15 percent of the principal of the legacy fund could be expended during a biennium. The measure provides for transfer of earnings of the legacy fund accruing after June 30, 2017, to the state general fund at the end of each biennium. He said if approved by the voters, the measure would be effective for oil and gas production after June 30, 2011.

Committee counsel said during the 2007-09 biennium, oil and gas tax collections in North Dakota totaled more than \$799 million, of which \$430 million was collected from gross production taxes and over \$368 million was collected from oil extraction taxes. He said the state's share of total oil and gas tax collections was over \$555 million, with more than \$334 million for gross production taxes and more than \$220 million from oil extraction taxes. He said \$71 million of the state's share was deposited in the state general fund and over \$484 million was deposited in the permanent oil tax trust fund. He said during the first four months of the 2009-11 biennium, oil production and tax revenue is running in excess of projections and the state general fund will have received its maximum deposits of \$71 million for the biennium by the end of October 2009.

Committee counsel said the memorandum provides information on the history and rates of the coal severance tax and the coal conversion privilege tax.

Committee counsel said with regard to potential development of new mineral resources, there has been activity indicating an interest in the development of uranium and potash resources. He said North Dakota statutory law does not provide a regulatory and taxation framework for these new mineral industries or other new mineral industries. He said the Industrial Commission adopted rules effective January 1, 2009, governing in situ leach mining for uranium. He said those rules provide a regulatory

framework for uranium mining to protect water supplies, protect the environment and public, and provide for land reclamation after mining activity. He said there is no law or rule relating to taxation of uranium extraction or extraction of any minerals other than oil, gas, and coal. He said the committee should obtain information on current activity or interest in development of new mineral resources and examine how those minerals are regulated and taxed in other states.

Committee counsel said 2009 legislation should provide a substantial enhancement to political subdivision infrastructure maintenance and development. He said as information becomes available on the effects of additional funding to political subdivisions, consideration can be given to whether the desired results are being achieved. He said representatives from the Department of Transportation, local governments, and the Energy Development Impact Office should be requested to address the committee regarding state and local infrastructure issues.

Committee counsel said the study directive calls for examination of employment opportunities and issues. He said it is not clear what opportunities and issues are intended to be considered. He said representatives of industry and state and local government should be requested to point out employment opportunities and issues they determine worthy of committee consideration.

Committee counsel said it would be worthwhile to compare North Dakota mineral tax policy with tax policy in neighboring states to determine whether North Dakota encourages or discourages investment relative to neighboring states.

Committee counsel said water demands of mineral production will be a growing issue of consideration. He said the oil industry has increased greatly its efficiency and speed in completing horizontal wells and very substantial amounts of water are needed for those operations. He said coal industry water demands also should be examined.

Representative Kasper said pending federal legislation regarding cap and trade and carbon taxes are likely to have a significant effect on North Dakota mineral industries. He said it would be useful to seek testimony from the Lignite Energy Council and oil industry representatives on how they anticipate the North Dakota energy industry to be impacted. Senator Triplett said it would also be useful to obtain the views of the Public Service Commission. Representative Kasper said the electric industry in general also should be requested to provide information. Chairman Cook requested committee counsel to arrange for opinions from these groups and noted that it would be useful to coordinate committee inquiries with the activities of the Energy Development and Transmission Committee.

Representative Froseth said information should be provided on how uranium and potash extraction are taxed in other states. Senator Potter said it would

also be important to determine whether any uranium taxes in other states are dedicated to environmental concerns. Senator Miller asked whether there are any industry people in the uranium or potash industry with whom the committee could discuss these issues.

Committee counsel said with regard to the issue of water supplies, the North Dakota Petroleum Council and other industry groups could be invited to provide information. Representative Kasper said the issue of claiming water rights from Lake Sakakawea or other sources could be explained by the State Water Commission.

Representative Drovdal said part of the oil and gas gross production tax allocation changes in 2009 related to the percentage of employment in cities in the mining industry. He said Job Service North Dakota representatives should be requested to explain to the committee what employees are to be considered part of the mining industry.

911 FEE STRUCTURE STUDY

Chairman Cook said 2009 legislation changed funding for 911 services and provided for a study that was initially assigned to the Public Safety and Transportation Committee. He said the Legislative Management chairman has [assigned](#) to the Taxation Committee the portions of the study relating to equity of the 911 fee structure.

Chairman Cook called on Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, for testimony ([Appendix B](#)) on the 911 taxation study. He also provided copies of a handout ([Appendix C](#)) containing information referred to in his testimony.

Mr. Traynor reviewed his testimony and the information in the handout and said the North Dakota Association of Counties believes that it is premature to make significant changes to the current fee structure. He said the current fee structure is inadequate but does cover two-thirds of the allowable costs of the system, and further decreases to this fee revenue would only increase the burden for either state-collected taxes or property taxes. He said the situation could change quickly if Congress moves on streamlined taxing proposals, but at this time, the association has no alternatives to propose that it believes would generate the same or more funding and be politically feasible.

Senator Andrist asked whether consideration should be given to the state taking over funding for the 911 system. Mr. Traynor said counties probably would resist that change. He said the state and counties together should work to reach a funding solution for Next Generation 911 services.

Senator Cook asked how many cellular phones and other devices are not subject to the current \$1 fee. Mr. Traynor said he does not have statistical information for North Dakota, but nationally it is about 16 percent of devices that are not subject to fees.

In response to a question from Senator Cook, Mr. Traynor said he believes Congress is considering

point-of-sale legislation. Senator Cook said he believes there are already sourcing problems for 911 services. Mr. Traynor said that is correct.

In response to a question from Senator Cook, Mr. Traynor said some 911 jurisdictions get by better than others, but every 911 jurisdiction has some level of property tax supplement for funding the system.

Senator Potter asked why counties want to retain the current funding for 911 services instead of moving to state funding. Mr. Traynor said counties took the lead originally on establishing and funding the system and would be reluctant to relinquish control because counties are dispatching emergency services within their jurisdictions and are familiar with the personnel and coverage area. Senator Potter asked if counties would feel differently if the state paid the costs of the system in place of collection of fees and property taxes but allowed counties to retain control of operations. Mr. Traynor said counties would not be as likely to object under those circumstances but assuring that the money gets down to the local level would be a continuing concern.

Representative Drovdal said it is permissible for counties to impose a fee of \$1.50 for 911 services but no county has moved from the \$1 fee to the \$1.50. He asked why no counties have made this change if they are forced to levy property taxes. Mr. Traynor said counties in which dispatches are handled by the Division of State Radio were concerned that State Radio would increase fees, but the increase was less than expected. He said going to the higher fee is still an issue of debate in some counties.

Senator Andrist said it appears the 911 system needs more central planning and funding assistance and telecommunications companies must be getting tired of collecting 911 fees on phone service bills. Mr. Traynor said state control is an option some states have chosen, but he believes counties in North Dakota can efficiently manage the system.

Senator Triplett said Mr. Traynor described a problem with text messages to a 911 call center that are not received by the call center. She asked whether the sender receives a response that the text message did not go through. Mr. Traynor said no notice is provided to the sender and the call center is unaware that a message was sent.

Senator Cook said there are some philosophical issues involved with funding for 911 services. He said under current technologies there is a question of whether funding with user fees is outdated. He said the user of the device subject to the fee may not be the beneficiary of the emergency call if it is made on behalf of another individual. He asked why not impose a flat fee per person on a statewide basis. Mr. Traynor said there are some fairness issues and he does not believe fees are as fair as in the times when there were only landlines. He said other states have explored options and one state has discussed an electricity user tax for 911 services. He said there is no connection between electricity service and

911 service but everyone uses electricity and everyone would share in the cost of the 911 system.

Senator Andrist asked that the Information Technology Department and the Division of State Radio be requested to provide input to the committee on how the committee study should proceed.

COMMITTEE DISCUSSION

Senator Cook distributed copies of two handouts ([Appendices D](#) and [E](#)). The first handout is a document providing a summary of 911 fee policy considerations and prepaid wireless and point-of-sale charges prepared by a group of individuals representing the wireless industry and retailers. He said the document provides a good summary of current issues in fee imposition.

Senator Cook said the second handout is a copy of testimony presented on behalf of the National Conference of State Legislatures (NCSL) by state Representative Phil Montgomery, a Wisconsin legislator who serves as chairman of the NCSL Committee on Communications, Financial Services, and Interstate Commerce. Senator Cook said NCSL expressed support for legislation to extend the federal Mobile Telecommunications Sourcing Act to Voice over Internet Protocol. He said the testimony presents the arguments for the extension of federal law to Voice over Internet Protocol.

Representative Drovdal said there is an issue with 911 user fees in his area. He said in that area there is a lot of traffic originating outside the area due to heavy traffic from the oil industry and other causes and 911 calls are made to local answering points and place demands on local emergency service providers. He said fees on the devices used by traffic moving through the area would not help on the local level because the fees would be distributed to the home area of the user. He said it is important to examine areas of demand for services as well as areas of registered users of communications devices.

Representative Drovdal said tax increment financing is an issue that becomes a matter of concern at times in different communities. He said it would be useful to examine the current state of the laws on tax increment financing. Chairman Cook requested committee counsel to provide information to the committee at the next meeting.

Representative Kasper said examination of property tax levies or spending limits for political subdivisions and the issues of using a building authority to avoid a public vote on a bond issue are issues that were debated last session and in previous sessions. He said these issues should be discussed by the committee. Chairman Cook requested committee counsel to provide information to the committee on these issues for the next committee meeting.

Representative Headland said there has been discussion at the national level of changes of the Uniform Division of Income Tax Purposes Act, relating to how corporate income is allocated among states for

income tax purposes. He said the committee should receive an update on this issue and where it might be going. Chairman Cook requested committee counsel to arrange for information on this topic for the next committee meeting.

Chairman Cook said it appears the next meeting of the committee will be held after the first of the year.

No further business appearing, Chairman Cook adjourned the meeting at 2:00 p.m.

John Walstad
Code Revisor

ATTACH:5