

July 2009

## EMERGENCY MEDICAL SERVICES FUNDING - BACKGROUND MEMORANDUM

The Public Safety and Transportation Committee has been assigned various responsibilities related to the funding of emergency medical services in North Dakota. These responsibilities include:

- Section 5 of 2009 Senate Bill No. 2050 (attached as [Appendix A](#)) provides for a study of emergency medical services funding within the state, including state and local emergency medical services and ambulance service funding and the feasibility and desirability of transitioning to a statewide funding formula.
- Section 6 of 2009 Senate Bill No. 2004 (attached as [Appendix B](#)) provides for the Legislative Council to receive a report from the State Department of Health on the use of funding provided for grants to emergency medical services operations during the 2009-11 biennium.

### STATUTORY BACKGROUND

#### Emergency Medical Services System

North Dakota Century Code (NDCC) Chapter 23-27 (attached as [Appendix C](#)) provides that the State Department of Health is the licensing authority for emergency medical services operations. The section 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.

#### Emergency Medical Services Licensing

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. All license fees must be paid to the State Department of Health, deposited with the State Treasurer, and credited to the state general fund. Emergency medical services personnel are not subject to a license fee. The State Department of

Health currently licenses 142 ambulance services annually in North Dakota.

The Health Council is also responsible for establishing rules for licensure. These rules must include:

- Time when operators' services must be available.
- Type of motor vehicle operator's license needed for drivers of ground vehicles.
- Training standards for operation personnel.
- Equipment and ground vehicle standards.
- Number of personnel required for each run.
- The scope of practice for uncertified drivers, certified personnel, and emergency medical services professionals.
- Performance standards, which may include response time standards.
- Other requirements as necessary.

#### Emergency Medical Services Training and Certification

North Dakota Century Code Section 23-27-04.2 requires the State Department of Health to assist in the training of emergency medical services personnel of certain emergency medical services operations and to financially assist certain emergency medical services operations in obtaining equipment. This section provides:

- Assistance must be within the limits of legislative appropriation.
- The department is to adopt eligibility criteria for assistance in the training of emergency medical services personnel.
- To qualify for financial assistance for equipment, an emergency medical services operation is to certify, in the manner required by the department, that the operation has 50 percent of the amount of funds necessary for identified equipment acquisitions.
- The department is to adopt a schedule of eligibility for financial assistance for equipment.
- The department may establish minimum and maximum amounts of financial assistance to be provided to an emergency medical services operation. If applications for financial assistance exceed the amount of allocated and available funds, the department may prorate the funds among the applicants in accordance with criteria developed by the department.
- No more than one-half of the funds appropriated by the Legislative Assembly each biennium and allocated for training assistance may be distributed in the first year of the biennium.

North Dakota Century Code Section 23-27-04.3 requires the Health Council to adopt rules prescribing minimum training, testing, certification, licensure, and quality review standards for emergency medical services personnel, instructors, and training institutions. Rules adopted must:

- Define minimum applicable standards.
- Define emergency medical services personnel.
- Provide for a mechanism for certifying or licensing persons who have met the required standards.
- Provide a mechanism to review and improve the quality of care rendered by emergency medical services personnel.
- Define minimum standards for emergency medical services training institutions.

### **Emergency Medical Services Funding Sources**

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. Attached as [Appendix D](#) is a summary of federal homeland security funding awarded to counties for ambulance services.

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 provided the State Department of Health with 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 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>

### **2009 RELATED LEGISLATION**

Senate Bill No. 2047 provides a general fund appropriation of \$128,400 to the State Department of Health for the purpose of providing emergency medical training grants to rural law enforcement agencies for licensed officers who choose to become licensed first responders.

Sections 1, 2, 3, and 4 of Senate Bill No. 2050 modifies the definition of "emergency medical services" as the term applies to the chapter of law addressing emergency medical services; directs that the rules addressing emergency medical services operations must include performance standards, which may include response time standards; provides the State Department of Health may regulate the communications methods and protocol for emergency medical services operations; and provides that a taxing district that levies a special emergency medical services or ambulance service levy shall ensure that every ambulance service that has portions of its service area in that taxing district receives a portion of the revenue from that tax and that the taxing district shall allocate the special tax levy revenue to each ambulance service based upon the taxable value of the property within each township of the taxing district.

## PREVIOUS LEGISLATIVE COUNCIL STUDIES

### 2007-08 Public Safety Committee

The 2007-08 interim Public Safety Committee was directed to study the state's emergency medical services system, including the funding, demographics, and impact on rural areas.

The committee received information from representatives of the State Department of Health regarding training and certification for emergency services personnel. The committee learned North Dakota has five levels of training for emergency services personnel--first responder, emergency medical technician (EMT), EMT intermediate '85, EMT intermediate '99, and paramedic. The state also has different scope enhancement courses that individuals may take to supplement their training, including emergency vehicle operations, emergency medical dispatch, automobile extrication, manual defibrillation, intravenous maintenance, flight medical crew, epinephrine administration, dextrose administration, bronchodilator administration, and multilumen airway insertion.

The committee learned 2007 House Bill No. 1296 appropriated \$1,250,000 from the insurance tax distribution fund to the State Department of Health for providing grants for emergency medical services operations. The funding is to provide assistance to ambulance services with staffing needs. The State Department of Health promulgated rules and developed a grant application process for 108 of the state's 141 licensed ambulance services that were identified by the department as being "access critical."

The committee received information from the North Dakota EMS Association regarding proposed changes to the state's emergency medical services system. The association suggested the committee recommend providing \$4,524,000 of additional funding for the emergency medical services operations grant program established by the 2007 Legislative Assembly and expand the program to provide:

- An assessment process that would consist of a group of peers assessing emergency medical services systems' structures, establishing emergency medical services systems' goals, and assisting emergency medical services systems with accomplishing their goals.
- Leadership training to all emergency medical services managers and educators, including a stipend and expense reimbursement of lodging, meals, and mileage for all participants.
- An annual statewide recruitment drive to assist rural ambulance services experiencing difficulties recruiting staff.

The committee recommended 2009 Senate Bill No. 2049 to expand the emergency medical services operations grant program. The bill was not approved by the 2009 Legislative Assembly but would have provided:

- That the State Department of Health contract with a third party for completing an assessment of emergency medical services operations receiving funds under NDCC Chapter 23-40, make leadership training available to all emergency medical services personnel, and develop an annual statewide emergency medical services recruitment drive.
- A \$3,250,000 appropriation from the insurance tax distribution fund to the State Department of Health for providing grants to emergency medical services operations as provided for in NDCC Chapter 23-40 for the 2009-11 biennium.
- A \$1,274,000 appropriation from the insurance tax distribution fund to the State Department of Health for implementing an assessment process, providing leadership training, and developing an annual statewide emergency medical services recruitment drive for the 2009-11 biennium.

The committee also recommended Senate Bill No. 2050, which was approved by the 2009 Legislative Assembly and provided that:

- Emergency medical services are defined as the prehospital medical stabilization or transportation of an individual who is 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 Health Council's rules relating to the licensure of emergency medical services operations include performance standards, which may include response time standards.
- A taxing district that levies property taxes for support of emergency medical services must ensure that every emergency medical services operation that has portions of its service area in that taxing district receives a portion of the revenue from this tax which is equal to the revenue from mills levied for emergency medical services in the townships covered by the emergency medical services operation.
- The State Department of Health may regulate the communications methods and protocols for emergency medical services operations.

### 1997-98 Insurance and Health Care Committee

The 1997-98 interim Insurance and Health Care Committee was directed to study emergency medical services, including a review of the emergency medical services system, the training and equipment funding needs of emergency medical providers, and the role of emergency medical services in trauma care coordination.

The committee received testimony that specific emergency medical services areas in need of funding include retention and training of emergency medical

services providers, transportation funding, equipment funding, and the state trauma plan. Testimony from a representative of an ambulance service indicated that most ambulance services have certain fixed costs regardless of the number of runs made; therefore, in order to provide equitable funding, instead of basing grants on run volume, grants should be based on the fixed costs of an ambulance service. The committee considered possible additional funding sources for emergency medical services, including funds from a telecommunications relay service surcharge, a wholesale or retail liquor tax, a surtax on health and accident insurance policies, and a gasoline tax.

Representatives of the North Dakota EMS Association testified that emergency medical services providers face a significant problem with reimbursement for services. Nationally there is a high percentage of bad debts written off by ambulance services. In addition, Medicare and Medicaid rules change rapidly making it difficult for ambulance services to keep up to date with the rules.

The committee recommended 1999 House Bill No. 1038 to amend the law relating to the State Department of Health's distribution of grant money for prehospital emergency medical services, specifically requiring the equipment grant distribution formula to consider ambulance unit fixed costs and not rely entirely on run volume in the formula. The bill as passed by the Legislative Assembly provided that medical assistance (Medicaid) coverage must include prehospital emergency medical services benefits in the case of a medical condition that causes severe pain and which a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of medical attention to put the person's health in jeopardy.

The committee recommended 1999 House Bill No. 1039 to require that determination of insurance coverage of ambulance services for prehospital emergency medical services be based on a prudent layperson standard. The bill requires insurers to provide coverage for prehospital emergency medical services in cases involving an emergency medical condition. The bill was approved by the 1999 Legislative Assembly.

### **1995-96 Insurance and Health Care Committee**

The 1995-96 interim Insurance and Health Care Committee was directed to study the feasibility and desirability of implementing recommendations by the North Dakota Health Task Force for improving the health status of North Dakotans, to monitor the ratio of health care cost increases, to review the impact of newly enacted programs to improve the health status of North Dakotans, and to address unmet needs in rural areas.

The Health Council established the North Dakota Health Task Force in 1990 to identify and address the major health issues facing the state and to develop appropriate recommendations for change. The task

force identified six critical areas in its review of the health care crises--cost, education and prevention, access, regulation, manpower, and health care policy and delivery systems. In June 1994 the task force submitted its final recommendations for improving the health status of North Dakotans, including the following relating to emergency medical services:

- Emergency medical services should be available within 5 minutes to 90 percent of the population in urban areas and within 10 minutes to 90 percent of the population in rural areas.
- A 911 emergency number system should be extended statewide.
- Access to primary care should be available within 30 minutes at least once per week to at least 90 percent of the rural population.

The committee urged the Health Council to continue studying the implementation of the North Dakota Health Task Force recommendations for improving the health status of North Dakotans.

### **1987-88 Budget Committee on Institutional Services**

During the 1987-88 interim, the Budget Committee on Institutional Services studied the problems faced by and the funding of the North Dakota emergency medical services system and, in particular, volunteer ambulance services and the State Department of Health Division of Emergency Health Services. The committee recommended two bills relating to emergency medical services that were enacted in 1989. One bill extended the definition of "volunteer" as it applies to civil liability protection to emergency medical services providers who received nominal payments for providing services. The other bill, as recommended, would have imposed a 25 cent per month excise tax on telephone access lines to provide financial assistance to licensed ambulance services, training, and equipment. The bill also provided for the creation of a statute that provided how money was to be distributed, and the bill appropriated emergency medical services money from the general fund. As passed, only the portion of the bill that created NDCC Section 23-27-04.2 relating to the distribution of training and equipment grants to licensed ambulance services' prehospital emergency medical services was enacted.

### **PROPOSED STUDY PLAN**

The following is a study plan the committee may wish to consider in its study of emergency medical services:

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.

ATTACH:4