

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### **PUBLIC SAFETY AND TRANSPORTATION COMMITTEE**

Thursday, January 14, 2010  
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, Richard Marcellais, George Nodland; Representatives Edmund Gruchalla, Jerry Kelsh, James Kerzman, Matthew M. Klein, William E. Kretschmar, Michael R. Nathe, Todd Porter, Arlo Schmidt, Elwood Thorpe, Gerry Uglen, Don Vigasaa, Robin Weisz

**Members absent:** Representatives Bob Hunskor, Bob Martinson

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

**It was moved by Representative Weisz, seconded by Representative Klein, and carried on a voice vote that the minutes of the October 15, 2009, meeting be approved as distributed.**

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

Mr. Tim Meyer, Director, Division of Emergency Medical Services and Trauma, State Department of Health, provided information regarding funding for rural emergency medical services (EMS). Mr. Meyer said the amount of taxes levied by counties for EMS varies from no taxes levied in several counties to approximately \$960,944 levied in Grand Forks County. He said seven counties provide EMS funding from their county general fund and Walsh County levies a .25 percent county sales tax for EMS.

Mr. Meyer said the 2009 Legislative Assembly provided \$2.25 million of funding from the insurance tax distribution fund for staffing grants for EMS providers. He said of the 107 eligible ambulance services in the state, 41 applications were received in 2009. He said a total of \$1.1 million in staffing grants were awarded to ambulance services in 2009 with \$1.15 million of funding available for 2010 grants.

Mr. Meyer provided an update on the status of retaining a consultant to study issues affecting EMS pursuant to Section 6 of 2009 Senate Bill No. 2004. He said a request for proposal was issued on November 25, 2009, and the department received one response. He said the applicant did not meet the proposal requirements so the request for proposal was reissued on January 6, 2010, with responses due February 10, 2010.

Mr. Meyer said the State Department of Health may lose federal grant funding that supports EMS training. He said National Highway Traffic Safety

Administration Section 402 highway safety funds have traditionally been used to provide a portion of the funding for personnel that provide EMS training. He said the potential loss of this funding due to federal regulations would cause a budget shortfall of \$280,000 for the State Department of Health.

A copy of the information presented by Mr. Meyer is on file in the Legislative Council office.

In response to a question from Representative Schmidt, Mr. Meyer said the EMS staffing grant requires applicants to provide matching funds. He said ambulance services are required to provide a local match of between 10 percent and 90 percent depending on the needs of the service.

In response to a question from Senator Nodland, Mr. Meyer said ambulance services may only use the EMS staffing grants to provide adequate staffing for ambulance services.

In response to a question from Representative Kerzman, Mr. Meyer said some ambulance services do not receive funding from a tax levy and rely on other sources of revenue, such as billing patients and conducting fundraisers.

In response to a question from Representative Kelsh, Mr. Meyer said the National Highway Traffic Safety Administration develops training standards for EMS personnel.

In response to a question from Representative Kretschmar, Mr. Meyer said all areas of the state are currently receiving adequate EMS.

In response to a question from Representative Vigasaa, Mr. Meyer said the State Department of Health notifies all ambulance services of the availability of funding through the EMS staffing grant program.

In response to a question from Representative Nathe, Mr. Meyer said the State Department of Health does not provide guidance to ambulance services that are developing EMS staffing grant proposals. He said the department would have a conflict of interest if it provided assistance in developing grant proposals since the department is also responsible for reviewing the proposals and awarding the grants.

Mr. Mark Weber, President, North Dakota EMS Association, provided information regarding options for funding EMS in the state. Mr. Weber suggested that ambulance services continue to receive funding from a combination of state and local funds. He said a possible solution to funding problems would be to provide funding to an area of the state rather than to

specific ambulance services. He said funding service areas would allow ambulance services to collaborate and reduce redundancies, maintain local decisionmaking, and facilitate the integration of ambulance services if needed.

A copy of the information presented by Mr. Weber is on file in the Legislative Council office.

In response to a question from Senator Cook, Mr. Weber said ambulance services base their patient charges on the actual cost of services provided.

In response to a question from Senator Lee, Mr. Weber said ambulance services may not charge Medicare patients for additional costs beyond the Medicare reimbursement rate.

Ms. Marnie Olson, Maddock Ambulance Service, provided information regarding challenges of rural ambulance services. Ms. Olson said many ambulance services encounter difficulties due to a lack of leadership and a lack of funding. She said leadership is important to ensure that duties such as scheduling, training, maintenance, recruitment, and bookkeeping are properly completed. She said funding is needed to ensure that an ambulance service has the proper training and equipment.

A copy of the information presented by Ms. Olson is on file in the Legislative Council office.

Ms. Diane K. Witteman, Mohall Ambulance Service, presented information regarding rural ambulance services. Ms. Witteman said additional funding for rural ambulance services assists with recruitment and retention efforts. She said the Mohall Ambulance Service has received an EMS staffing grant, which has allowed the service to pay part-time personnel to cover calls during daytime hours on weekdays when it is difficult to have adequate numbers of volunteers.

A copy of the information presented by Ms. Witteman is on file in the Legislative Council office.

In response to a question from Representative Porter, Ms. Witteman said the Mohall Ambulance Service responds to calls in an adjacent county. She said the adjacent county levies a tax for EMS operations but does not provide the Mohall Ambulance Service with any funding.

Representative Porter expressed concern that counties may not be complying with state statute regarding the distribution of EMS funds collected through EMS tax levies to the appropriate ambulance services.

In response to a question from Representative Thorpe, Ms. Witteman said an ambulance from the closest available ambulance service will be dispatched to a medical emergency regardless of what ambulance service district the emergency is located in.

Mr. Terry Traynor, Assistant Director of Policy and Programs, North Dakota Association of Counties, said the 2009 Legislative Assembly made a change to statute regarding how tax revenue generated for EMS is distributed. Mr. Traynor said the entity collecting

EMS tax revenue must distribute the funding based on the response areas of ambulance services. He said the changes regarding the distribution of EMS tax revenue should be reflected in 2010 county tax distributions to ambulance services.

Mr. Allan Klein, Bismarck Rural Fire Department, provided information to the committee regarding challenges of rural fire departments. Mr. Klein said issues involving training, funding, and personnel affect all fire departments regardless of their type and size. He said many fire departments are operating without proper equipment and without adequately trained personnel.

A copy of the information presented by Mr. Klein is on file in the Legislative Council office.

Representative Porter suggested the committee receive information regarding tax revenue received by rural fire departments as well as information regarding funding provided to rural fire departments from the insurance tax distribution fund.

In response to a question from Senator Marcellais, Mr. Klein said fire departments do obtain some training classes online.

Senator Nodland suggested the committee receive information regarding the amount of mills being levied by rural fire departments.

In response to a question from Senator Lee, Mr. Klein said some federal homeland security grants are still available.

In response to a question from Senator Nodland, Mr. Klein said there are no formal rules regarding response times of rural fire departments.

Mr. Bruce Schreiner, Garrison Fire Department, provided information regarding rural fire departments. Mr. Schreiner said most rural fire departments receive funding from mill levies, from distributions from the insurance tax distribution fund, and from fundraisers. He said the North Dakota Firefighters Association conducts training events that provide many rural fire departments with an opportunity to train personnel.

A copy of the information presented by Mr. Schreiner is on file in the Legislative Council office.

In response to a question from Representative Vigesaa, Mr. Schreiner said minimum training requirements for firefighters vary by fire department.

In response to a question from Representative Uglem, Mr. Schreiner said most of the state is divided into fire districts and departments generally respond to fires in their district. He said mutual aid agreements are used between districts to allow available resources to respond to other districts.

Major General David Sprynczynatyk, Adjutant General, provided information on federal homeland security funding received by the state. Major General Sprynczynatyk said the state has received in excess of \$90 million of federal homeland security funding. He acknowledged that there may have been mistakes in the past regarding the distribution of the federal homeland security funds to political subdivisions.

Mr. Greg Wilz, Director, Division of Homeland Security, Department of Emergency Services, provided information regarding the distribution of federal homeland security funding. Mr. Wilz said funds are distributed according to investments submitted by the Department of Emergency Services and approved by the federal Department of Homeland Security. He said the state's investments align with national priorities and associated target capabilities established by the federal Department of Homeland Security.

Mr. Wilz said 80 percent of federal homeland security funds are mandated for local jurisdictions. He said local entities submit regional applications for investments which are prioritized by regional advisory groups. The state policy network then approves an application if the investment meets grant guidance and is considered a priority area as established by advisory groups. He said \$4 million of funding received in both 2008 and 2009 was earmarked for chemical, biological, radiological, nuclear, and explosive response.

Mr. Wilz provided a schedule detailing the distribution of federal homeland security funding, including the amount that was distributed for EMS purposes. From 2002 through 2009, approximately \$3.2 million of federal homeland security funding has been distributed for EMS-related purposes.

A copy of the information presented by Mr. Wilz is on file in the Legislative Council office.

In response to a question from Representative Vigesaa, Mr. Wilz said the Department of Emergency Services Advisory Committee has 13 members that represent various emergency response and health groups. He said the regional advisory groups include members from each county in the region with members representing various response groups.

In response to a question from Representative Kerzman, Mr. Wilz said he would provide information at a future committee meeting regarding tools used to measure the success of funding provided through federal homeland security grant funds.

In response to a question from Representative Kerzman, Mr. Wilz said the Federal Communications Commission has required public safety agency radios to use narrowband channels by January 1, 2013.

In response to a question from Representative Nathe, Mr. Wilz said federal homeland security funding for EMS purposes has varied between years due to equipment purchases. He said some high-value equipment has been purchased to be used as a regional asset.

In response to a question from Representative Klein, Mr. Wilz said communications interoperability between public safety agencies has been improved. He said additional work still needs to be completed to ensure full interoperability of communications equipment.

In response to a question from Representative Vigesaa, Mr. Wilz said the current federal homeland security funding guidelines relate to issues that affect

larger cities and include specialized law enforcement teams and hazardous materials response.

In response to a question from Senator Marcellais, Mr. Wilz said the distribution of federal homeland security grant funding includes consideration for population, threats, and other risks.

Mr. Kelly Janke, Sheriff, Nelson County, presented information regarding concerns with the distribution of federal homeland security grant funding. Mr. Janke expressed concern that federal homeland security grant funding is not being proportionately distributed across all areas of the state. He suggested that committees used for recommending the allocation of grant funding have more equal representation from all political subdivisions.

A copy of the information presented by Mr. Janke is on file in the Legislative Council office.

Mr. Odell Flaagan, County Commissioner, Nelson County, commented to the committee regarding the distribution of federal homeland security grant funding. Mr. Flaagan expressed concern that funding has not been adequately distributed to rural areas of the state.

Mr. Traynor said improvements have been made in recent years regarding the distribution of federal homeland security grant funding. He said many rural political subdivisions still have concerns regarding the distribution of funds, but improved communications is helping.

Representative Vigesaa said many local political subdivisions are frustrated with the distribution process of federal homeland security grant funding.

Representative Porter suggested the committee receive an update on the use of funding provided by the 2009 Legislative Assembly for emergency medical training grants for rural law enforcement agencies.

Representative Porter said 60 percent of ambulance calls in Bismarck are for patients that have either Medicare or Medicaid coverage. He said the Medicare reimbursement rate for a basic life support ambulance call is \$298 while the national average actual cost for a basic life support ambulance call is \$400. He said the Medicare reimbursement rate for an advanced life support ambulance call is \$354 while the national average actual cost for the advanced life support ambulance call is \$650.

Ms. Karla Germann, Bowman County Emergency Services, provided comments regarding the distribution of grant funding. Ms. Germann said many rural fire departments were not aware of requirements to convert radio communications to narrowband channels. She said departments would have been able to apply for grant funding for radio conversion costs if they would have been made aware of the requirement sooner.

In response to a question from Representative Porter, Mr. Wilz said federal rules require all State Radio channels to become narrowband. He said one State Radio channel will be a narrowband analog channel.

## STUDY OF 911 SERVICES AND INFRASTRUCTURE

Mr. Mike Lynk, Director, Division of State Radio, Department of Emergency Services, presented information regarding 911 services and infrastructure in the state. Mr. Lynk said each public safety answering point in the state either has a written or verbal agreement in place with another public safety answering point to be used as an alternate during an emergency. He provided a schedule detailing the 22 public safety answering points in the state, including alternate answering points for each.

Mr. Lynk said State Radio and the Department of Transportation are working together to construct a new radio tower site near Wales. He said the Department of Transportation currently owns and maintains all radio towers that are utilized by State Radio.

Mr. Lynk suggested that improvements to the 911 infrastructure in the state should focus on implementing common infrastructure that can be used to create compatibility among public safety answering points. He said improved interoperability can be achieved through a common baseline map, a common telephone and response database, the ability for public safety answering points to dispatch and contact responding agencies, and a more redundant system utilizing future technology.

A copy of the information presented by Mr. Lynk is on file in the Legislative Council office.

In response to a question from Representative Porter, Mr. Lynk said Phase 1 of the computer-aided dispatch system project will be completed in March 2010. He said Phase 2 of the project will begin after the completion of Phase 1.

Mr. Traynor provided information regarding the Emergency Services Communications Coordinating Committee. He said the committee is required by statute to recommend changes to operating standards for emergency communications, develop guidelines for the allowable use of revenue collected for emergency communications, receive and compile reports on the use of emergency communications revenue, recommend changes to statute regarding emergency communications, and serve as the governmental body to coordinate plans for implementing 911 services.

Mr. Traynor said the Emergency Services Communications Coordinating Committee will be receiving presentations from state technology experts and possibly telecommunications providers regarding Next Generation 911. After receiving information, the Emergency Services Communications Coordinating Committee will begin to design a state implementation plan for Next Generation 911.

The committee recessed for lunch at 12:00 noon and reconvened at 1:00 p.m.

## OTHER COMMITTEE RESPONSIBILITIES

Mr. Wilz presented information regarding the amount of emergency disaster relief grants distributed to political subdivisions pursuant to 2009 Senate Bill No. 2012. He said 2009 flood response and damage costs in the state were approximately \$81.9 million with the federal government reimbursing 90 percent of the costs and the state and local political subdivisions paying the remaining 10 percent of costs. He said the emergency disaster relief grants provided to political subdivisions are to pay for up to one-half of the local costs. He said \$472,100 of emergency disaster relief grants have been distributed to political subdivisions to date, with total grant distributions estimated to be approximately \$2.5 million.

## STUDY OF HIGHWAY CONSTRUCTION FUNDING

Mr. Francis Ziegler, Director, Department of Transportation, provided information to the committee regarding truck traffic and overload permits and fees. Mr. Ziegler presented the following table detailing annual average daily traffic counts (AADT) for vehicles and trucks on selected highways in the years 2000 and 2009:

Highway	2000		2009	
	AADT	Truck AADT	AADT	Truck AADT
United States Highway 83 north of Washburn	3,580	616	5,146	697
United States Highway 52 north of Jamestown	2,740	468	2,993	688
I-94 at Fargo Red River bridge	49,794	4,742	64,435	4,626
I-29 south of Buxton	9,144	2,114	10,979	2,377

Mr. Ziegler said overload permit fees for a single trip range from \$20 for weights up to 150,000 pounds to \$70 for a weight of 200,000 pounds. He said the single trip permit cost for an oil well workover rig is \$100. He said overload permit fee collections were \$5.4 million in 2009, and he provided the following table detailing total overload permits issued by the Highway Patrol:

Year	Total Overload Permits Issued
2007	34,126
2008	46,117
2009	41,047

Mr. Ziegler said each axle passing over a highway consumes a portion of the pavement's life. He said heavier axles consume more pavement life. He said a 20,000-pound axle consumes 1,000 times as much pavement life as a 2,000-pound axle. He said increases in truck traffic from energy development and other sources can significantly reduce the expected lifespan of a roadway.

Mr. Ziegler said federal highway funding the state will receive for 2010 is uncertain due to less funding being available in the federal highway trust fund. However, he said, the Department of Transportation is

currently planning to receive approximately the same amount of funding as received in 2009 which was \$230 million. He said 2009-11 biennium to date state revenue collections from motor fuels taxes and motor vehicle registration fees are greater than anticipated. He presented the following schedule detailing revenue collections:

Revenue Source	2009-11 Estimated Collections (Through November 2009)	2009-11 Actual Collections (Through November 2009)
Gasoline tax	\$14.8 million	\$16.8 million
Gasohol tax	22 million	20.7 million
Special fuels tax	20.6 million	25.4 million
Special fuels excise tax	3.55 million	4.3 million
Motor vehicle registrations	31.9 million	28.5 million
Total	\$92.85 million	\$95.7 million

Mr. Ziegler said North Dakota Century Code Section 39-04-18.1 requires persons temporarily obtaining employment in the state to purchase a registration for the vehicle they are operating. He said the fee for the registration is discounted based on the number of months the vehicle is to be used in the state. He said vehicles weighing less than 22,000 pounds and owned by a nonresident would generally have a registration fee of \$10 per month plus a \$3 permit fee.

Mr. Ziegler presented information regarding high-priority, north-south corridors in the state. He said the state has three congressional high-priority, north-south corridors which include Interstate 29; United States Highway 83; and the Theodore Roosevelt Expressway, which includes portions of United States Highways 85 and 2.

Mr. Ziegler provided an update on the federal REAL ID and PASS ID Acts. He said the Department of Transportation received an extension to implement requirements of the REAL ID Act. However, he said, the May 10, 2011, deadline for full compliance of the REAL ID Act remains in effect.

A copy of the information presented by Mr. Ziegler is on file in the Legislative Council office.

In response to a question from Senator O'Connell, Colonel James Prochniak, Superintendent, Highway Patrol, said a sticker can be used on vehicles to signify compliance with temporary motor vehicle registration requirements. Colonel Prochniak said any law enforcement agency may issue a citation for failure to comply with temporary motor vehicle registration requirements. He said the current fine for failure to comply with the registration requirements is \$20.

In response to a question from Senator Lindaas, Mr. Ziegler said he would provide the committee with information regarding the method and amount of collection of motor fuels taxes from commercial traffic passing through the state.

In response to a question from Senator Lee, Mr. Ziegler said the Department of Transportation received \$7.5 million of funding from the 2009

Legislative Assembly for weather-related costs. He said the funding was used for fuel costs and for road maintenance.

In response to a question from Senator Lindaas, Mr. Ziegler said the state may need to review the amount of revenue provided for roadways in the state. He said it takes approximately 2,000 vehicles per day traveling on a roadway to generate enough fuel tax revenue to maintain the section of roadway.

In response to a question from Representative Thorpe, Mr. Ziegler said additional revenue sources for highway funding may need to be explored due to potential reductions in federal highway funding.

In response to a question from Senator O'Connell, Colonel Prochniak said fuel costs have not caused budget concerns this biennium for the Highway Patrol.

Mr. Traynor presented information to the committee regarding the impact of energy development on county road conditions. He said the network of rural roads is extensive and contains 5,582 miles of paved roads, 58,022 miles of gravel roads, and 88,637 miles of minimum maintenance and unimproved roadways.

Mr. Traynor said county officials were sent a brief survey regarding the impact of energy development on county road conditions. He said 42 of 53 counties reported direct road impacts due to recent or ongoing energy development with 40 percent of counties indicating significant or very significant road impacts. He said counties that do not have direct energy activities may still be impacted by transportation efforts for wind energy, oil activity, and ethanol production.

A copy of the information presented by Mr. Traynor is on file in the Legislative Council office.

In response to a question from Senator Cook, Mr. Traynor said a recent Attorney General's opinion may affect the ability of counties to collect revenue generated by the enforcement of a county overweight fee for trucks. Senator Cook suggested the committee receive information regarding the ability of counties to enact and enforce overweight fees.

In response to a question from Senator Cook, Mr. Traynor said he would provide information at a future committee meeting regarding funds provided to townships by counties receiving distributions of oil and gas gross production taxes under provisions of 2009 House Bill No. 1304.

Senator Nodland said truck overweight fees are an important source of revenue for counties. He suggested the committee monitor actions affecting the ability of counties to levy and collect overweight truck fees.

In response to a question from Representative Gruchalla, Mr. Traynor said revenue from overweight vehicle fees has generally been collected and used by the jurisdiction that has the authority to enact the fee. He said the ability for a county to collect permit fees and fines from the enforcement of an overweight fee is uncertain at this time due to the recent Attorney General's opinion.

Representative Porter suggested the committee receive information regarding temporary motor vehicle registration requirements and fees in adjacent states. Chairman O'Connell asked the Legislative Council staff to arrange for information to be presented on the subject at a future meeting.

Ms. Connie Sprynczynatyk, Executive Director, North Dakota League of Cities, provided comments regarding costs associated with weather conditions for cities. Ms. Sprynczynatyk said cities are hoping to stay within their budgets on snow removal costs for the winter of 2009-10.

Representative Porter said it is important to find a permanent funding source for rural EMS.

Senator Nodland expressed concern regarding potential reductions in federal highway funding. He said it is important to be current on transportation infrastructure maintenance and improvements.

The committee adjourned at 2:40 p.m. subject to the call of the chair.

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Brady A. Larson  
Fiscal Analyst

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Allen H. Knudson  
Legislative Budget Analyst and Auditor

ATTACH:1