NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

PUBLIC SAFETY COMMITTEE

Tuesday, July 17, 2007
Pioneer Room, State Capitol
Bismarck, North Dakota

Representative Todd Porter, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Todd Porter, Randy Boehning, Mike Brandenburg, Ron Carlisle, Edmund Gruchalla, Pam Gulleson, James Kerzman, Bob Martinson, Vonnie Pietsch, Clara Sue Price, Don Vigesaa; Senators Ralph L. Kilzer, Gary A. Lee, Elroy N. Lindaas, John M. Warner

Members absent: Representative Joe Kroeber; Senator Joan Heckaman

Others present: See the attached appendix for additional persons present.

Senators Dick Dever and Larry J. Robinson and Representative Shirley Meyer, members of the Legislative Council, were also in attendance.

SUPPLEMENTARY RULES OF OPERATION AND PROCEDURE

At the request of Chairman Porter, the legislative budget analyst and auditor reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

Chairman Porter reviewed the responsibilities assigned to the Public Safety Committee.

EMERGENCY MEDICAL SERVICES SYSTEM STUDY

The Legislative Council staff presented a memorandum entitled *Study of Emergency Medical Services Within North Dakota - Background Memorandum*. The Legislative Council staff reviewed the various responsibilities assigned to the committee relating to emergency medical services (EMS) provided within North Dakota, including:

- A study of the state's emergency medical services system, including the funding, demographics, and impact on rural areas pursuant to Section 8 of 2007 House Bill No. 1004.
- Receive a report from the State Health Officer before July 1, 2008, regarding the outcomes and recommendations of the Health Council's study of the minimum requirements of reasonable emergency medical services coverage, taking into account the response time for emergency medical services pursuant to subsection 1 of Section 2 of 2007 House Bill No. 1162.
- Receive a report from the State Health Officer before July 1, 2008, on the findings and recommendations of the department's contractor evaluation of the state's trauma system and the department's responses and proposed responses to the recommendations pursuant to subsection 4 of Section 1 of 2007 House Bill No. 1290.
- Receive a report from the State Department of Health by July 1, 2008, regarding the findings of the department's contractor assessment of the state's emergency medical services system to assist in developing an integrated emergency medical services program that includes a comprehensive statewide emergency medical services system pursuant to Section 4 of House Bill No. 1296.

The Legislative Council staff said North Dakota Century Code (NDCC) Chapter 23-27 provides that the State Department of Health is the licensing authority for emergency medical services operations. An "emergency medical service" is defined as the prehospital medical stabilization and transportation of individuals who are sick, injured, wounded, or otherwise incapacitated or helpless by emergency medical services personnel with physician oversight.

The Legislative Council staff said 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 administration costs of the licensing program.

The Legislative Council staff said the 2001 Legislative Assembly approved House Bill No. 1405, which increased the maximum mill rate for ambulance services from 5 mills to 10 mills. According to the Tax Department's 2006 *Property Tax Statistical Report*, approximately $2.5 million of 2006 statewide property tax collections were for ambulance services.

Other sources of revenues for ambulance services include donations, federal funds, state grants, and user fees, including insurance, Medicare, and Medicaid reimbursement. Federal homeland security funding awarded to counties for ambulance services totaled $2.3 million for the period from 2002 to 2006,

including $476,000 for 2006. The 2007 Legislative Assembly appropriated $1,240,000, 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. The 2007 Legislative Assembly appropriated $1,250,000 from the insurance tax distribution fund for providing grants to emergency medical services operations. The 2007-09 biennium appropriation for Medicaid reimbursement for ambulance services is $2,680,542, of which $965,805 is from the general fund and $1,714,737 is from federal funds.

The Legislative Council staff said the State Department of Health under the auspices of the Health Council maintains the North Dakota trauma system. A "trauma center" is defined as a facility that has made a commitment to service the trauma patient, has met the standards of the trauma system, and has obtained designation as a trauma center.

The Legislative Council staff said quick-response units are organizations that provide care to patients while an ambulance is enroute to the scene of an emergency. The 2007 Legislative Assembly appropriated $125,000 from the health care trust fund for the 2007-09 biennium, the same as the 2005-07 biennium, for grants to emergency medical quick-response units.

It was moved by Representative Gulleson, seconded by Representative Brandenburg, and carried on a voice vote that the committee approve the following study plan related to the state's emergency medical services system:

1. **Receive a report from the State Health Officer on the findings and recommendations of the department's contractor evaluation of the trauma system in the state and the department's responses and proposed responses to the recommendations.**
2. **Receive a report from the State Department of Health regarding the findings of the department's contractor assessment of the state's emergency medical services system to assist in developing an integrated emergency medical services program that includes a comprehensive statewide emergency medical services system.**
3. **Receive a report from the State Health Officer regarding the outcomes and recommendations of the Health Council's study of the minimum requirements of reasonable emergency medical services coverage, taking into account the response time for emergency medical services.**
4. **Receive a report from a representative of the North Dakota EMS Association regarding the state's rural ambulance services system, including areas and number of people served and problems faced by rural ambulance service operations.**
5. **Receive a report from a representative of the University of North Dakota Center for Rural Health regarding its study, if conducted, of rural emergency medical services in North Dakota.**
6. **Receive testimony from other interested organizations and individuals regarding the committee's study of emergency medical services.**
7. **Develop committee recommendations and any related bill drafts.**
8. **Prepare a final report for submission to the Legislative Council.**

Chairman Porter called on Mr. Tim Meyer, Director, Division of Emergency Medical Services, State Department of Health, who presented information regarding the state's emergency medical services system. A copy of the information presented is on file in the Legislative Council office. Mr. Meyer said the 2007 Legislative Assembly approved House Bill No. 1296, which appropriates $1,250,000 from the insurance tax distribution fund for providing grants to emergency medical services operations. He said the intent of these funds is to provide assistance to ambulance services with staffing needs. He said the State Department of Health's goal is to identify ambulance services that are strategically "critical" to regions of the state. He said not all ambulance services will be awarded grant funding. He said grants will be distributed to ambulance services with the highest "score" or determined to be the most "critical" based on the following criteria:

1. The distance the ambulance is from the nearest hospital.
2. The size of the service area.
3. The average age of providers on the ambulance service.
4. The number of active members on an ambulance services' roster.
5. The ambulance services' willingness to use first-responder entities and develop systems to share resources.
6. Ambulance-call volume per year.
7. The business plan submitted by the ambulance service.

Mr. Meyer said according to guidelines developed for the program, grants awarded to ambulance services may not exceed $45,000 per year. He said a local match of between 10 percent and 90 percent will be required, depending upon the applicant's total "score." He said grants cannot be distributed until the administrative rules for the grant program are published, which is anticipated to be completed by January 1, 2008. He said the State Department of Health will begin accepting grant applications immediately after the administrative rules are published.

In response to a question from Representative Gulleson, Mr. Meyer said the State Department of

Health began the administrative rules process in May 2007. He said due to the time required to develop and publish administrative rules, only partial grant funding will be available to ambulance services for the first year of the 2007-09 biennium.

Representative Meyer said she encourages the State Department of Health to use the emergency rules process in order to make the grants available to ambulance services as soon as possible.

In response to a question from Representative Meyer, the legislative budget analyst and auditor said NDCC Section 28-32-04 provides the requirements for an agency to establish emergency rules. He said if a state agency, with the approval of the Governor, finds that emergency rulemaking is necessary, the agency may declare the proposed rule to be an interim final rule effective on the date of filing the notice of rulemaking with the Legislative Council.

In response to a question from Senator Robinson, Mr. Meyer said approximately one-third of the state's ambulance services are "struggling" to continue operations.

In response to a question from Representative Porter, Mr. Meyer said North Dakota Administrative Code Section 33-11-01-06 requires ambulance services to be available to respond to emergencies on a 24 hours a day 7 days a week basis, except as exempted by the State Department of Health. He said currently three ambulance services in North Dakota have received a waiver from this requirement. However, he said, there are approximately 30 or 40 ambulance services that periodically have taken themselves "out of service" or do not respond to calls due to lack of staffing. He said based on administrative rules, ambulance services that are in noncompliance with the continuous operation requirements are given 30 days to comply.

In response to a question from Senator Lee, Mr. Meyer said the State Department of Health encourages ambulance services to consolidate with neighboring ambulance services and form substations. Based on the criteria developed for awarding grants, he said, ambulance services that agree to consolidate will receive a higher "score."

In response to a question from Representative Boehning, Mr. Meyer said substations are not required to be in operation on a 24 hours a day 7 days a week basis, as other services will cover the remaining times.

In response to a question from Senator Lee, Mr. Meyer said there are 141 licensed North Dakota ambulance services. He said approximately 50 percent of these ambulance services respond to over 400 "calls" per year.

In response to a question from Senator Dever, Mr. Meyer said ambulance service areas often extend into neighboring counties. He said the nearest ambulance service is required by law to respond to emergencies. He said this creates inequities when residents from a county receive services from an ambulance service which is supported by taxes paid by residents of a neighboring county.

In response to a question from Representative Porter, Mr. Meyer said the State Department of Health plans to survey counties regarding areas of the state or regions served by each ambulance service. He said this information will be used as part of the criteria in awarding grants to ambulance services.

In response to a question from Senator Dever, Representative Porter said first-responder training is provided to police officers as part of their police academy training; however, police officers are not required to maintain first-responder certification after graduation from the academy.

In response to a question from Representative Vigesaa, Mr. Meyer said ambulance services are to submit, as part of their business plan, information regarding how grant funding will be used to provide service on a 24 hours a day 7 days a week basis.

Representative Price said there needs to be more cooperation among the state's ambulance service providers.

Mr. Meyer said the 2007 Legislative Assembly approved House Bill No. 1296, which appropriated $30,000 from the general fund to the State Department of Health for the purpose of funding an assessment of the state's emergency medical services system. He said the National Highway Traffic Safety Administration will conduct this assessment in the spring of 2008. He said a federal grant received through the Department of Transportation should be available to fund this assessment, in which case the general fund appropriation would not be used.

In response to a question from Representative Porter, Mr. Meyer said the University of North Dakota Center for Rural Health, in association with the North Dakota EMS Association, plans to conduct research on rural emergency medical services in North Dakota contingent on the availability of federal funding. Representative Porter said if the $30,000 appropriated in House Bill No. 1296 for the assessment of the state's emergency medical services system is not necessary, the State Department of Health should ask for any necessary authority to use a portion of the funding on the University of North Dakota Center for Rural Health's rural emergency medical services research project.

Mr. Meyer said House Bill No. 1290, which was approved by the 2007 Legislative Assembly, appropriates $100,000, of which $75,000 is from the health care trust fund and $25,000 is from gifts, grants, or donations, to the State Department of Health for the purpose of contracting with a professional organization to perform an evaluation of the state's trauma system. He said the Trauma System Evaluation Advisory Committee awarded the project to the American College of Surgeons. He said the evaluation is tentatively scheduled to be conducted in the spring of 2008.

Senator Warner asked that the Legislative Council staff provide information to the committee at the next

meeting regarding the Peace Officer Standards and Training Board's requirements for continuing education requirements and emergency medical training provided to law enforcement personnel.

Chairman Porter asked the State Department of Health to provide to the committee at a future meeting an overview of the various levels of training and certification for emergency services personnel and an update on the survey of counties regarding the regions covered by each ambulance service.

DELIVERY AND FUNDING OF VETERANS' SERVICES STUDY

The Legislative Council staff presented a memorandum entitled *Delivery and Funding of Veterans' Services - Background Memorandum*. The Legislative Council staff said House Concurrent Resolution No. 3063 provides for a Legislative Council study of the delivery and funding of veterans' services by the state and counties.

The Legislative Council staff said various benefits available to North Dakota veterans include:

1. College tuition waiver to dependents of a resident veteran killed in action or totally disabled as a result of service-connected causes pursuant to NDCC Section 15-10-18.3.
2. Adjusted compensation payments (bonuses) to members of the North Dakota National Guard and North Dakota residents of the reserve and active duty component who were mobilized after December 5, 1992, in support of military operations around the world pursuant to NDCC Chapter 37-28.
3. College tuition waivers to members of the National Guard enrolled in a state-controlled school or participating private school of up to 25 percent of any tuition fees pursuant to NDCC Chapter 37-07.1.
4. Tuition grants for active members of the North Dakota National Guard enrolled in an accredited North Dakota postsecondary institution pursuant to NDCC Section 37-07.2-01.
5. Preferences to veterans over all other applicants in appointment or employment by governmental agencies pursuant to NDCC Chapter 37-19.1.
6. Motor vehicle excise tax exemptions for any vehicle acquired and in the possession of a resident disabled veteran or former prisoner of war pursuant to NDCC Section 57-40.3-04.
7. Aircraft excise tax exemptions for an aircraft acquired by a disabled veteran pursuant to NDCC Section 57-40.5-03(1).
8. Property tax exemptions under the homestead tax credit program for certain qualified disabled veterans pursuant to NDCC Section 57-02-08(20).
9. Income tax deductions to active members of the National Guard or reserve unit of up to $1,000 against income for income tax purposes and an additional reduction of up to $300 per month to members of the armed forces while on active duty while stationed outside the United States pursuant to NDCC Section 57-38-01.2(1)(k).
10. Income tax deductions for payments received by members of the National Guard or a reserve member of the armed forces when mobilized, pursuant to NDCC Section 57-38-01.2(1)(u).
11. Income tax deductions for military retirement pay of up to $5,000 per year pursuant to NDCC Section 57-38-01.2(1)(l).
12. Loans to veterans from the veterans' aid fund pursuant to NDCC Chapter 37-14.
13. Hardship assistance grants to veterans and their spouses.
14. Free transportation to veterans' hospitals.

The Legislative Council staff said the Veterans Home was established in 1891 and has been in operation since 1893. The Veterans Home is owned and operated by the state and is currently providing care to North Dakota veterans and their spouses. The 2007 Legislative Assembly approved Senate Bill No. 2418 providing a contingent appropriation for the purpose of constructing a new Veterans Home facility in Lisbon. Due to life safety issues, the existing Veterans Home facility will be demolished after the completion of the new facility.

The Legislative Council staff said the North Dakota Department of Veterans Affairs was established by the 1945 Legislative Assembly. Prior to that it had been known as the Office of the Veterans' Service Commissioner, which was established in 1927.

The Legislative Council staff said the mission of the Department of Veterans Affairs is to ensure that every veteran in the state of North Dakota who has served in the military receives every benefit to which he or she may be entitled from the federal Department of Veterans Affairs, allied agencies, and from the state of North Dakota.

The Legislative Council staff said pursuant to NDCC Section 37-14-18, the board of county commissioners of each county may appoint, employ, and pay, on a full-time or part-time basis, an officer to be known as a county veterans' service officer. It is the duty of the county veterans' service officer to become acquainted with the laws, both state and federal, enacted to assist returning members of the armed forces in the presentation, proof, and establishment of their claims, privileges, and rights.

The Legislative Council staff said pursuant to NDCC Sections 57-15-06.4 and 57-15-06.7(18), a county may annually levy a tax to provide for the payment of the salary, traveling, and office expenses of the county veterans' service officer. The county mill levy rate may not exceed two mills.

It was moved by Representative Kerzman, seconded by Senator Lindaas, and carried on a

voice vote that the committee approve the following study plan of veterans' services:

1. **Receive testimony from representatives of the Department of Veterans Affairs, the Administrative Committee on Veterans Affairs, county veterans' service officers, and veterans regarding the delivery and funding of veterans' services in North Dakota.**
2. **Receive information from other interested organizations, entities, and individuals regarding the study.**
3. **Conduct a budget tour of the Veterans Home.**
4. **Develop recommendations and related bill drafts.**
5. **Prepare a final report for submission to the Legislative Council.**

Chairman Porter called on Mr. Bob Hanson, Commissioner, Department of Veterans Affairs, who provided information regarding veterans' services. A copy of the information presented is on file in the Legislative Council office. Mr. Hanson said based on the most recent estimates, there are approximately 55,000 to 60,000 veterans in North Dakota. He said the ages of the veterans range from teenagers to individuals in their 90s.

Mr. Hanson said the Department of Veterans Affairs provides two training sessions each year for all county veterans' service officers. He said one is held each spring in Bismarck and one each fall in Fargo. He said the sessions are tailored to meet the requirements of the National Association of County Veteran Service Officers, Inc., criteria for certification.

Mr. Hanson said during 2005, the federal Department of Veterans Affairs (VA) provided over $80 million of direct payments for compensation and pensions to North Dakota resident veterans. In addition, he said, approximately $60 million in federal VA funding was spent for medical costs of the state's veterans.

Mr. Hanson said there are 50 county veterans' service officers in North Dakota. He said three county veterans' service officers serve two counties--Morton and Oliver, Stark and Dunn, and Steele and Griggs. He said having one service officer covering more than one county appears to be working fairly well.

In response to a question from Representative Gulleson, Mr. Hanson said it is a simple process for veterans to apply for grants and loans from the Department of Veterans Affairs. He said veterans may apply directly with the Department of Veterans Affairs, but the department prefers that the grant and loan applications come through a county veterans' service officer.

In response to a question from Senator Robinson, Mr. Hanson said the federal VA processes medical claims for veterans. He said the Department of Veterans Affairs does not receive information regarding the types of medical issues experienced by North Dakota veterans.

In response to a question from Representative Boehning, Mr. Hanson said the Department of Veterans Affairs sends a letter to each veteran upon being discharged providing information regarding the veteran's county veterans' service officer and services available.

In response to a question from Representative Porter, Mr. Hanson said the Department of Veterans Affairs does not hire or have any control over the county veterans' service officers. He said the semiannual training sessions are not mandatory, but nearly all the service officers regularly attend the meetings.

In response to a question from Representative Porter, Mr. Hanson said in order to be approved for the Department of Veterans Affairs loan program, veterans must show an ability to repay the loan. He said there have been fewer than 10 loan defaults over the last year.

In response to a question from Senator Robinson, Mr. Hanson said the Department of Veterans Affairs is authorized to employ three veterans' benefits specialists. He said the specialists provide assistance to county veterans' service officers with complex claims.

In response to a question from Representative Price, Mr. Hanson said hardship assistance grants for medical services are paid directly to the medical provider.

In response to a question from Senator Dever, Mr. Hanson said the National Guard periodically offers programs where veterans' benefits specialists and county veterans' service officers are invited to present information to soldiers regarding veterans' benefits.

In response to a question from Representative Porter, Mr. Hanson said the federal VA annually publishes a guide on available veterans' benefits. Representative Porter said the Department of Veterans Affairs should consider publishing a combined resource guide of federal and state veterans' benefits.

Chairman Porter called on Mr. Jerry Balzer, former member of the Administrative Committee on Veterans Affairs, who presented information regarding veterans' services. A copy of the information presented is on file in the Legislative Council office. Mr. Balzer said the State Auditor's office performance audit of the Department of Veterans Affairs has been beneficial to the agency. Chairman Porter said the committee will receive an overview of the Department of Veterans Affairs performance audit report at a future meeting.

Mr. Balzer said over the last two years, nearly one-half of the state's county veterans' service offices, have not received a single application for the veterans' loan or hardship assistance grant programs. He said 2005 House Bill No. 1354 increased the maximum county mill levy rate for county veterans' services from one and one-fourth mills to two mills; however, only three counties assess the maximum mill levy rate.

In response to a question from Representative Martinson, Mr. Balzer said the Legislative Assembly

should consider amending NDCC Section 37-18-08 in order to relocate the office of the commissioner of the Department of Veterans Affairs to Bismarck.

Chairman Porter called on Mr. Ronald D. Otto, County Veterans' Service Officer, Morton and Oliver Counties, who provided information on veterans' services. A copy of the information presented is on file in the Legislative Council office. Mr. Otto said additional training and support services are needed for the county veterans' service officers. He said the mission of the Department of Veterans Affairs should be modified to provide for training, education, and support of county veterans' service officers.

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:00 p.m.

Chairman Porter called on Mr. Jerry Samuelson, County Veterans' Service Officer, McKenzie County, who commented on the study of veterans' services. Mr. Samuelson said Montana veterans' service officers are state employees. He said Montana is divided into nine regions with two county veterans' service officers serving each region. He said South Dakota is currently studying veterans' services.

Chairman Porter called on Mr. Rudy Jenson, Chairman, Administrative Committee on Veterans Affairs, who commented on the study of veterans' services. Mr. Jenson said the 2007 Legislative Assembly authorized the Department of Veterans Affairs to hire a third veterans' benefits specialist. He said the new position will serve as a women veterans coordinator. He said currently one in five returning veterans is a woman.

STUDY OF THE DEPARTMENT OF EMERGENCY SERVICES

The Legislative Council staff presented a memorandum entitled *Study of the Department of Emergency Services - Background Memorandum*. The Legislative Council staff said Section 8 of 2007 Senate Bill No. 2016 provides for a Legislative Council study of the Department of Emergency Services, including the Division of Homeland Security and the Division of State Radio, including a review of the allocation of federal homeland security funding, the operation of State Radio, and potential changes to the 911 fee structure to continue salary equity funding provided in the 2007-09 biennium.

The Legislative Council staff said NDCC Section 37-17.1-02.1 provides for the Department of Emergency Services consisting of a Division of Homeland Security and a Division of State Radio. The Adjutant General serves as the director of the Department of Emergency Services and provides for shared administration of both divisions. The mission of the Department of Emergency Services is to conduct planning, coordination, communications, and operations for the safety and security of all citizens of North Dakota.

The Legislative Council staff said NDCC Section 37-17.1-06 establishes the Division of Homeland Security. The Division of Homeland Security consists of the state emergency operations center, the disaster recovery section, and the homeland security section. The Division of Homeland Security is responsible for preparing and maintaining a state disaster plan and assisting the development and revision of local disaster or emergency operations.

The Legislative Council staff said NDCC Chapter 54-23.2 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 operates a public safety answering point (PSAP), which is a 24-hour 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 PSAP for 22 small population counties. In addition to the PSAP operated by State Radio, there are 22 locally operated PSAPs. The PSAP operated by the Division of State Radio is located in the basement of a building at Fraine Barracks.

The Legislative Council staff said NDCC Section 54-23.2-09 provides the requirements relating to the establishment and charging of fees for mobile data terminal--provides law enforcement with mobile communications to access data bases and vehicle information--and 911 emergency dispatching services. The fee to be paid by the 22 small population counties to State Radio for providing emergency 911 dispatching services is 20 cents per telephone and wireless access lines. The fee for providing mobile data terminal services to participating local law enforcement agencies is $100 per initial hookup and then $25 per month billed on a quarterly basis.

The Legislative Council staff said NDCC Section 54-23.2-08 established in 1987 fees that State Radio is to charge for the law enforcement telecommunications system--provides information on wanted felons, state-to-state information on crimes, and everyday police activities. The section provides that the director of State Radio may adjust fees for the law enforcement telecommunications system to reflect changes in economic conditions and the general economy after consulting with representatives of state and local government. The current rates are $10 more than the minimum provided in NDCC Section 54-23.2-08 based on a $10 per month increase implemented by the director of State Radio in 1993. The rates are based on the population of the county and range from $40 per month for small population counties to $170 per month for large population counties. State agencies are charged $265 per month, and city police departments are charged $285 per month for the first law enforcement telecommunications terminal. Second terminals are $75 per month, and any additional terminals are $50 per month for both state agencies and city police departments.

The Legislative Council staff said the 2007 Legislative Assembly appropriated $300,000 from the general fund for salary equity and pay grade adjustments for State Radio employees based on a compensation plan established by the Adjutant General. The increases were provided to make State Radio's employee salaries comparable to those offered in other communication centers in North Dakota.

The Legislative Council staff said NDCC Chapter 57-40.6 authorizes cities and counties to impose 911 fees on the users of telephone and wireless access lines. A governing body of a city or county may provide for a resolution, subject to the vote of the electors, for the imposition of a fee of up to $1 per month per communication connection for providing an emergency services communication system, and, in the case of wireless, an enhanced 911 service. The 911 fee is collected by telephone providers who submit the fees, less an administration cost, to respective political subdivisions.

The Legislative Council staff said there are approximately 400,000 landlines and 380,000 cell phones in North Dakota, which results in $9,360,000 per year in total communication services fee collections. The 911 fees received by political subdivisions are to be used for implementing, maintaining, or operating the emergency services communication system.

The Legislative Council staff said in order to implement wireless 911 within the state, all political subdivisions receiving 911 fees contracted with the North Dakota Association of Counties to coordinate the implementation of the networking, nonpremise equipment upgrades, testing, and ongoing services necessary for wireless 911. The North Dakota Association of Counties entered into a contract with telephone service providers for the wireless 911 project. The counties are to submit 40 percent of the amount received from wireless carriers or approximately $1.7 million per year for the wireless project. The contracts between the North Dakota Association of Counties and the political subdivisions will expire on June 30, 2008. Any fund balance remaining upon completion of the project will be returned to the counties.

The Legislative Council staff said the purpose of federal Department of Homeland Security grant funding is to enhance the capability of state and local agencies to respond to incidents of terrorism as well as natural disasters through coordinated training, exercises, equipment, and technical assistance. Approximately $6.7 million in federal homeland security funding is anticipated to be received by the Department of Emergency Services in 2007. The Department of Emergency Services has received approximately $61.8 million in federal homeland security funding from 1999 through 2006 as detailed in the following:

Year	Total Funding Received
1999-2001	$1,200,000
2002	$2,700,000
2003	$13,200,000
2004	$19,400,000
2005	$14,600,000
2006	$10,700,000

The Legislative Council staff said according to federal guidelines, 80 percent of the federal homeland security funding received by North Dakota designated for homeland security uses must be distributed to local governments. The local share of homeland security funds is distributed to counties based upon the population of the county and the assessment of the county's security needs. Each county is required to develop a homeland security spending plan in association with the state plan and that allocates the homeland security funds to entities within the county based upon the county plan.

It was moved by Representative Gruchalla, seconded by Senator Warner, and carried on a voice vote that the committee approve the following study plan of the Department of Emergency Services:

1. **Receive testimony from representatives of the Department of Emergency Services, the Division of Homeland Security, and the Division of State Radio regarding the allocation of homeland security funding, the operation of State Radio, and potential changes to the 911 fee structure to continue salary equity funding.**
2. **Receive a report from a representative of the State Auditor's office regarding the performance audit report conducted on the Department of Emergency Services, including State Radio and fees collected for 911 services and utilization of fees.**
3. **Receive testimony from representatives of the Department of Emergency Services Advisory Committee and representatives of political subdivisions regarding the department's collaboration with political subdivisions.**
4. **Receive testimony from other interested organizations and individuals regarding homeland security funding and the 911 fee structure and related uses of the funding.**
5. **Develop committee recommendations and any related bill drafts.**
6. **Prepare a final report for submission to the Legislative Council.**

Chairman Porter called on Mr. Gordy Smith, State Auditor's office, who reviewed the 2005 performance audits of the Department of Emergency Services and the collection and use of 911 fees. A copy of the information presented is on file in the Legislative Council office. Mr. Smith said the performance audits covered the period July 1, 2003, through April 30,

2005. He said the goals of the performance audits were:

1. Has management established effective processes and procedures to fulfill the Department of Emergency Services purposes, functions, and responsibilities?
2. Are 911 fees properly used and sufficient for the costs incurred with operating the 911 system?

Mr. G. Smith said the State Auditor's office concluded that significant improvements are required relating to how fees are established by the Department of Emergency Services, including State Radio. He said there was a lack of appropriate expenditure information to track data by program, service, or function. He said 911 fees are not sufficient to cover the costs of services as required by North Dakota Century Code. He said changes should be made to improve the billing and collection process to ensure all fees are properly collected.

Mr. G. Smith said in response to recommendations in the Department of Emergency Services' performance audit relating to State Radio's fee structure, a consultant was hired to review State Radio's fees. He said according to the consultant, State Radio's fee for providing 911 services to 22 small population counties should be $1.34 rather than 20 cents per telephone and wireless access lines.

Mr. G. Smith said while conducting the performance audit of 911 fees, the State Auditor's office identified instances where 911 fees were not properly used by political subdivisions. He said due to the lack of a uniform system for tracking the use of 911 fees and inconsistencies in how 911 fees are used by political subdivisions, a definite conclusion as to whether the 911 fee amount is sufficient could not be reached. However, he said, there was evidence to suggest and indicate the 911 fee is more than sufficient.

In response to a question from Senator Robinson, Mr. G. Smith said the State Auditor's office will conduct a followup of the Department of Emergency Services and the collection and use of 911 fees performance audits within the next six to eight months. He said during the followup, the State Auditor's office will review the status of the performance audit recommendations. Senator Lee asked that the committee receive a report on the followup audits when completed.

Chairman Porter called on Major General David Sprynczynatyk, Adjutant General, who provided information regarding the committee's study of the Department of Emergency Services. A copy of the information presented is on file in the Legislative Council office. Major General Sprynczynatyk said there have been many changes undertaken by the Department of Emergency Services as a result of the performance audit. He said administrative services were consolidated within the Department of Emergency Services and the National Guard. He provided the committee with a status report on the actions taken by the department to implement the performance audit recommendations.

Major General Sprynczynatyk said the total federal homeland security funding expended by counties during the period from 1999 through 2006 was approximately $49 million. He said $22.7 million, or 47 percent, of total expenditures incurred by the counties was for chemical, biological, radiological, nuclear, and explosives detection and protective equipment, and $21.5 million, or 44 percent, of total county expenditures was for interoperable communications.

Major General Sprynczynatyk said the process used to distribute the $300,000 general fund appropriation for salary equity and pay grade adjustment for State Radio employees was based upon an external market equity study and an internal equity review conducted by the Department of Emergency Services. He said the market equity study provided the baseline for determining the degree of inequity for each employee of State Radio. He said the study looked at the four largest PSAPs in North Dakota. The model adopted, he said, increased each employee's salary to within 90 percent of the market average for the position, and the remaining funding was allocated based on longevity.

In response to a question from Representative Porter, Major General Sprynczynatyk said Maximus was hired as a consultant to review State Radio's fee structure. He said State Radio has used the report to make adjustments in the allocation of costs; however, there are still many unanswered questions as to what is the actual cost of providing 911 services. He said State Radio plans to adjust its fees for providing a law enforcement telecommunications system and mobile data terminal services. However, he said, political subdivisions are being given time to incorporate the fee changes into their budgets.

In response to a question from Representative Carlisle, Major General Sprynczynatyk said several individuals have recently retired from State Radio. He said State Radio has been able to promote from within to fill those vacancies. He said the average number of years of experience for the State Radio employees is 17 years.

Mr. Greg Wills, Director, Division of Homeland Security, presented information regarding the Division of Homeland Security. Since 1993, he said, North Dakota has had the most presidential-declared disasters in the nation. He said from 1993 to 2007, the state has received $952 million in federal disaster aid.

In response to a question from Representative Meyer, Mr. Wills said he would "check into" whether federal homeland security funding was used to condemn and purchase land adjacent to the Dickinson airport.

In response to a question from Representative Price, Mr. Wills said the new federal guidelines for homeland security funding require greater regional

collaboration. He said the North Dakota Association of Counties conducted an "anchor community" study in fiscal year 2005. He said as part of the study, emergency response groups and community leaders were queried on the prospect of regional response to emergencies by highly qualified response teams strategically located in North Dakota. Based on the "anchor community" study, he said, the Department of Emergency Services has developed a proposal to divide North Dakota into eight emergency response regions.

In response to a question from Representative Porter, Mr. Wills said the Division of Homeland Security provides guidelines to political subdivisions regarding use of federal homeland security funding. He said fiscal year 2007 grant guidelines include additional safeguards to assure adequate representation, participation in the decisionmaking process, and compliance with federal Department of Homeland Security requirements. He said budget requests for homeland security funding must include a written narrative which details a demonstrated need for the proposed purchase, explain what it will be used for, and the benefits accrued through its purchase.

Mr. Russ Timmreck, Director, Division of State Radio, presented information regarding the Division of State Radio. Mr. Timmreck said State Radio will have to remain in analog mode until all agencies convert to digital radios. He said currently approximately 55 percent of political subdivision agencies have updated to digital radios. He said it will take another four or five years for all agencies to complete the conversion from analog to digital.

In response to a question from Senator Lindaas, Mr. Timmreck said nearly all of the political subdivisions that have digital radios have purchased the equipment with federal homeland security funding. He said the equipment is very expensive. He said approximately $27 million is needed to replace all remaining analog radios with digital radios.

In response to a question from Senator Robinson, Mr. Timmreck said federal homeland security funding has not been used for the construction of emergency radio towers.

In response to a question from Representative Porter, Mr. Timmreck said there has not been uniformity in the types of digital radio systems purchased by political subdivisions. He said the Division of State Radio does not have authority to dictate to political subdivisions the type of equipment to be purchased.

It was moved by Representative Martinson, seconded by Representative Carlisle, and carried on a roll call vote that the Public Safety Committee request the Legislative Council chairman to encourage the Adjutant General to assemble a task force for the purpose of identifying the strategic structure and capability of emergency services in the state of North Dakota, including emergency response organizations, response protocols, interoperable communications, and emergency management.

Task force membership should include the following response organizations:

1. **Division of Homeland Security.**
2. **Division of State Radio.**
3. **North Dakota National Guard.**
4. **North Dakota Police Chiefs Association.**
5. **North Dakota Sheriffs Association.**
6. **North Dakota Fire Chiefs Association.**
7. **North Dakota Metro Chiefs Association.**
8. **North Dakota EMS Association.**
9. **North Dakota Healthcare Association.**
10. **North Dakota Emergency Management Association.**
11. **North Dakota 911 Association.**
12. **North Dakota Department of Emergency Services.**
13. **Other members as determined by the Adjutant General.**

The primary goals of the task force will be to:

1. **Suggest the future structure and capability requirements necessary to fulfill North Dakota's emergency services needs through 2015.**
2. **Identify gaps between the current state of emergency services and the prioritized capabilities required in the future.**
3. **Provide the Public Safety Committee recommended initiatives for possible consideration by the 2009 Legislative Assembly which will help bridge the organization and capability gaps.**

The task force should focus its efforts to improve emergency services by addressing:

1. **Organizational changes;**
2. **System upgrades;**
3. **Process or protocol changes that need to be established in the North Dakota Century Code; and**
4. **Statutory changes that should be considered to ensure the future viability and capability of emergency services in North Dakota.**

Representatives Porter, Boehning, Carlisle, Kerzman, Martinson, Pietsch, Price, and Vigesaa and Senators Lee, Kilzer, Lindaas, and Warner voted "aye." No negative votes were cast.

Representative Price said the Adjutant General should consider adding local public health administrators to the task force.

Major General Sprynczynatyk said legislators would be welcome to participate on the task force.

OTHER DUTIES AND RESPONSIBILITIES

The Legislative Council staff presented a memorandum entitled *Other Responsibilities of the Public Safety Committee - Background Memorandum* relating to the committee's other responsibilities regarding the approval of agreements between North

Dakota and South Dakota and monitoring the status of state agency and institution appropriations.

Bistate Authority

The Legislative Council staff said, pursuant to NDCC Section 54-40-04, an agency that is proposing to enter into an agreement to form a bistate authority with an agency of South Dakota must submit the proposed agreement to the Legislative Council if the Legislative Assembly is not in session. The Public Safety Committee has been assigned this responsibility for the 2007-08 interim. The Legislative Council staff said this is the sixth interim this responsibility has been assigned to an interim committee, and, in the past, no proposed agreements were submitted to the committee for approval to form a bistate authority with South Dakota.

The Legislative Council staff said the action plan the committee may wish to use to carry out this responsibility is:

1. Receive any proposed agreement from a state agency to form a bistate authority with an agency of South Dakota.
2. Receive testimony from interested persons on the proposed agreement.
3. Review the proposed agreement regarding costs, effect on services, economic impacts, quality, etc.
4. Approve or disapprove the proposed agreement.
5. Prepare a summary of the committee's study for inclusion in the final report to the Legislative Council.

Budget Monitoring

The Legislative Council staff said the committee's responsibility to review state agency and institution appropriations could focus on expenditures of major state agencies, such as the charitable and penal institutions, elementary and secondary education, Department of Human Services medical assistance and economic assistance grants, and other appropriations the committee might select. The expenditures of the selected state agencies and institutions would be monitored by having the agencies prepare estimates and compare actual expenditures to the estimates. The Legislative Council staff would prepare a report for presentation to the committee comparing actual expenditures to estimates for the first year of the biennium and discussing the major variances.

In addition, the Legislative Council staff said the staff could also report on the status of agency compliance with legislative intent. These reports would include the status of state agencies and institutions implementing budget/programmatic changes and legislative directives contained in appropriation bills and other legislation and identify budget concerns of agencies.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Porter said as part of the committee's study of the Department of Emergency Services, the committee will tour State Radio and the Emergency Communications Center. He said the committee will continue to study the fee structure of State Radio for providing 911 services to 22 small population counties. He said the committee will visit various communities to review how local jurisdictions spend revenues received from the $1 per month 911 fee and federal homeland security funding.

Chairman Porter said the committee will tour the Veterans Medical Center and veterans' regional benefits office in Fargo as part of the committee's study of veterans' services. As part of the committee's study of emergency medical services, he said, the committee will visit rural ambulance services.

The committee adjourned subject to the call of the chair at 4:10 p.m.

_____

Donald J. Wolf
Senior Fiscal Analyst

_____

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1