

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1162

2007 HOUSE HUMAN SERVICES

HB 1162

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1162

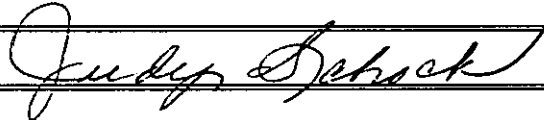
House Human Services Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1262

Committee Clerk Signature



Minutes:

Chairman Price: Opening HB 1162.

Representative C.B Haas, With District 36: The next two bills you will be hearing are closely related. The testimony by the two physicians on HB 1290 is beneficial to this bill. It is important as we look at this issue, what ND needs. It is becoming more and more difficult for volunteers. The situation in the rural areas is critical. We want reasonable EMS services available. All county commissioners want this for their citizens. They can always levy, plus we will work with them.

Dean Lampe, Executive Director of the ND Emergency Medical Services: See attached testimony. Also included is county levy map, circles on map indicating where EMS overlaps into other counties to be covered. Included is letter to Terry Dwelle, MD, MPHTM, from Wayne Stenehjem, Attorney General. We do keep statistics on calls and where they live. The overlapping of the circles, it is the responsibility of the commissioner of the county to work with the Health Department. We need specific direction of this bill. We can not put the burden on the volunteers.

Mark Weber, President of the ND Emergency Medical Services Association: See attached testimony. We are not a recipient for other counties we take care of. We want to

make the counties responsible to cover the areas. The population we cover is about 5,000 and 2 ambulance services, with about 14 on our roster. We would like a smaller roster and have coverage all the time. 25 miles is as far out as you want to go. That would be our goal. There are many areas that are one hour and more away. In the past we had many fund raisers. Some still do. We do other things in Rugby. Our revenue comes from Education, and runs. It is difficult for most.

June Herman, with the American Heart Association: I wanted to speak in favor of this bill. It is a broken system which we need to get some attention to. We have concerns with cardiac arrest patients.

Tim Meyer, Director of Emergency Medical Systems: Every call that happens in our state is recorded through the Health Department. That would include their address and the location of the call. The standards for EMS training have not changed for a long time. There are Homeland Security requirements, but that does not change the amount of training. The classifications also have not changed. The law enforcement lies within the county.

Representative Porter: We would like to see the level of response time, if you could get that to us.

Chairman Price: Anyone else in favor? If not any opposition?

Terry Traynor, ND Association of Counties: See attached testimony. The county commissioners are concerned with this bill. They feel they need to oppose this bill. They recognize the problems. We don't see this as a solution. It places the burden on the county commissioners. We are concerned about the liability that that bill will establish for counties. Counties are already invested in this. About 1.5 million dollars in property tax is used to support EMS. More than twice the 600,000 coming from the other three places that has the ability to tax that. Counties are not concerned about the future, particularly in the rural areas.

With this we don't see as a solution, when it is almost impossible to deliver what is expected, particularly, when this bill ties those expectations to unwritten regulation by the health department that we have not seen. We agree with many, no one seems to be responsible for EMS component right now. Everyone says the taxes are too high. I don't know how others are distributing the levy tax funds.

Representative Damschen: With all the testimony, I am having a little trouble deciphering whether it is about the money or the service effecting the communities.. If it is about the service I am wondering if the bill would be effective if the languages were changed, that would be acceptable to everyone.

Mr. Traynor: Unless they could develop a plan with the state saying they would put more money into here, here and here, and that was their method of insurance. Many of the counties have shrunk their administrative staff. Many areas have taken extra responsibilities.

Chairman Price: Anyone else in opposition? If not we will close the hearing on HB 1162.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1162

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: 1622

Committee Clerk Signature

Judy Schock

Minutes:

Representative Uglem calls the sub committee to order. **Representative Kaldor** and **Representative Damschen** present. What do we do with the bill or do we just take it back to the full committee? **Representative Kaldo**: One of the things that the counties have been concerned about if this bill passes and the appropriation of HB 1296 passed they still don't have that connection between appropriation and the counties.

Dean Lampe clears up some concerns and he expressed concerns with the committee forming an opinion on a testimony that was provided the day of the hearing, and his concern for 23-12-08. If you tie the two bills together, my opinion is I do see merit in that. I see a bigger chance for failure to 1296 if it is done that way. Committee discusses should they give it back to the committee with no recommendation? **Mr. Lampe** suggested we consider a 2 year delay, and proceed with the 2 bills. A motion was made by **Representative Damschen** to amend delayed date to August 1, 2009, second **Representative Kaldor**. Vote was 3 yeas 0 nays and 0 absent.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1162

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1856

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: take out HB 1162

Representative Uglem: Your sub committee did a little research. There is a levy of authorized for county emergency medical services in 57-15-50. I will go over the amendments we have proposed. See attached.

Representative Kaldor: The position I have taken initially was I didn't think it was appropriate for us to push this responsibility on the counties. I am not sure on how I would vote on this bill yet. I would have a terrible time supporting the legislation as it currently exists.

Representative Damschen: I would be reluctant to support with it coming across as an unfunded mandate. They don't like being ordered on how to spend their money.

Representative Uglem: I just want to comment, when we get to 1296, we are required 25% local matching funds. We need to take some of this into consideration on how we want to vote on these bills.

Terry Traynor, with NDACo: this bill is moving in an area that most of them are not involved in now their interpretation of the law is they can't levy without the voters approving that, so they have to mandate and they don't know if they could get the money if they asked for it. I think

they would be reluctant to support this bill. How do we raise property tax when the public thinks they are too high already.

Chairman Price: Has there been any discussion for you to at least have the counties review the coverage in their areas. Is it possible some counties have not even looked at the EMS service to see where the gaps are?

Mr. Traynor: I think that is a reasonable request. I would say every town has that on their radar screen. Some may be pretty far out on the radar screen. As I understand the emergency managers, it is part of their job. Annually they must submit to the department of registered services. EMS would be a part of that. How detailed they have looked at it in the past, I don't know. Nothing is required at this point.

Representative Porter: I guess the only thing about this that concerns me, is that putting the amendment on that may not have support to pass the bill. I think if we leave the amendment off and amend out lines 7 and 8 and 9 to the point of services. Then over the next two years and put down below a requirement back to the legislative council. I would hate to see the concept of the groups meeting where there are problems. We will have to deal with coverage in the next session.

The committee discusses what appropriate amendments should be made.

Dean Lampe: I think I can see the direction the committee is taking. Perhaps that is the best way to do it. I just want to make sure that you are looking at it from the total perspective. The levy authority creates a hardship on the counties because it has to go on the ballot. Many don't have the money to spend on EMS. Giving that indication and giving them notice to get in the game they will collapse in 2 years. I can see telling them in 3 months. I am disappointed of course.

Chairman Price: I think we will take action on the other bill before we do anything with this one.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1162

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 29, s007

Recorder Job Number: 2084

Committee Clerk Signature

Judy Lebeck

Minutes:

Chairman Price: Committee take out HB 1162.

Representative Uglem: Legislative Council suggested it would be best if we rewrite the whole thing. I will go through them with you. That amendment is attached.

Representative Uglem moves the amendments, **Representative Kaldo** seconds the motion.

Representative Porter : Number 3 is an important thing we can do for EMS.

Representative Weisz: I like sub section 3. Section 1 is the state on the hook id we don't meet standards? Does it require the counties to come in than?

Representative Porter: Maybe that is still going off on the old language of the bill, maybe instead of adopting rules, we should say study. Establishing minimal requirements and keep it all the same. And at the end add report back to legislative Council.

Representative Uglem: I should point out to the committee that we moved this from chapter 11 back to 11 which relates to counties insuring EMS. We just moved it to a different part of the law.

Representative Porter moves the 2nd amendment, **Representative Weisz** seconds the motion. The vote was 11 verbal yeas no nays.

Representative Uglem makes a motion for a do pass as amended. **Representative Potter** seconds the motion. The vote was 11 yeas, 0 nays, 1 absent. **Representative Kaldor** will carry the bill to the floor.

Representative Porter: Before we kick that one totally out of committee, I would like to bring up an issue that was brought to my attention. There has always been a standard inside of EMS regarding minors at the scene of injury accidents, illnesses. We have a law in the book that says that a minor may request emergency help. The gray area of the law is in the refusal. When minor says no I don't want to go to the hospital. The attorney that works inside of the Health Department says, because we have this law in place, a request for services, it is an assumption that a refusal services also. It is a real gray part of the law, and exposes EMS to a huge amount of liability. Law enforcement agencies are now saying that if you don't except this refusal, and take this kid against their will, you are kidnapping them. The risk of refusals is great in the first place. Possibly in section 2, if Jennifer came up with some language and it would be agreeable to the committee. In reality it should have been a stand alone bill.

The committee agrees to hold off, consider our actions on the bill and bring it back.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1162

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 30, 2007

Recorder Job Number: 2280

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: Take out HB 1162.

Representative Porter: We had a discussion about voluntary EMS agency, and the ability of a minor to consent to care. The lawyer for the health department was saying because of that existence that it is presumption that they could ask for emergency care they could also refuse emergency care. That left a real grey area. I asked council to come up with wording that would further explain the situation which you have in front of you. I think it is a serious situation for EMS, and to not have to wait for 2 years. Most of this is coming from car accidents, and not being able to reach the parents.

Representative Schneider moves we bring back and reconsider the action, by which it passed, second by **Representative Kaldor**. The verbal vote is all yeas. **Representative Schneider** moves to re-amend the amendments, seconded by **Representative Uglem**. The verbal verbal vote is all yeas. **Representative Uglem** moves a do pass as amended, seconded by **Representative Schneider**. The vote is 12 yeas, 0 nays and 0 absent.

Representative Kaldor will carry the bill to the floor.

FISCAL NOTE
 Requested by Legislative Council
 02/14/2007

Amendment to: HB 1162

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$30,000			
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires a study of reasonable emergency medical services coverage and a report to legislative council.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The purpose of this study is to determine what reasonable emergency medical services coverage is. This would include studying the response times for all ambulance calls. We believe that reasonable emergency medical services coverage would be different for those areas considered suburban, rural, and frontier.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department would contact a university to complete this study. We anticipate the cost would be \$30,000 to complete this study.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project are not included in the Department's Appropriation bill (HB 1004). The department would need these funds appropriated to carry out this study.

Name:	Kathy J. Albin	Agency:	Health
Phone Number:	328.4542	Date Prepared:	02/14/2007

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1162

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

70422.0101
Title.

Committee discussion

Prepared by the Legislative Council staff for
Representative Uglem
January 23, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1162

Page 1, line 3, after "rules" insert "; and to provide an effective date"

Page 1, after line 15, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on August 1,
2009."

Renumber accordingly

Date: 4/23
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB #1162 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amended
Motion delayed date August 2009

Motion Made By Damschen Seconded By Kaldor

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 3 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1162

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 23-27 of the North Dakota Century Code, relating to state health council rules regarding emergency medical services, county reporting of emergency medical services coverage, and use of property tax levies for emergency medical services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Standards of reasonable coverage - County reporting - Use of property tax levies.

- 1. The state health council shall adopt rules establishing the minimum requirements of reasonable emergency medical services coverage which must take into account the response time for emergency medical services.**
- 2. The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the state department of health.**
- 3. A taxing district that levies property taxes for support of emergency medical services shall ensure that every emergency medical services operation that operates in that taxing district receives a benefit of this tax."**

Renumber accordingly

Date: 4/29
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB. 1162 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendments

Motion Made By Rep. Uglem Seconded By Rep. Kaldor

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) "Click here to type Yes Vote" No "Click here to type No Vote"

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1/29
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1162 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken None 2nd Amendment

Motion Made By Rep Potter Seconded By Rep Weisz

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 11 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 1

Floor Assignment Rep

If the vote is on an amendment, briefly indicate intent:

Date: 4/29
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1162 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken As pass as amended

Motion Made By Rep Uglem Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Kari L Conrad		
Vonnie Pietsch - Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) 6 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 1

Floor Assignment Rep Kaldor

If the vote is on an amendment, briefly indicate intent:

hold off

Date: 1/30
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES # B 1167 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken back reconsider action by which it passed

Motion Made By Rep Schneider Seconded By Rep Keldo

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 12 "Click here to type Yes Vote" No 2 "Click here to type No Vote"

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

House Amendments to HB 1162 (70422.0103) - Human Services Committee 01/30/2007

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 23-27 of the North Dakota Century Code, relating to a state health council study of emergency medical services, county reporting of emergency medical services coverage, and use of property tax levies for emergency medical services; to amend and reenact section 14-10-17.1 of the North Dakota Century Code, relating to consent for a minor to receive emergency medical care; and to provide for a report to the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-10-17.1 of the North Dakota Century Code is amended reenacted as follows:

14-10-17.1. Minor's emergency care. ~~Any~~ A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without ~~permission, authority, or the consent of a the~~ minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This section does not authorize a minor to withhold consent to emergency examination, care, or treatment.

SECTION 2. A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Study of standards of reasonable coverage - County reporting - Use of property tax levies.

1. During the 2007-08 interim, the state health council shall study the minimum requirements of reasonable emergency medical services coverage which must take into account the response time for emergency medical services. Before July 1, 2008, the state health officer shall report to the legislative council the outcome and recommendations of this study.
2. The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the state department of health.
3. A taxing district that levies property taxes for support of emergency medical services shall ensure that every emergency medical services operation that operates in that taxing district receives a benefit of this tax."

Renumber accordingly

Date: 1/30
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HR 1167 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken none ^{reintroduced} amendments

Motion Made By Rep Schneider Seconded By Rep Uffers

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglen					
Robin Weisz					

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep

If the vote is on an amendment, briefly indicate intent:

Date: V30
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1162 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No pass as amended

Motion Made By Rep Upton Seconded By Rep Schneider

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Kari L Conrad	✓	
Vonnie Pietsch - Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep Kaldor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1162: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1162 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 23-27 of the North Dakota Century Code, relating to a state health council study of emergency medical services, county reporting of emergency medical services coverage, and use of property tax levies for emergency medical services; to amend and reenact section 14-10-17.1 of the North Dakota Century Code, relating to consent for a minor to receive emergency medical care; and to provide for a report to the legislative council.

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2. The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the state department of health.
3. A taxing district that levies property taxes for support of emergency medical services shall ensure that every emergency medical services operation that operates in that taxing district receives a benefit of this tax."

Renumber accordingly

2007 SENATE HUMAN SERVICES

HB 1162

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1162

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 3-07-07

Recorder Job Number: 4454, 4609

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman, Senator J. Lee opened the hearing on HB 1162 relating to a state health council study of emergency medical services; consent for a minor to receive emergency medical care; and to provide for a report to the legislative council.

Senator J. Lee noted that there was a fiscal note statement and that there was no state agency with primary responsibility for compiling the necessary information so there is a \$30,000 general fund appropriation.

Dean Lampe (ND EMS Association) testified in support of HB 1162. (Attachment #1) He referred to his testimony on HB 1296 and HB 1161 regarding the current problems and issues facing North Dakota EMS. (Meter 04:30) He yielded to Rep. Haas.

Rep. C. B. Haas (District #36) testified that there have been a series of bills relating to EMS services. This bill is not in its original form but he felt it was improved from the original form based on what the House Human Services Committee did with it. The concept is that if a partnership is going to be developed in order to have comprehensive EMS services across the state of ND, the counties cannot be left out (meter 04:35).

Senator J. Lee asked if the study called for by the state health council overlaps at all with the study in the earlier bill.

Rep. Haas replied that he would say, not. It might even expand it to make sure that, as the state health department does the study, the county government is involved in that study.

There is no way to deliver those services in the state of ND without involving county government.

(Meter 06:00) Mr. Lampe resumed his testimony starting on the bottom of page 1.

(Meter 19:11) Senator J. Lee asked if in Cass County there are volunteer ambulance services.

Mr. Lampe said there are volunteer services.

Senator J. Lee didn't see any numbers on the tax levy and wondered how they get paid.

Senator Dever asked if every location in North Dakota has an ambulance service that is responsible for it.

Lampe replied that there is. That is typically defined both by the ambulance service and local public service point 911 or state radio (meter 20:36).

Senator Dever said that in the case of the Maah Daah Hey Trail someone has the responsibility to get to them somehow.

Mr. Lampe said, yes, that would likely be the ambulance service in Medora or one farther north. The problem would be whether they could get there with an ambulance.

Senator Dever was particularly interested in section one. He wanted to know what the House vote was.

Mr. Lampe thought there were four or five nay votes. He thought there were questions in regards to some of the language in that bill and said that generally the bill was understood but somehow got a little misconstrued in the floor comments. He deferred to Rep. Uglen.

Representative Gerry Uglen (District #19) said there was concern whether rights were being taken away from someone. It was a little misunderstood but he felt they were able to clarify

that it is supposed to protect the young adult within an accident as well as the liability for the EMT.

Senator Warner said, in section 1, it is suggesting that it is always an adolescent. There may be situations where it is actually a very young child who would resist going without a parent. Another point he wanted to know about is whether a parent is allowed to go in the ambulance with the child.

Rep. Uglem stated that the Northwood ambulance pretty much leaves it up to the EMT in charge of the ambulance. If he feels it is safe or necessary to take the parent along, he can do it. If he feels a parent would be a problem or a distraction, he can say no--whatever is best for the patient.

Terry Traynor (Assistant Director, Association of Counties) testified in support of HB 1162. County commissioners have made it abundantly clear that they have serious concerns in the rural areas of North Dakota about being able to keep ambulance services in enough locations to make sure there is timely response. He stated that they were opposed to the original bill because it was asking counties to come up with a solution and fund it. Counties didn't feel like they had either the capability or funding to do that. They recognize that there is a mandate in the bill and they do have to get involved and start assessing this. They are willing to accept the mandate. They are also very supportive of the study in the bill. They need the legislative involvement in the process because they can't solve this without more resources put into ambulance services. Without more resources they fear more of the small ones will go away resulting in larger areas for the existing services which would increase the response time.

Senator J. Lee asked if he knew how Cass County funds the ambulance.

Mr. Traynor speculated that it was paid for from the general fund (meter 26:20).

Senator Dever asked him about the perception that it isn't a money problem but is a people problem. He asked if that was a perception of the counties as well.

Mr. Traynor thought it was recognized as both (meter 27:05). There is a problem getting volunteers of the age that are willing to and capable of doing this work. Counties can take money out of their general fund on a county motion. General funds are capped in 46 counties, so there is no additional money.

Senator J. Lee asked what all the discussion about caps would do to the potential for a county, if willing, to enhance their levy for things like ambulance service.

Mr. Traynor said to launch into new or expanded support for services that they aren't already providing will be virtually impossible with the capping language that is being proposed at this time.

Senator Dever asked if the caps come off at the election or if the people can vote to go beyond the cap.

Mr. Traynor said they can, however, it doesn't remove the statutory caps. It could increase beyond the 3 ½ % if the voters would set 5% or 7% or whatever on an annual basis. It would be possible, but in 46 counties the question is moot.

There was no opposing testimony.

Tim Meyer (Health Department) said the department was neutral on this issue.

There were no further questions.

The hearing on HB 1162 was closed.

JOB #4609

Chairman Senator J. Lee opened HB 1162 for discussion.

Senator Warner asked if by putting this in code it immunized the ambulances against the charges of abduction or kidnapping.

Dean Lampe (Executive Director, EMS Association) responded by saying that he didn't believe it immunized them. He suggested it reduces the likelihood that they could be charged with negligence. Unless it would be a volunteer, there would be no Good Samaritan protection. The major concern on this bill is a minor who refuses treatment and, in the EMT's view, needs to go to the hospital (meter 01:45).

Senator Warner moved a Do Pass on HB 1162.

The motion was seconded by Senator Pomeroy.

Discussion followed on the amendments that were put on in the House. The study is good and should lead to something positive.

Senator J. Lee asked Mr. Lampe if subsection 3 only applies to the study.

Mr. Lampe said that was not their intent. That section of the bill would require an ambulance service responding into a district that taxes shall benefit from that tax.

The constitutionality of a county supporting an entity outside of their boundaries was questioned (meter 07:10). The services would be provided within the boundaries. By law the closest possible ambulance is required to respond regardless of county borders.

The fiscal note was added for the study after the hearing in the House. It has nothing to do with the grant program.

Roll call vote 6-0-0. Motion carried. Carrier is Senator Pomeroy.

Date: 3-7-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1162

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Warner Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Pomeroy

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 9, 2007 7:34 a.m.

Module No: SR-45-4798
Carrier: Pomeroy
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1162, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1162 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1162

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www.ndemsa.org

HB 1162

January 10, 2007

Testimony – House Human Services Committee
North Dakota EMS Association
Dean Lampe, Executive Director

Good Morning, Chairman Price and members of the committee. My name is Dean Lampe, and I am the Executive Director of the North Dakota Emergency Medical Services (EMS) Association. On behalf of our almost 2,000 active members, most of which are volunteer EMS providers serving on our state's ambulance services and quick response units, thank you for the opportunity to testify in support of HB 1162.

As I mentioned in testimony during previous hearings, this committee will consider several bills concerning EMS which are all aimed at proactively managing the change which must occur in our system of delivery of this essential public service. This bill, and the bill which immediately follows this hearing, are also a part of the EMS Association's comprehensive legislative package.

In 2006, there were over 58,000 ambulance runs in North Dakota, which equals 160 ambulance runs per day, 365 per year; all across our state. This is an astounding figure to most people who hear it. And, it goes to the point that EMS is truly an essential public service that all North Dakotans depend and rely on. This is especially true in rural North Dakota where EMS is the initial and quickest point of access to the healthcare system for many individual citizens. I mentioned in previous testimony, however I wish to have it specifically in the record again on this bill, that many of our state's rural ambulance services are severely threatened. Without immediate and substantial legislative measures during this session, we will all face a significantly different EMS system in 2009.

HB 1162 simply vests all North Dakota counties with the final stop-gap responsibility of ensuring reasonable EMS for its residents. Before I present the committee with our justifications

for offering this bill, I need to provide you with some historical background concerning the issue. First, you are all aware there are four methods provided in NDCC to levy a tax on property specifically for EMS (ambulance service). The four taxing authorities are given to; 1) a county, 2) a city, 3) a township, and 4) a rural ambulance service district. Statute establishes these taxing authorities and provides that no more than 10 mils in combination from these districts can be levied against any property for EMS.

The committee also understands the principal of equity involved in any tax levy against property. That is; the benefit of the function or service being levied for is generally reserved for the payers of the tax. A specific example of this principal of equity is exactly why I (hypothetically), as a resident of Morton County and a taxpayer there, expect to see the Morton County road grader come by my gravel road occasionally. I really don't expect to see our Morton County road graders maintaining the roads in Grant County. Grant County taxpayers should pay to maintain the roads in their county. We believe this principal is easy to understand. However, this is not what occurs with regard to providing EMS in North Dakota.

In 2001, the Legislative Assembly passed a bill which was signed into law that provided, among other things, when an emergency call is made to 9-1-1 the dispatching entity will dispatch the closest available ambulance. This is sound, rational law. It simply makes no sense to dispatch an ambulance which is further away than another would be from the emergency. We have no issue with that statute.

However, in 2002, Dr. Dwelle the state health officer asked for an opinion from the Attorney General (AG) which requested clarification on two matters; 1) define "closest" in terms of either "space" or "time" with regard to ambulance services and quick response units, and; 2) clarify the effect of the new "closest ambulance must be dispatched" statute on district borders and its effects on sponsoring ambulance services' relationships with affiliated quick response units. I have provided a complete copy of the Attorney General's Letter Opinion as an appendix to my testimony.

On page one of the AG's letter NDCC 57-40.6-10(1)(k) is cited. The operative portion of the AG's answer begins on the bottom of page one where it says, "Section 57-40.6-10(1)(k) puts the onus on the governing body of a local government unit such as a city or county that has a 911 telephone system to implement that section and ensure that the closest EMS is dispatched by a 911 telephone system or emergency call center "regardless of city, county, or district boundaries." And, although it is good, sound, logical law assuring that the closest EMS respond to an emergency, it took the issue, or at least the principal of equity part of the issue of providing EMS out of local control.

I would like to draw your attention to a spreadsheet labeled, "2005 EMS Tax Levies by Subdivision" which I have provided along with my testimony. This spreadsheet summarizes the amount of money levied by each county and then also by townships, cities, and Rural Ambulance Service Districts within the counties. I do not plan to speak directly about any conclusions regarding this information. However, I did wish for the committee to have it available during your consideration of this bill. The map immediately following the spreadsheet depicts visually the data contained on the spreadsheet. The color legend is shown on the left margin.

Next, please refer to the second colored map I have provided in my testimony titled, "North Central North Dakota." Bottineau County happens to have formed a Rural Ambulance Service District which mirrors the county borders. Then, as contained on the spreadsheet, you will see according to the Tax Commissioner's 2005 Report, \$52,223.77 was levied against the property in the Rural Ambulance Service District; which was of course controlled by the RASD board. To the best of my knowledge, the bulk of the money was distributed to the ambulance services located in the RASD, namely; Bottineau, Westhope, Lansford, and Willow City (which was subsequently closed in 2006).

I have drawn circles on this map which are not intended to be accurate depictions of the actual service areas of these ambulance services. The circles are only to show this committee visually what impact of the "closest ambulance law" has on EMS. As you can see for example, Mohall, which is located in Renville County, sits almost right on the border with Bottineau

County. As you look at the circle around Mohall, you can see that fully one half of its service area is in the Bottineau County RASD. Conversely, you can see the service area of the Lansford Ambulance Service extends into Renville County. So, with this example you see both sides of the obvious inequity. First, you see ambulance services in Sherwood, Mohall, Glenburn, Upham, and Rugby which must provide service if they are the closest ambulance without receiving any financial support from the levied dollars intended to supplement the provision of EMS in the RASD. And, you also see that the Lansford service, which is receiving a portion of its funding from the RASD, is providing service into Renville County where property is not taxed for Bottineau County's RASD.

I did not mean to pick on Renville, Bottineau, and Mchenry counties in my example because North Dakota is replete with similar situations. I have included two additional maps with my testimony covering the southwest area and east central area where committee members can certainly draw their own conclusions.

All that being said, it leads to the obvious question of, "What happens now when an ambulance service closes?" What happens is that the next closest ambulance service(s), which is probably another group of 10-15 volunteers, must assume the vacant service area. They have a legal "duty to respond" according to their license agreement and the dispatcher must dispatch them if they are the closest ambulance service.

We believe this situation to be patently unfair and inequitable; and, it has contributed to the overall erosion of the rural EMS system. It is unfair to charge a group of volunteers with the responsibility of trying to figure out a way to cover a newly expanded service area. Eventually, if this problem is not addressed, EMS in rural North Dakota will experience the "domino effect" of ambulance closures as I explained to this committee a few days ago.

We believe the ultimate responsibility to provide EMS belongs with the unit of government which also has the authority to tax for the service; the counties. It does not belong with a small group of volunteers. The counties should have the responsibility of providing this essential public service just as they have the responsibility of providing other services described

in the North Dakota Constitution, where it says in Article VII, Section 8, "Each county shall provide for law enforcement, administrative and fiscal services, recording and registration services, education services, and any other governmental services or functions as may be provided by law." We believe this to be an instance where one of the duties which can be provided by law to vest with counties is to assure its residents have access to healthcare through EMS.

Madam chair, thank you for the opportunity to testify in support of HB 1162, and I would be happy to answer questions from the committee.

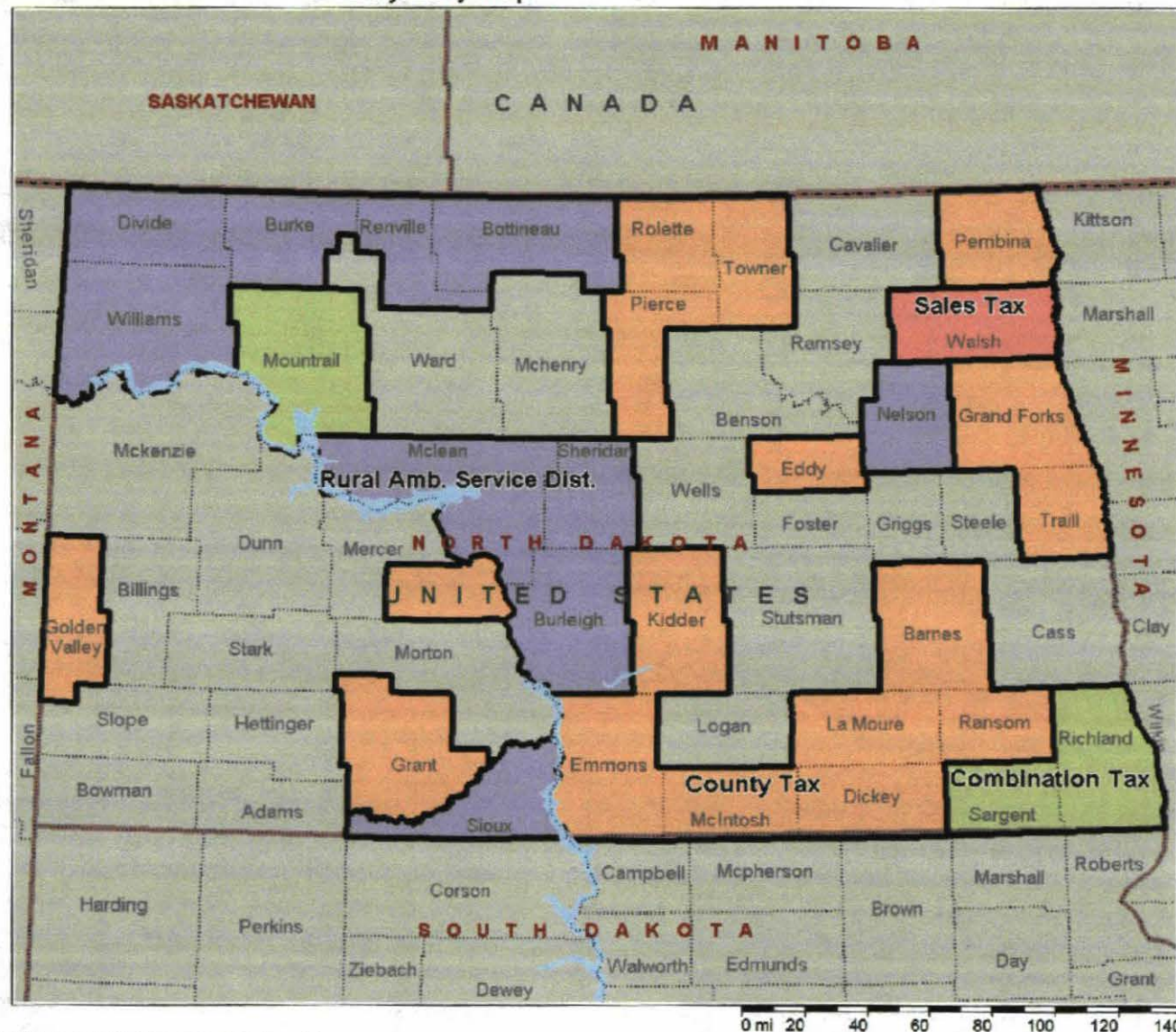
2005 EMS TAX LEVIES BY SUBDIVISION

County	County			Township			City			Rural Ambulance Service District			Total Tax Levied	Total Taxable Value
	Emergency Medical Services			Ambulance Service			Ambulance Service			District				
	Tax Levied	Taxable Value	Mil Rate	Tax Levied	Taxable Value	Mil Rate	Tax Levied	Taxable Value	Mil Rate	Tax Levied	Taxable Value	Mil Rate		
Adams													\$ -	\$ -
Barnes	\$ 32,463.39	\$ 34,664,543.00	0.9										\$ 32,463.39	\$ 34,664,543.00
Benson							\$ 2,191.24	\$ 1,348,587.00	1.6				\$ 2,191.24	\$ 1,348,587.00
Billings													\$ -	\$ -
Bottineau										\$ 52,223.77	\$ 25,517,224.00	2.0	\$ 52,223.77	\$ 25,517,224.00
Bowman													\$ -	\$ -
Burke				\$ 249.65	\$ 7,454,358.00	0.03				\$ 19,126.54	\$ 3,759,634.00	5.1	\$ 19,376.19	\$ 11,213,992.00
Burleigh										\$ 31,848.63	\$ 3,038,502.00	10.5	\$ 31,848.63	\$ 3,038,502.00
Cass													\$ -	\$ -
Cavalier													\$ -	\$ -
Dickey	\$ 57,225.65	\$ 16,350,186.00	3.5	\$ 249.07	\$ 12,621,654.00	0.02							\$ 57,474.72	\$ 28,971,840.00
Divide										\$ 27,954.81	\$ 9,470,151.00	3.0	\$ 27,954.81	\$ 9,470,151.00
Dunn										\$ 22,037.61	\$ 7,110,931.00	3.1	\$ 22,037.61	\$ 7,110,931.00
Eddy	\$ 25,224.62	\$ 6,306,157.00	4.0										\$ 25,224.62	\$ 6,306,157.00
Emmons	\$ 27,303.09	\$ 13,651,558.00	2.0										\$ 27,303.09	\$ 13,651,558.00
Foster													\$ -	\$ -
Golden Valley	\$ 27,525.94	\$ 5,505,189.00	5.0										\$ 27,525.94	\$ 5,505,189.00
Grand Forks	\$ 887,543.48	\$ 147,923,914.00	6.0										\$ 887,543.48	\$ 147,923,914.00
Grant	\$ 15,931.27	\$ 7,965,635.00	2.0										\$ 15,931.27	\$ 7,965,635.00
Griggs													\$ -	\$ -
Hettinger							\$ 484.90	\$ 1,093,067.00	0.4				\$ 484.90	\$ 1,093,067.00
Kidder	\$ 47,474.44	\$ 9,494,888.00	5.0										\$ 47,474.44	\$ 9,494,888.00
LaMoure	\$ 44,617.70	\$ 17,566,028.00	2.5										\$ 44,617.70	\$ 17,566,028.00
Logan							\$ 1,342.67	\$ 1,044,752.00	1.3				\$ 1,342.67	\$ 1,044,752.00
McHenry													\$ -	\$ -
McIntosh	\$ 9,511.30	\$ 9,705,405.00	1.0				\$ 2,795.58	\$ 2,012,206.00	1.4				\$ 12,306.88	\$ 11,717,611.00
McKenzie										\$ 473.90	\$ 171,681.00	2.8	\$ 473.90	\$ 171,681.00
McLean							\$ 1,998.50	\$ 5,980,794.00	0.3	\$ 104,667.39	\$ 23,413,659.00	4.5	\$ 106,665.89	\$ 29,394,453.00
Mercer													\$ -	\$ -
Morton													\$ -	\$ -
Mountrail							\$ 4,996.97	\$ 3,337,421.00	1.5	\$ 15,860.16	\$ 5,051,479.00	3.1	\$ 20,857.13	\$ 8,388,900.00
Nelson										\$ 18,184.08	\$ 3,691,731.00	4.9	\$ 18,184.08	\$ 3,691,731.00
Oliver	\$ 22,029.86	\$ 5,452,936.00	4.0										\$ 22,029.86	\$ 5,452,936.00
Pembina	\$ 149,162.48	\$ 29,832,498.00	5.0										\$ 149,162.48	\$ 29,832,498.00
Pierce	\$ 27,156.27	\$ 13,578,137.00	2.0										\$ 27,156.27	\$ 13,578,137.00
Ramsey													\$ -	\$ -
Ransom	\$ 25,974.59	\$ 16,336,201.00	1.6										\$ 25,974.59	\$ 16,336,201.00
Ranville										\$ 12,270.87	\$ 4,212,489.00	2.9	\$ 12,270.87	\$ 4,212,489.00
Richland							\$ 11,624.95	\$ 15,601,783.00	0.7	\$ 89,456.31	\$ 19,435,214.00	4.6	\$ 101,081.26	\$ 35,036,997.00
Rolette	\$ 64,483.90	\$ 9,740,775.00	6.6										\$ 64,483.90	\$ 9,740,775.00
Sargent	\$ 133,240.15	\$ 13,812,561.00	9.6							\$ 11,173.92	\$ 1,231,968.00	9.1	\$ 144,414.07	\$ 15,044,529.00
Sheridan										\$ 14,640.31	\$ 2,822,255.00	5.2	\$ 14,640.31	\$ 2,822,255.00
Sioux										\$ 10,151.73	\$ 2,050,855.00	4.9	\$ 10,151.73	\$ 2,050,855.00
Slope													\$ -	\$ -
Stark													\$ -	\$ -
Steele													\$ -	\$ -
Stutsman													\$ -	\$ -
Towner	\$ 22,448.21	\$ 4,406,694.00	5.1										\$ 22,448.21	\$ 4,406,694.00
Trail	\$ 92,264.67	\$ 25,772,240.00	3.6										\$ 92,264.67	\$ 25,772,240.00
Walsh													\$ -	\$ -
Ward													\$ -	\$ -
Wells													\$ -	\$ -
Williams										\$ 26,809.14	\$ 7,219,208.00	3.7	\$ 26,809.14	\$ 7,219,208.00
Total	\$ 1,711,581.01	\$ 388,065,545.00		\$ 498.72	\$ 20,076,012.00		\$ 25,434.81	\$ 30,418,610.00		\$ 456,879.17	\$ 118,196,981.00		\$ 2,194,393.71	\$ 558,757,148.00

Data compiled from tax commissioner report by NDEMS Association, January, 2007

County Levy Map

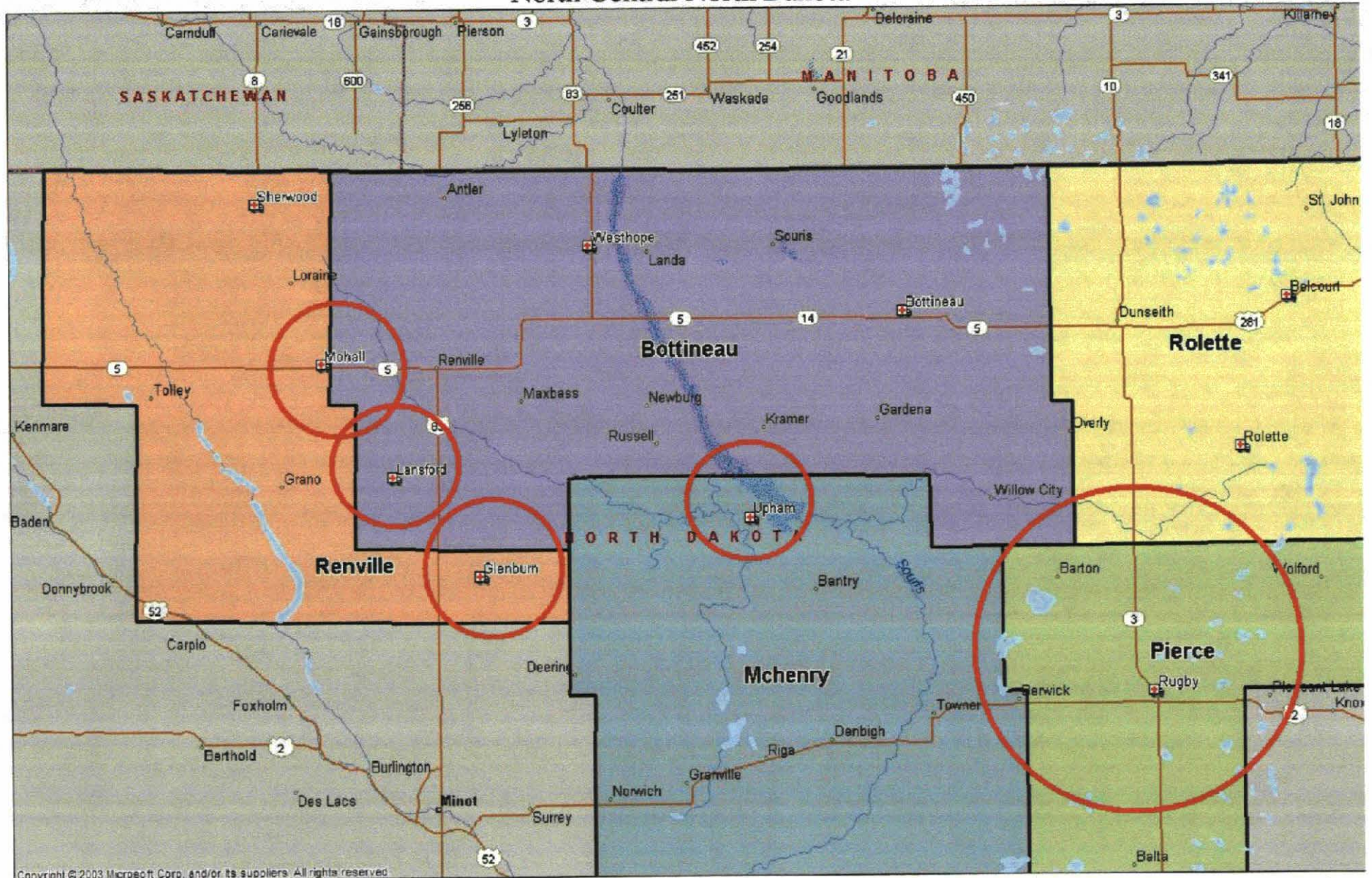
- Custom Territories**
- Combination Tax
 - County Tax
 - Rural Amb. Service Dist.
 - Sales Tax



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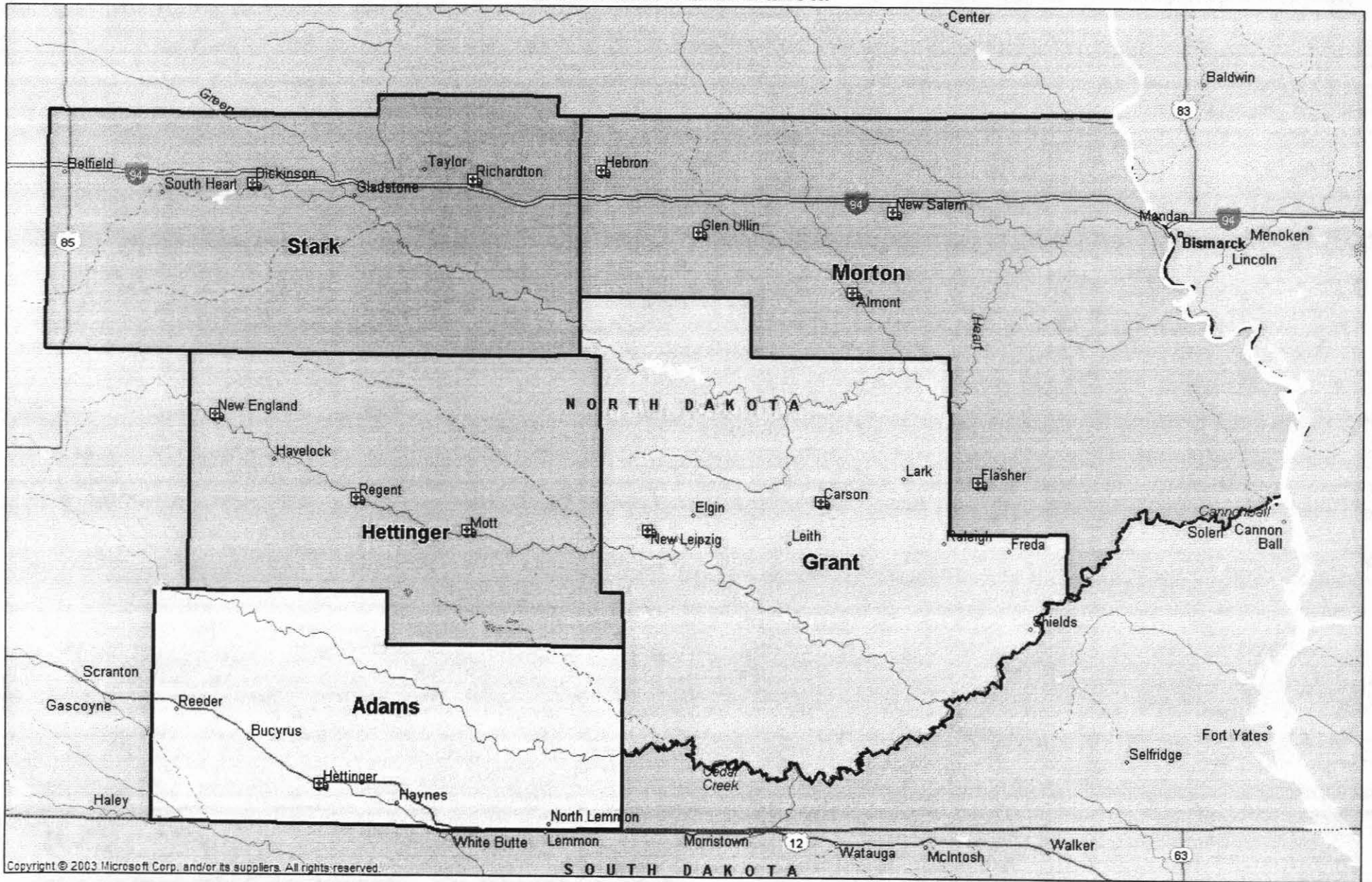
Data prepared and presented by: ND EMS Association, January 2007

North Central North Dakota



Data prepared and presented by: ND EMS Association, January 2007

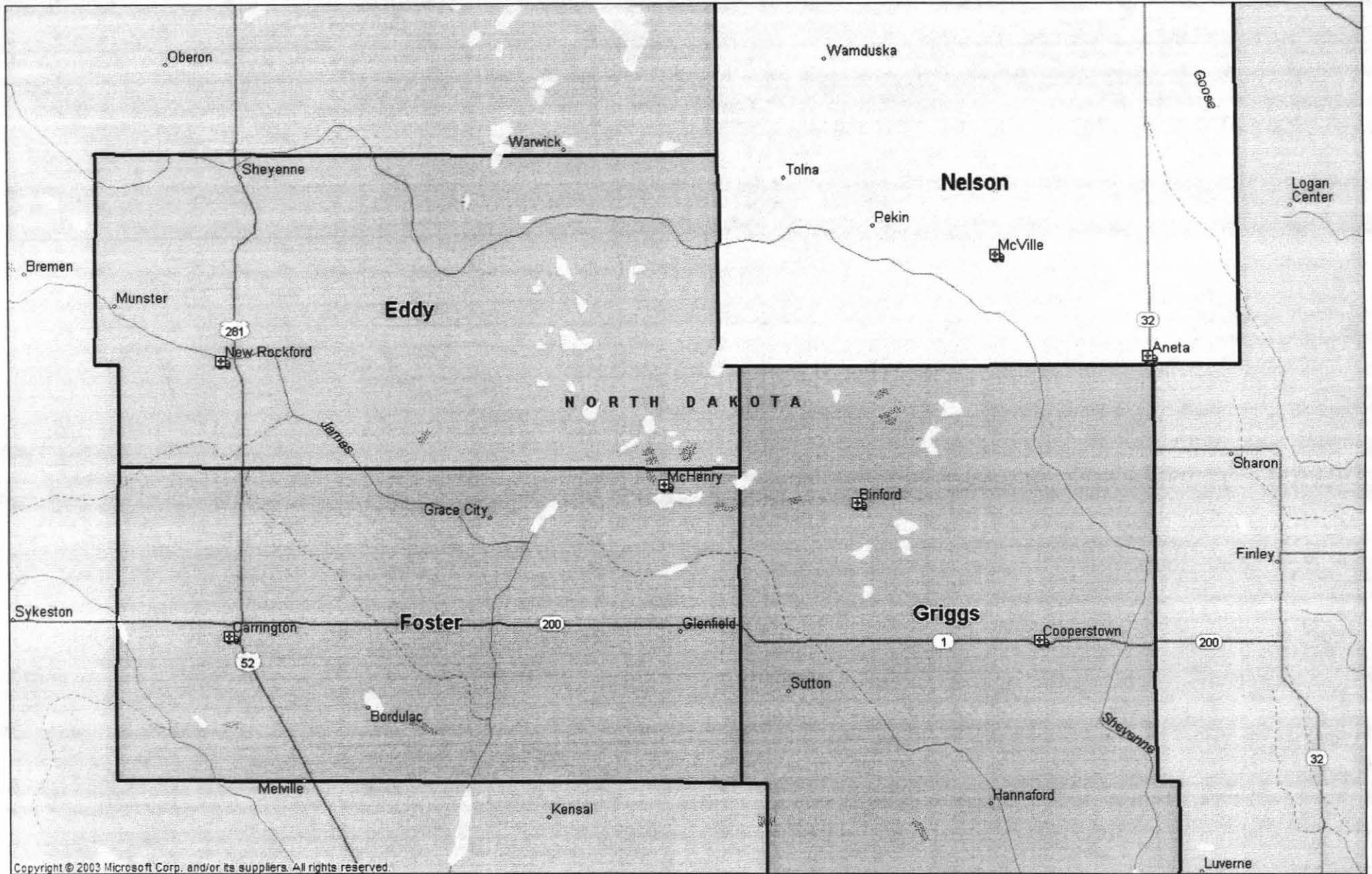
Southwest North Dakota



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Data prepared and presented by: ND EMS Association, January 2007

East Central North Dakota



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Data prepared and presented by: ND EMS Association, January 2007

**LETTER OPINION
2002-L-27**

May 8, 2002

Terry L. Dwelle, MD, MPHTM
State Health Officer
Department of Health
600 E Boulevard Ave Dept 301
Bismarck, ND 58505-0200

Dear Dr. Dwelle:

You asked my opinion regarding the implementation of N.D.C.C. § 57-40.6-10(1)(k). Section 57-40.6-10(1)(k), N.D.C.C., enacted by the 2001 Legislature, provides:

1. The governing body of the local governmental unit with jurisdiction over an emergency 911 telephone system shall be or shall designate a governing committee of the emergency 911 telephone system which shall [among other things]:

- k. Beginning June 1, 2002, ensure that the closest available emergency medical service is dispatched to the scene of medical emergencies regardless of city, county, or district boundaries. The state department of health shall provide emergency 911 telephone systems with necessary geographical information to assist in the implementation of this subdivision.

The North Dakota Department of Health (Department) licenses emergency medical services (EMS), which includes basic life support ambulance services, advance life support ambulance services, air ambulance services and quick-response unit services. N.D.C.C. §§ 23-27-01(1), 23-27-02. Currently the Department only licenses surface basic life support and advanced life support ambulance services. N.D.A.C. § 33-11-01-03, chs. 33-11-02, 33-11-03. Section 57-40.6-10(1)(k) puts the onus on the governing body of a local governmental unit such as a city or county that has a 911 telephone system to

May 8, 2002

Page 2

implement that section and ensure that the closest EMS is dispatched by a 911 telephone system or emergency call center "regardless of city, county, or district boundaries."

Your initial question is whether dispatching an EMS that will arrive at the emergency scene sooner than an EMS that is physically closer to the scene of the emergency is in compliance with N.D.C.C. §57-40.6-10(1)(k). The underlying question is what is the meaning of the "closest" EMS. A statute is construed to ascertain the intent of the legislature. Kim-Go v. J.P. Furlong Enterprises, Inc., 460 N.W.2d 694, 696 (N.D. 1990). Intent must be sought from the language of a statute. Id. Unless defined in the code, words are to be given their plain, ordinary and commonly understood meaning. Id. Furthermore, construction of any statute must effect its objects and promote justice. N.D.C.C. § 1-02-01. "Closest" means "[n]ear in time or space." The American Heritage Dictionary 282 (2d coll. ed. 1991). Thus, the fact that an ambulance service is physically closer but cannot respond as quickly as another EMS, would justify the dispatcher in sending the EMS that can respond more quickly. This interpretation is not only consistent with the meaning of the word "closest" which allows a dispatcher to evaluate the time a response will take before dispatching an EMS, but is consistent with the testimony before the Legislature in support of HB 1409 which enacted N.D.C.C. §57-40.6-10(1)(k). For example, the sponsor and author of HB 1397, which contained a similar provision and which was incorporated in HB 1409¹, Representative Audrey Cleary, explained its purpose at a hearing before the House Political Subdivisions Committee. She stated, "This bill seeks to make certain . . . that the person needing assistance receives the quickest possible response." Hearing on H.B. 1397 Before the House Political Subdivisions Comm. 2001 N.D. Leg. (Feb. 2) (Statement of Rep. Cleary). The director of the Division of Emergency Health Services for the Department, Timothy Wiedrich, testified that "it is important that [the] closest emergency medical service (EMS) unit respond to an emergency regardless of city, county or district boundaries. EMS response time is critical when a medical emergency occurs." Hearing on H.B. 1409 Before the Senate Political Subdivisions Comm. 2001 N.D. Leg. (Mar. 1) (Statement of Timothy Wiedrich). In my opinion a 911 telephone system dispatcher is in the best position to determine which EMS is closest in terms of time as well as space or distance. It would be unreasonable, for example, to dispatch an EMS which is on the other side of a river only two miles from the emergency scene, if it would have to drive 100 miles to cross the river and reach the scene, when another EMS may be 10 miles away from the emergency scene but on the same side of the river. Such a result would be an absurdity and flies in the face of the plain meaning of the words in the statute which requires the quickest response. Statutes must be construed logically so as not to produce an absurd result. In Interest of M.Z., 472 N.W.2d 222, 223 (N.D. 1991).

¹ See Hearing on H.B. 1409 Before the House Political Subdivisions Comm., 2001 N.D. Leg. (Feb. 2) (Statement of Rep. Severson).

Your request also questions whether a 911 dispatch center would be in compliance with the law if it dispatched the closest quick-response unit to the scene of the emergency, but dispatched an ambulance service that is affiliated with the quick-response unit through business or organizational ties even if it is not the closest ambulance service to the emergency. Section 57-40.6-10(1)(k), N.D.C.C., requires the "closest available" EMS be dispatched to the scene of medical emergencies. The law does not modify its requirement for the "closest" EMS based on organizational or corporate affiliation with a quick-response unit, or any other entity, that may also be responding to the emergency. The manifest purpose of this statute is to insure quick response times. To send an ambulance service that is not the closest ambulance service simply because of common ownership with a quick-response unit already at the scene cannot be justified under N.D.C.C. § 57-40.6-10(1)(k) and would unreasonably delay the provision of necessary emergency services in contradiction to the intent of this statute.

A member of your staff contacted this office to supplement your request for an opinion concerning issues arising when dispatching different types of EMS services to a particular emergency. The statutes governing dispatch leave a great deal of discretion with the emergency 911 dispatch centers, but the very nature of the various types of EMS available will impact the dispatcher's judgment. For example, a quick-response unit is considered to be a stop gap measure for communities without an ambulance and does not have the capability of transporting persons.² Therefore, if a basic life support or advanced life support ambulance is needed but a quick-response unit is not needed, N.D.C.C. § 57-40.6-10(1)(k) does not require the 911 dispatch center to dispatch both an ambulance and the quick-response unit. Your staff member also mentioned that an ambulance jurisdiction was planning to implement a policy where one of its ambulances would meet an ambulance dispatched from another jurisdiction and transport the patient from that point. Not only would such a policy clearly violate the underlying principal in N.D.C.C. § 57-40.6-10(1)(k) concerning dispatching the closest EMS "regardless of city, county or district boundaries," but would also result in unreasonable delay in transporting a patient to a hospital or trauma center. Any unreasonable and unnecessary delay may result in civil liability if it causes harm to the patient.

While local governing bodies and their 911 telephone systems are required to implement N.D.C.C. § 57-40.6-10(1)(k), the Department is to provide those systems with necessary geographical information to assist in the implementation. I am advised that the Department has furnished a list of contact personnel for licensed ambulance services and quick-response units together with state maps designating the locations of the ambulance services and the quick response units. It would be helpful to the 911 telephone systems if

² These units "are trained to provide care while an ambulance is enroute [sic] to the scene." Hearings on H.B. 1409 Before the Senate Political Subdivisions Comm. 2001 N.D. Leg. (Mar. 9) (Statement of Timothy Wiedrich). They are not trained for transporting patients. Id.

LETTER OPINION 2002-L-27

May 8, 2002

Page 4

the Department provided uniform circles of time and distance around each location. This concept was discussed during the legislative hearing by Mr. Wiedrich, the director of the Department's EMS Division. In response to a question, he indicated the Department was plotting EMS areas of coverage on a mapping system. Hearing on H.B. 1409 Before the Senate Political Subdivisions Comm. 2001 N.D. Leg. (Mar. 9) (Statement of Timothy Wiedrich). This would assist the local 911 dispatch centers in determining which EMS can most quickly respond, and facilitate the local 911 dispatcher's ability to judge various factors influencing the time it takes to respond, including variables such as a road being out or under construction and a detour in place.

Sincerely,

Wayne Stenehjem
Attorney General

tam/vkk

Testimony – House Human Services Committee
North Dakota EMS Association
Mark Weber, NDEMSEA President

Good Morning Chairman Price and members of the committee. My name is Mark Weber, and I am the President of the North Dakota Emergency Medical Services (EMS) Association. On behalf of our almost 2,000 active members, most of which are volunteer EMS providers serving on our state's ambulance services and quick response units, I thank you for the opportunity to testify in support of HB 1162.

The NDEMSEA has identified 18 issues that are stumbling blocks to effective EMS systems throughout North Dakota. The bill you have for consideration would help us with at least three of our issues. One, it will help with the issue of competition between services. We have enough problems between services without one service having to fight with another service for money. By making the counties responsible for EMS and putting it in law that they should reimburse all service that cover their county, it would make for better relations between ambulance services. The second issue that this bill will help with is lack of leadership, we have identified that there are many EMS services whose leadership just doesn't know or understand how to approach cities, counties or how to create an ambulance service district. The third is provider pride, there are many Volunteer EMS providers who just don't want to admit they need help, when asked if money is the problem they state NO, we have enough money, when in fact they would not have enough money to pay the rent or heat bill if they had to.

I guess I would ask you, who should be responsible for the citizens in each county. Do you expect the volunteer EMS providers to make sure there is EMS? Isn't it enough that they take their time to provide the service with little or no reimbursement? Or, should it be the responsibility of the elected officials?

Mr. Chairman, thank you for this opportunity to testify in support of HB 1162 and I would be happy to answer questions the committee may have.

**TESTIMONY TO THE
HOUSE HUMAN SERVICES COMMITTEE**

**Prepared January 17, 2007 by the
North Dakota Association of Counties
Terry Traynor, Assistant Director**

REGARDING HOUSE BILL # 1162

Chairman Price and committee members, I am here on behalf of North Dakota's counties and specifically their county commissions. The commissioners across the State are extremely concerned about the continued delivery of emergency medical services, however they are opposed to the enormous mandate that this bill would create.

Counties already levy \$1.5 million in property taxes to support EMS, more than twice the \$600,000 raised in dedicated levies for rural ambulance districts, EMS districts, township ambulance services, and city EMS services combined. County officials are not unconcerned about the future of these critical services and particularly the challenges that must be addressed to adequately serve our rural population. The problem with this bill is that it isn't a solution. It simply dumps the problem unto the commissioner's table – without funding, but, with a promise of State imposed requirements.

Most counties do not have the expertise to assess their EMS coverage, and their commissions surely lack the taxing authority to significantly augment the existing funding. All but seven counties are capped in their general fund, and the 10-mill special levy for EMS is not imposed by the commissioners, but by the voters. Even if the levy authority was available, popular opinion seems to favor reduced property taxes, rather and increases.

At a time of State surpluses, if the State wishes to promulgate regulations to ensure "reasonable" EMS coverage, county commissioners urge the State to assume the responsibility to fund the "appropriate action to increase coverage".

Our Association urges a "Do Not Pass" recommendation for HB1162, in its current form.

**North Dakota Department of Health
Division of Emergency Medical Services
North Dakota EMS Personnel Requirements**

Driver

Must possess a valid North Dakota Drivers License. No other training required.

Driver with CPR

Must possess a valid North Dakota Drivers License. Four hour CPR training required every two years.

Advanced First Aid Ambulance (Red Cross)

This initial certification has not been offered since 1992. The initial course was developed by the American Red Cross and was 45 hours in length. In 1992 The American Red Cross discontinued to sponsor this course because it no longer met the federal standards for ambulance attendant. Individuals who were certified at this level prior to January 1992 are allowed to recertify at this level by completing a 24 hour refresher course every three years. No other continuing education hours are required. As of January 17, 2007 there are 50 providers in North Dakota listed as active.

Emergency Medical Technician-Basic (EMT-B)

Initial training is a minimum of 110 hours in length. Initial certification is valid for two years. To recertify an individual must attend 48 hours of continuing education and a 24 hour DEMS approved refresher course. Recertification is also available for an individual to forego continuing education and take a computer based test every two years provided by the National Registry of Emergency Medical Technicians. Certification is provided through the National Registry of Emergency Medical Technicians.

Emergency Medical Technician-Intermediate 85 (EMT-I85)

Initial training is a minimum of 100 hours over and above EMT-Basic training. Initial Certification is valid for two years. To recertify an individual must attend 36 hours of continuing education and a 36 hour DEMS approved refresher course. Recertification is also available for an individual to forego continuing education and take a computer based test every two years provided by the National Registry of Emergency Medical Technicians. Certification is provided through the National Registry of Emergency Medical Technicians.

Emergency Medical Technician-Paramedic (EMT-P)

Initial training consists of an individual being certified as an EMT-Basic and attending a DEMS approved EMT-Paramedic course. The initial course consists of 120 hours of training and initial certification is good for two years. To recertify an individual must attend 24 hours of continuing education and a 48 hour DEMS approved refresher course. Recertification is available for an individual to forego the continuing education requirements and take a computer based examination that is provided by the National Registry of Emergency Medical Technicians. Certification is provided by the National Registry of Emergency Medical Technicians.

North Dakota Department of Health Ambulance Response Times 2005

2005 Urban Emergency Response Times

Minutes	Number	Percentage
0 - 8	11293	69.25%
9 - 15	2717	16.66%
16 - 30	1140	6.99%
>31	1157	7%
	16307	

Rural Emergency Response Times

Minutes	Number	Percentage	
0 - 8	4790	57.72%	
9 - 15	1686	20.32%	78%
16 - 30	1335	16.09%	94%
> 31	488	5.88%	
	8299		

Frontier Emergency Response Times

Minutes	Number	Percentage	
0 - 8	4521	54.31%	
9 - 15	1632	19.61%	73.92%
16 - 30	1485	17.84%	91.76%
> 31	686	8.24%	
	8324		

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HB 1162

March 7, 2007

Testimony – Senate Human Services Committee
North Dakota EMS Association
Dean Lampe, Executive Director

Good morning Chairman Lee and members of the committee. My name is Dean Lampe, and I am the Executive Director of the North Dakota Emergency Medical Service (EMS) Association. On behalf of our almost 2,000 active members, most of which are volunteer EMS providers serving on our state’s ambulance services and quick response units, I thank you for the opportunity to testify in support of HB 1162.

In order to save some time Madam Chair, with your permission, I would request the formal record on HB 1162 indicates a reference to my previous testimony on HB 1296 and HB 1161 regarding the current problems and issues facing North Dakota EMS.

HB 1162 is a difficult bill for me to provide supporting testimony on because it came from the House to the Senate as a “hog-house” bill. It contains none of the bill’s original language or intent. The original bill was introduced by Representative Haas to remedy a problem that can be simply defined, but the problem obviously does not have a simple answer. The problem occurs when an ambulance service closes. Under the current NDCC concerning EMS operations licensure, 9-1-1 dispatching statutes, and an Attorney General’s opinion concerning the issue, when an ambulance service closes, the next closest ambulance service(s), which is usually another small volunteer squad, has the legal responsibility to absorb the now vacant service area created by the closure. This set of conditions creates an unfunded mandate (other than a small fee for service) for the next closest, usually small group of volunteer EMS providers. The original bill sought to shift this unfunded mandate from the volunteers down the road to the counties where there is a source of funding for EMS; local taxation.

The previous being said for the record, this committee is not there now and you have a different bill in front of you for consideration, and this bill version still contains provisions important to the operation and viability of North Dakota's ambulance services.

Section 1 of the bill amends NDCC Section 14-10 concerning a minor's right to emergency care and to define when a minor does not have a right to refuse emergency care. In North Dakota, as in most states' statutes, a minor has the right to consent to emergency care. However, I have been informed that in other states, a minor's right to consent has also implied a minor's right to refuse emergency care. Section 1 of the bill simply states that after a reasonable attempt to contact the parent or guardian is made which is unsuccessful, the minor cannot withhold consent to emergency care.

An example of this is when an ambulance is dispatched on an emergency call which involves a minor. Let's assume in this hypothetical situation, in the EMT's opinion, the minor patient needs to go to the hospital for further medical evaluation or treatment. However, in some cases, usually because of behavioral issues (perhaps alcohol or drug use) the minor patient does not wish for the parents to become aware of the situation. Of course, a minor is smart enough to know their parents would be made aware if he/she is transported to a hospital, and so the minor refuses transport. EMTs are trained to err on the side of patient safety and this type of situation places the EMT and the minor in a precarious predicament. Failure to transport an individual who meets the normal medical criteria for further evaluation or treatment leaves the patient susceptible to further medical complications and it leaves the EMT open to civil liability for negligence. Section 1 of HB 1162 is good law for the minor, the minor's parents, and our state's EMTs and ambulance services.

Section 2 of the HB 1162 contains the remnants of the original intent of the bill and it will require a brief explanation. Madam Chair and members of the Committee, most of you know about and some of you attended one of 5 "EMS Open Door Forum" meetings the EMS Association sponsored and conducted all across North Dakota during the summer of 2006. Every legislator, county and city commissioner, and licensed EMS provider received a personal postcard announcing these meetings. The purpose of these open door forums was to make elected officials, the EMS community, and the general public aware of what we called a looming

tragedy; the threatened viability of our state's rural ambulance services and the fact there was no formal plan or governmental responsibility in place to deal with this very apparent crisis.

There were 19 EMS related topics dealt with at these meetings. HB 1162 deals with only 2 of those issues. The first issue is that the term "reasonable EMS" must be defined in terms of response time. What is a reasonable period of time for an individual to wait for emergency medical assistance to arrive after a call is placed to 9-1-1? Of course, "reasonable EMS" depends on where an individual happens to be when the 9-1-1 call is made. "Reasonable EMS" would be different if one was in their home in Fargo or Bismarck than it would be if they were hiking on the Maah Daah Hey Trail when the emergency call was made.

Nevertheless, there are national guidelines already established which deal with reasonable EMS response times for urban, rural, and frontier settings. Think of these guidelines as "targets," if you will. Without these targets defined, we cannot come up with a plan to hit them. So, the first thing Section 2 of the bill does in subsections 1 and 2 is to charge the health department with establishing the targets. Then, it also charges county governments to assess emergency medical services within the borders of the county and report the findings of that assessment to the health department. In a larger context, it will simply force a necessary dialog to occur between county governments (probably the county emergency manager), the ambulance services and quick response units operating within the counties' borders, and the health department. Hopefully, during this process and dialog, we find out if we're hitting the targets.

Subsection 3 of Section 2 addresses an inequity presently existing in the distribution of property taxes which are levied for EMS. Under NDCC there are five methods of providing local financial support for EMS:

1. A county may spend general fund dollars to support EMS
2. A county, with the approval of the voters, may levy an additional 10 mils for EMS*
3. A city, with the approval of the voters, may levy an additional 10 mils for EMS*
4. A Township, with the approval of the voters, may levy an additional 10 mils for EMS*
5. A Rural Ambulance Service District may be formed by approval of the voters and levy up to 10 mils*

* No more than 10 mils in combination from these special levies on any single property

The inequity exists because ambulance service areas do not correspond with the taxing districts' borders. I have provided several attachments to my testimony and if you could turn to the map labeled, "North Central North Dakota" I will explain what subsection 4 is intended to remedy. First, I do not wish to set apart or pick on the counties that are shown here. I can assure this committee you will find similar situations all across North Dakota; not just in these particular counties.

Bottineau County has formed a Rural Ambulance Service District and those borders are identical to the county borders. The property owners in Bottineau County were taxed 2 mils in 2005 by the Rural Ambulance Service District. In Renville County, in and around Mohall, another Rural Ambulance Service District has been formed and the property in this Rural Ambulance Service District had 3 mils levied against it in 2005.

The red circles on the map are intended to indicate an approximate service area for the ambulance service. They are not intended to show the exact ambulance service area. They are only provided to help you visualize the problem which currently exists. So, the Mohall property owners pay a 3 mil tax to support their ambulance service, yet the ambulance service must respond to calls from within Bottineau County. This same situation exists in the cases of the ambulance services in Glenburn, Upham, Rugby, and Sherwood (where I neglected to place a red circle). Conversely, the ambulance service in Lansford, which is supported by the Bottineau County Rural Ambulance Service District levy, must respond to calls in Renville County where the property owners are not taxed to support the EMS service in Lansford.

Madam Chair and members of the committee, I believe you can also imagine the situation if the ambulance services in Lansford or Westhope would close. And, not to belabor the point of the original HB 1162 language, if that language would have become law, it would have required, in this case Bottineau County, to take responsibility to provide EMS for the affected residents in the western part of the county. As subsection 4 now reads, it simply says that if a district is levying taxes for EMS, then the EMS operations responding into that district shall "benefit" from the levy. The bill's language intentionally does not define "benefit." We can only hope that fairness and equity are part of a negotiation which, if this bill becomes law, probably will occur between the taxing district and affected ambulance services.

In addition to the map of North Central North Dakota, I have also provided a spreadsheet which summarizes local taxes levied for EMS based on the Tax Commissioner's 2005 Property Tax Report. There is also an additional map of North Dakota so the committee can visualize the data contained in the spreadsheet. Finally, because I have referred to version 100 of the bill so many times, I have provided a copy of that version for your information.

Madam Chair and members of the committee, thank you for the opportunity to testify in support of HB 1162, and on behalf of the North Dakota EMS Association, we respectfully request your Do Pass recommendation to the Senate. I would be happy to answer questions the committee may have.