

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SEN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1109

2001 HOUSE HUMAN SERVICES

HB 1109

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1109

House Human Services Committee

☐ Conference Committee

Hearing Date January 16, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X	X	Tape did not work
Tape 2	X		Tape did not work
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Doseh, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig.

Chairman Price: Opened hearing on HB 1109

David Zentner: Director of Medical Services for the Department of Human Services. This HB 1109 would permit the Health Department to license assisted living facilities through the boardinghouse definition, add two requirements to the basic care definition regarding the need for staff to be available 24 hours per day, establishes a licensing fee for each basic care facility to be collected by the department to offset the cost to the department of conducting review of each facility, a section which includes definitions including a new definition for assisted living, establishes a method to receive complaints regarding the operation of assisted living facilities, establishes the process for registering assisted living facilities, a section that deals with

removing the set amount for monthly personal care allowances from state law, a section repealing language that permits basic care residents to select their own pharmacist. This bill is a cooperative effort of government, the long-term care industry and advocates to come to a workable compromise with respect to the regulation of assisted living facilities. (See testimony)

Chairman Price: What would be considered response staff under Section 2, subparagraph a.?

David Zentner: Staff who are available at the facility. We would look at what needs the patient has.

Chairman Price: If wife needs care and husband doesn't, are there going to be any restrictions?

David Zentner: The facility would provide flexibility.

Rep. Deylin: Does nursing home licensing go through your department?

David Zentner: Licensing goes through the Health Department.

Rep. Deylin: Was that the position of the task force?

David Zentner: Yes, it was part of the task force's recommendation to do that.

Rep. Weisz: The Department of Human Services is registering and the Health Department is doing the licensing?

David Zentner: The task force wants to use the current mechanism.

Rep. Sandvig: HUDD unit became assisted living facility, do you anticipate more of this?

David Zentner: Those that can provide these services are encouraged to do so.

Rep. Cleary: Are these facilities being investigated?

David Zentner: No.

Vice Chairman Devlin: I am concerned about Section 8 which would repeal language that permits basic care residents to select their own pharmacist.

David Zentner: There will be someone else here who can better answer your question.



Rep. Niemeier: My constituents feel the \$45 allowance is inadequate.

David Zentner: There are no dollars in this biennium to raise it.

Roger Unger: Manager for Licensing and Certification, Department of Health. (See written testimony.) I am here to provide testimony relating to Section 3 of HB 1109 which is proposed as an amendment to Section 23-09.3-05. The proposed amendment will permit the Department of Health to establish a licensing fee that will permit an on-site survey of basic care facilities for compliance with program and life safety code requirements every two years. The proposal to establish a licensing fee based on the actual cost of licensing and survey is intended to create a state licensing program that is a self funding operation.

Rep. Dosch: It seems high that we would need three people to inspect two facilities.

Roger Unger: Two FTE's cover administration and program survey.

Chairman Prigg: How many assisted living facilities are you aware of in the state.

Roger Unger: Approximately 70.

Rep. Metcalf: I find inspections are over man powered. What system do you have in place that inspections have quality, common sense inspections?

Roger Unger: We have strong quality management.

Kenon Bullinger: Food and Lodging Division, Department of Health. Our FTE's concentrate their investigative effort on food preparation.

Shelly Peterson: President of the North Dakota Long Term Care Association. (See written testimony.) Suggested improvements to HB 1109.

Penny Weston: Edgewood Vista. Our clients want to maintain choice. I support looking at the study resolution.

Kathy Klein: Spectrum Care. (See written testimony.) During the Ad Hoc Committee we made recommendations aimed at attempting to assist in defining the new and evolving lifestyle living alternatives becoming available to senior citizens. We understand the State Health Department's interest in monitoring this evolution and hope to participate in that monitoring. However, we believe that HB 1109 does not approach the newly developing industry in the most helpful manner. While we agree with much of what you will hear today from others in the industry, there are several things we would like to stress and some amendments we wish to offer for your consideration. We believe that it is necessary to include a definition of "Independent Living Facility", and we offer an additional amendment to clarify the definition as proposed for "Assisted Living Facilities". In closing, we also believe MANDATORY registration of facilities, including independent living facilities, will provide no benefits to seniors but will result in additional costs they must bear.

Rep. Pollert: Do you receive federal funding?

Kathy Klein: No.

Rep. Pollert: How are you regulated?

Kathy Klein: Fire department inspections.

Vance Magnuson: N.D. Insurance Department. Presented memo from Muriel Peterson, Program Administrator for Aging Services Division of the Department of Human Services. Memo regarded whether registration of assisted living would be sufficient for long-term care insurance coverage should the registration process become law.

Chairman Price: Close hearing on HB 1109.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1109 A

House Human Services Committee

☐ Conference Committee

Hearing Date February 7, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		1620 to 3300
Committee Clerk Signature <i>Connie Easton</i>			

Minutes:

**COMMITTEE WORK:**

CHAIRMAN PRICE: Let's move to 1109. 1109 had a subcommittee of Pollert, Tieman, and Nemeier on it.

REP. POLLERT: (Explained amendments.)

REP. METCALF: If you have a facility that has both basic care and nursing care, how does that work - will they be subject to two inspections, or will they be subject to the skilled nursing and cover the basic care portion also?

REP. METCALF: We can't change that right now, because a lot of that is federally driven.

They could be something that could be discussed in the development of the process. It will be a much reduced type of survey, hopefully, because they don't want to add to the cost of basic care.

REP. POLLERT: Right now the only surveys do in basic care is if there is a complaint. There was talk about a voluntary survey. The committee took out the word "voluntary", because in business, how many people are going to ask for a survey?

CHAIRMAN PRICE: Rep. Tieman, do you have anything to add?

REP. TIEMAN: I would like to say thank you to Rep. Niemeier and Rep. Pollert for all of their good work and, especially, our Chairman. This is a very good bill.

REP. NIEMEIER: I would echo that as well, that Rep. Pollert deserves credit for the work and the negotiations that he did in putting this together.

CHAIRMAN PRICE: My thanks to all three of you - it saved a lot of committee time. Is there a motion?

REP. POLLERT: I would move for a motion to approve the amendments.

REP. PORTER: Second.

CHAIRMAN PRICE: Discussion on the amendment? This bill will still be going down to Appropriations.

REP. NIEMEIER: I just wanted to add a comment that one of the issues we had the most input on was the one of the registration fee of \$45 per bed. I got many e-mails saying that was really going to put them under the gun. The resolution we got on that was a good one, and satisfy all.

CHAIRMAN PRICE: Other questions? All those in favor of the amendments signify by saying Aye (14 Yes). We have an amended bill, what are your wishes?

REP. PORTER: I would move a DO PASS as amended and rerefer to Appropriations.

REP. WEILER: Second.

CHAIRMAN PRICE: Discussion? The clerk will call the roll on a **DO PASS and rerefer to Appropriations.**

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House Human Services Committee

Bill/Resolution Number HB 1109

Hearing Date February 7, 2001

14 YES 0 NO 0 ABSENT CARRIED BY REP. POLLERT

# FISCAL NOTE

Requested by Legislative Council  
03/23/2001

Bill/Resolution No.:

Amendment to: Reengrossed  
HB 1109

**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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$6,375		\$7,875
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This would require all assisted living facilities to be registered by the Department of Human Services. It also requires the Department to establish a method to receive complaints related to assisted living facilities and forward those complaints to the appropriate agency for investigation. The cost to establish a registration and complaint process is difficult to estimate, but it is believed that the fiscal impact will be minimal for the Department. The Department is hopeful that we will be able to absorb any costs associated with this bill that are over and above the revenue that will be generated through the registration fees.

**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.*

This bill includes a registration fee of \$75 per facility to be paid annually. It's estimated that there would be 40 facilities registered in the first year and 45 registered in the second year of the biennium. The registration fees would result in \$6,375 in revenue and would be used to offset the cost of operating the registration and complaint processes.

**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.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Brenda M. Welsz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	03/26/2001

**FISCAL NOTE**  
Requested by Legislative Council  
02/22/2001

Bill/Resolution No.:

Amendment to:        Engrossed  
                              HB 1109

**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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$850		\$1,050
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This would require all assisted living facilities to be registered by the Department of Human Services. It also requires the Department to establish a method to receive complaints related to assisted living facilities and forward those complaints to the appropriate agency for investigation. The cost to establish a registration and complaint process is difficult to estimate but it is believed that the fiscal impact will be minimal for the Department. The Department is hopeful that we will be able to absorb any costs that may be associated with this bill.

**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.*

The bill includes a registration fee of \$10 per facility to be paid annually. It's estimated that there will be 40 facilities registered in the first year and 45 registered in the second year of the biennium. That would result in \$850 in revenue to go towards the cost of operating the registration and complaint processes.

**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.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect*



*on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Brenda M. Weisz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	03/01/2001

**FISCAL NOTE**  
Requested by Legislative Council  
02/09/2001

Bill/Resolution No.:

Amendment to: HB 1109

**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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$19,720		\$19,720
<b>Expenditures</b>				\$19,720		\$19,720
<b>Appropriations</b>						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

All assisted living facilities would have to register annually with the State Department of Human Services.

**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.*

The other revenue generated would be as a result of the registration fees for the assisted living facilities.

**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.*

Expenditures of \$19,720 would be for a registration system for the assisted living facilities, operated by the State Department of Human Services. Current staff would be able to handle the additional tasks required by the registration process and no new FTEs would be required. Expenditures would include costs of paper and printing of forms and the processing of those forms. If the fees for registration were not deposited in the Department of Human Services operating fund, general funds of \$19,720 would be required to operate the registration system.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and*

*appropriations.*

\$19,720 of other fund appropriation would be required for the State Department of Human Services. This would be for the operation of the assisted living registration process.

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health Department
<b>Phone Number:</b>	328-2392	<b>Date Prepared:</b>	02/12/2001

# FISCAL NOTE

Requested by Legislative Council  
12/21/2000

Bill/Resolution No.: HB 1109

Amendment to:

**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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$179,327	\$0	\$236,555
<b>Expenditures</b>	\$0	\$0	\$173,930	\$179,327	\$82,630	\$236,555
<b>Appropriations</b>	\$0	\$0				

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The Health Department would annually license all basic care facilities and the food and lodging portions of all assisted living facilities. Staff would perform on-site surveys once every two years. A growth from the current 43 facilities to 54 licensed facilities is anticipated by July 2002. The Health Department would require 3 additional staff to perform these surveys.

All assisted living facilities would have to register annually with the State Department of Human Services.

**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.*

The other revenues generated would be as a result of the licensing fees for basic care facilities and the registration fees for the assisted living facilities. The Health Department would receive \$159,607 to be deposited in their operating fund and Human Services will receive \$19,720 for the 2001-03 biennium. For the 2003-05 biennium the Health Department will receive \$216,835 and Human Services will receive \$19,720. Collection of

basic care license fees would begin January 1, 2002 and will be based on costs for the program. Fees will increase in the 03-05 biennium to offset general funds used in the 01-03 biennium.

**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 expenditures includes \$333,537 for 3 FTES and associated operating costs for the Health Department. Two FTES would be performing licensing and survey activity for basic care facilities. One FTE would be performing licensing activity associated with the registration of assisted living facilities. For the 01-03 biennium, start up costs for the first six months of the biennium of \$91,300 for the basic care licensing process will be funded with general funds. If the licensing of basic care facilities is fully implemented on January 1, 2002, it is estimated that there would be sufficient revenue available to make the licensing program self-funding and no general funds would be required to continue the program in the Health Facilities Division for future bienniums. The FTE and associated operating costs in the Food and Lodging Division would not be offset with fees and would require general funds of \$82,630 per biennium to survey and license assisted living facilities.

The remaining \$19,720 of expenditures would be for a registration system for the assisted living facilities, operated by the State Department of Human Services. Current staff would be able to handle the additional tasks required by the registration process and no new FTES would be required. Expenditures would include costs of paper and printing of forms and the processing of those forms. If the fees for registration were not deposited in the department of human services operating fund, general funds of \$19,720 would be required to operate the registration system.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This bill does not include an appropriation, and the revenue and expenses are not included in the Health Department's appropriation bill, SB2004 so additional authority and 3 FTE for salary and operating expense will need to be added to the Health Department budget if it is implemented.

\$19,720 of other fund appropriation would be required for the State Department of Human

Services. This would be for the operation of the assisted living registration process.

Name:	Robert A. Barnett	Agency:	Health Department
Phone Number:	328-2392	Date Prepared:	01/12/2001

## PROPOSED AMENDMENTS TO HB 1109

Page 2, line 15, replace "in an amount to be" with "of five dollars per bed"

Page 2, line 16, remove "established by the department, not to exceed the actual cost of licensing"

Page 2, line 18, after "appropriation" insert "The state department of health with the cooperation of consumers and providers shall develop a survey process that is collaborative and based upon a quality improvement model."

Page 4, line 17, after "means" insert "any building or structure containing"

Page 5, line 8, remove "on the same site."

Page 5, line 14, after "facility" insert "or congregate housing or independent living facilities"

Page 6, after line 12, insert:

"10. Independent living facility" means a living arrangement regardless of age of resident or location of facility, where residents reside by choice and not due to medical or care needs."

Page 6, line 13, replace "10." with "11."

Page 6, line 15, replace "or" with a period

Page 6, line 16, remove "instrumental activities of daily living"

Page 6, line 17, replace "11." with "12."

Page 6, line 20, replace "12." with "13."

Page 6, line 21, replace "medication" with "meal preparation."

Page 6, remove line 22

Page 6, line 23, replace "14." with "15."

Page 6, line 28, replace "15." with "16."

Page 7, line 1, replace "16." with "17."

Page 7, line 4, replace "17." with "18."

Page 7, line 9, replace "18." with "19."

Page 7, line 13, replace "19." with "20."

Page 7, line 16, replace "20." with "21."

Page 7, line 18, replace "21." with "22."

Page 7, line 23, replace "a personal needs allowance established b the department" with "sixty dollars"

Page 8, line 7, after "of" insert "seventy-five dollars for each facility. Registration fees collected pursuant to this section must be deposited in the department of human services' operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 8, remove lines 8 and 9

Page 8, line 17, replace "The" with "Sixty days following the notification of noncompliance with annual registration, the" and replace "five hundred" with "fifty"

Page 8, line 21, after the period insert "Fines collected pursuant to this section must be deposited in the department of human services' operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 9, line 1, replace "a personal needs allowance established b the department" with "sixty dollars"

Renumber accordingly



VR  
2/8/01  
1082

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 2, line 15, replace "In an amount to be" with "of five dollars per bed"

Page 2, line 16, remove "established by the department, not to exceed the actual cost of licensing"

Page 2, line 18, after the underscored period insert "The department, with the cooperation of consumers and providers, shall develop a survey process that is collaborative and based upon a quality improvement model."

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 4, line 17, after "means" insert "any building or structure containing"

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 5, line 8, remove "on the same site,"

Page 5, line 14, after the second "facility" insert ", a congregate housing facility, or an independent living facility"

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 6, after line 12, insert:

"10. "Independent living facility" means a living arrangement, regardless of the age of the residents or the location of the facility, in which residents reside by choice and not due to medical or care needs."

Page 6, line 13, replace "10" with "11"

Page 6, line 15, replace the second "or" with an underscored period

Page 6, remove line 16

Page 6, line 17, replace "11" with "12"

Page 6, line 20, replace "12" with "13"

Page 6, line 21, replace "medication" with "meal preparation."

Page 6, remove line 22

Page 6, line 23, replace "13" with "14"

Page 6, line 25, replace "14" with "15"

Page 6, line 28, replace "15" with "16"

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 7, line 1, replace "16" with "17"

Page 7, line 4, replace "17" with "18"

HOUSE AMENDMENTS TO HB 1109  
Page 7, line 9, replace "18" with "19"

HOUSE HS

2-8-01

2 of 2

Page 7, line 13, replace "19" with "20"

Page 7, line 16, replace "20" with "21"

Page 7, line 18, replace "21" with "22"

Page 7, line 23, after "~~forty-five~~" insert "sixty", remove the overstrike over "~~dollars~~", and remove "a personal needs allowance established by the department"

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 8, line 7, after "of" insert "seventy-five dollars for each facility. Registration fees collected under this section must be deposited in the department of human services operating fund in the state treasury. Any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 8, remove lines 8 and 9

Page 8, line 17, replace "The" with "After the fifty-ninth day following the notification of noncompliance with annual registration, the" and replace "five hundred" with "fifty"

Page 8, line 21, after the underscored period insert "Fines collected under this section must be deposited in the department of human services operating fund in the state treasury. Any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 8, line 31, after "~~forty-five~~" insert "sixty"

HOUSE AMENDMENTS TO HB 1109

HOUSE HS

2-8-01

Page 9, line 1, remove the overstrike over "~~dollars~~" and remove "a personal needs allowance established by the department"

Renumber accordingly

Date: 2-7-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. *HB 1109*

House Human Services Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move the Amendment

Motion Made By Rep. Pollert Seconded By Rep. Porter

[illegible]

Total	(Yes)	No
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**Absent**

### Floor Assignment

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

Date: 2-7-01  
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1109

House Human Services Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS as amended & rereferred to Appropriations

Motion Made By Rep. Porter Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary	✓	
Rep. William Devlin, V, Chairman	✓		Rep. Ralph Metcalf	✓	
Rep. Mark Dosch	✓		Rep. Carol Niemeier	✓	
Rep. Pat Galvin	✓		Rep. Sally Sandvig	✓	
Rep. Frank Klein	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 14 No 0

Absent \_\_\_\_\_

Floor Assignment Rep. Pollert

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

**REPORT OF STANDING COMMITTEE**

HB 1109: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1109 was placed on the Sixth order on the calendar.

Page 2, line 15, replace "in an amount to be" with "of five dollars per bed"

Page 2, line 16, remove "established by the department, not to exceed the actual cost of licensing"

Page 2, line 18, after the underscored period insert "The department, with the cooperation of consumers and providers, shall develop a survey process that is collaborative and based upon a quality improvement model."

Page 4, line 17, after "means" insert "any building or structure containing"

Page 5, line 8, remove "on the same site."

Page 5, line 14, after the second "facility" insert ", a congregate housing facility, or an independent living facility"

Page 6, after line 12, insert:

"10. "Independent living facility" means a living arrangement, regardless of the age of the residents or the location of the facility, in which residents reside by choice and not due to medical or care needs."

Page 6, line 13, replace "10" with "11"

Page 6, line 15, replace the second "or" with an underscored period

Page 6, remove line 16

Page 6, line 17, replace "11" with "12"

Page 6, line 20, replace "12" with "13"

Page 6, line 21, replace "medication" with "meal preparation."

Page 6, remove line 22

Page 6, line 23, replace "13" with "14"

Page 6, line 25, replace "14" with "15"

Page 6, line 28, replace "15" with "16"

Page 7, line 1, replace "16" with "17"

Page 7, line 4, replace "17" with "18"

Page 7, line 9, replace "18" with "19"

Page 7, line 13, replace "19" with "20"

Page 7, line 16, replace "20" with "21"

Page 7, line 18, replace "21" with "22"

Page 7, line 23, after "~~forty-five~~" insert "sixty", remove the overstrike over "dollars", and remove "a personal needs allowance established by the department"

Page 8, line 7, after "of" insert "seventy-five dollars for each facility. Registration fees collected under this section must be deposited in the department of human services operating fund in the state treasury. Any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 8, remove lines 8 and 9

Page 8, line 17, replace "The" with "After the fifty-ninth day following the notification of noncompliance with annual registration, the" and replace "five hundred" with "fifty"

Page 8, line 21, after the underscored period insert "Fines collected under this section must be deposited in the department of human services operating fund in the state treasury. Any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 8, line 31, after "~~forty-five~~" insert "sixty"

Page 9, line 1, remove the overstrike over "dollars" and remove "a personal needs allowance established by the department"

Renumber accordingly

2001 HOUSE APPROPRIATIONS

HB 1109

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1109

House Appropriations Committee  
Human Resources Division

☐ Conference Committee

Hearing Date **TUESDAY, FEBRUARY 13TH, 2001**

Tape Number	Side A	Side B	Meter #
<b>2-13-01 # 1109</b>	<b>1-X</b>		<b>00-6227</b>
" "		<b>1-X</b>	<b>00-903</b>
Committee Clerk Signature			

Minutes: CHAIRMAN KEN SVEDJAN, VICE-CHAIRMAN JEFF DELZER,  
REP. KEITH KEMPENICH, REP. JAMES KERZMAN,  
REP. AMY KLINISKE, REP. JOHN M. WARNER

**00-Chairman Svedjan:** We will call the section to order.

Roll call: We have a quorum

**Chairman Svedjan:** We will proceed with the hearing on HB #1109.

**80-Rep. Chet Pollert:** HB 1109 was put into a sub committee of which I was voluntarily picked.  
I would like to go through the amendments that we changed.

**Chairman Svedjan:** If you could give us a general overview of the Bill and then address the changes that you made, that would be helpful.

**Rep. Chet Pollert:** HB 1109 deals with Assisted Living Facilities, Basic Care, Registration and Licensing. It also deals with the definitions of those. When the bill came in front of us, it had some fee structures in it and some penalty clauses.



**281-Vice-Chairman Delzer:** Section 3 of the bill deals with Basic Care and the Dept. of Health? And that's where originally they were going to put the assisted living? OK, currently what is the Health Dept. doing for licensing their Basic Care, or is there not any?

**300-Chet:** Yes. No, it was going to come in later into the bill. The section 3 dealt with the licensing of the Basic Care facilities, which was \$45 a bed. Someone else will have to answer that. The original intent of section 3 was going to be the \$45 per bed, and they were going to use the money to fund 2 FTE's for the Health Dept., for Basic Care facilities to do a survey process and plus the 1 FTE to the food and lodging for the Assisted Living facilities. That's what that money would have been generated for. We **amended** the bill to be in the amount of \$5 per bed.

**406-Chairman Syedjan:** Do you have any sense for the provider's feelings on this? When it was at \$45 a bed? I can't imagine that they didn't see that as a prohibited cost.

**422-Chet:** During the sub committee meetings, we had representation from the Human Services and the private sector, and the Dept. of Health was not there at that initial meeting. A couple of us Rep.'s met with Darlene and Roger and discussed the \$45 per bed with them. And we in turn were talking to Shelly at the same time for some long term care. We involved a number of people, and yes, they were not happy about the \$45, and they weren't happy about the way it looked like in the survey process. It seemed to the private sector was going to be based on a nursing home survey. So that's why those discussions were going on. The bill was also **amended** in section 3 to also with the State Dept. of Health and with the consumers and providers to do a survey process. That originally wasn't in section 3. The next changes we made deal with the Assisted Living on p.'s 4 & 5. (refer to HB 1109)

**1220-Vice-Chairman Delzer:** What section did you reference as to where it's covered under? Where in Century code is it referenced that they have the right to their own?

**1250-Chet:** It's mentioned in statute 50-10.2. And also in HB 1109 underneath the boarding house definition on p. 1.

**1314-Chairman Svedjan:** Did you say that there's reference in sect. 1 under the boarding house definition? It's in that section but it's not referenced in section 1.

**1380-Chet:** You might want to talk to Dave Zentner about it. Yes, I agree with that.

**1411-Vice-Chairman Delzer:** What's the purpose of the bill? Did they tell you why they brought a bill in dealing with both the Health Dept. and Human Services?

**1440-Chet:** I think there is an issue as far as insurance's go with consumers and also discussions going on with the insurance dept. as far as who's going to get reimbursement and who's not.

**1537-Chairman Svedjan:** When you're talking about reimbursement, are you referencing Medicaid, or insurance's that might cover this?

**1552-Chet:** In the insurance policy.

**1567-Vice-Chairman Delzer:** The purpose of the bill was to allow the Assisted Living to be accessible to long term care insurance?

**1580-Chet:** Part of the bill was also to set up a survey system to go into the Basic Care facilities, nursing facilities or nursing homes. The survey process takes 40 hours to complete and another 40 hours for the paper work. We thought that was too lengthy for a nursing home.

**1800-Dave Zentner:** (refer to attachment #1)

**2166-Chairman Svedjan:** You're saying this will require an amendment that you haven't proposed yet?

**Dave:** Yes.

**Vice-Chairman Delzer:** If you just started talking about it this morning I would hope you would wait until it hits the Senate before you bring up an amendment like that.

2200-Dave: We can. We thought we could deal with it in the rule making process.

2226-Vice-Chairman Delzer: They're under pilot program now as to why they are not currently being licensed? Is any Basic care being licensed currently?

2246-Dave: Yes, there are 42 licensed Basic Care facilities. They are licensed by the Health Dept. We do have pilot projects for Alzheimer's and related dementia. We have 2 operating and at least 1 online. Right now Assisted Living is unregulated.

2538-Chairman Syedjan: So you have a proposed amendment for that now?

Dave: Yes, the amendments are attached.

2864-Vice-Chairman Delzer: Walk us through licensing of Basic Care and understand what changes you're trying to make. What are they charged and how is it done, is it done the same as the nursing home?

2964-Roger Unger: We do not do routine, annual, or semiannual surveys.

Vice-Chairman Delzer: Is that working?

3005-Roger: In the last couple years in response to complaint investigations, we did have 2 providers that are no longer providing Basic Care services. The process is working.

3223-Vice-Chairman Delzer: Do you have any guarantees that the long term care insurance will recognize this, if this passed?

3245-Dave: No guarantees.

3326-Vice-Chairman Delzer: How many registrations or licenses do you keep in the Dept. of Human Services right now? But you so license in other areas?

3338-Dave: We have none in the area of Assisted Living. Yes, not within my division, we don't do any licensing.

**3374-Vice-Chairman Delzer:** Why did you decide you wanted this registered with DHS instead of the Dept. of Health?

**3386-Dave:** We pay for the services under Assisted Living. Thought it was a better fit to have Aging Services involved in this process because they're familiar with the type of services provided in Assisted Living.

**3426-Vice-Chairman Delzer:** What kind of survey process are you planning to set up, anything? Or are you just going to register them and take complaints?

**3444-Dave:** Yes, that's what the bill authorizes us to do.

**3473-Vice-Chairman Delzer:** If you get a complaint, what are you going to do with it?

**3500-Dave:** We will look at the complaint to see what it is.

**3541-Vice-Chairman Delzer:** How much is the license fee for the food and lodging?

**3550-Dave:** It is \$10.

**3560-Vice-Chairman Delzer:** They're still going to have to do that plus \$75 to DHS? Do they have to pay for the inspection fees for that?

**3572-Dave:** Yes, the boarding house and restaurant end of it, if they serve food it's basic life safety. Yes, \$10.

**3616-Rep. Warner:** Could you expend on the term "medication management" a little bit, does that entail the requirement of a nurse?

**3638-Dave:** Not necessarily, it's all covered under the nurse practice act.

**3730-Muriel Peterson:** (Dept. of Human services Aging services division), One of the differences with children is in the responsibility of the practice act, there's a distinction made between medication administration and medication assistance. When we're making payments to

the Sped and Expanded Sped program, because we are not a provider of health care, we only allow medication assistance.

**3881-Rep. Kempenich:** How about shots?

**3923-Muriel:** Anything that punctures the skin has to be done by a professional.

**4030-Roger Unger:** Manager for Licensing and Certification, Dept. of Health, Division of Health Facilities, (refer to attachment #2)

**4280-Chairman Svedjan:** What you're saying here is you're proposed amendment is that you would rather see that activity be conducted through the Dept. of Health under the rules you have right now?

**4310-Roger:** That's correct. We're Basic Care licensing, we feel that our current rules would provide sufficient service.

**4373-Chairman Svedjan:** In reference to the fiscal note, is it just changing where the funds go or is it changing the amount?

**4392-Roger:** It changes the amount. The original fiscal note included FTE's for the Dept. of Health for licensing activities for Basic Care facilities, that has been removed. It also included funding for a FTE for food and lodging, a companion for the Assisted Living, that has been removed. What remains in the fiscal note is the amount needed for Human Services.

**4457-Vice-Chairman Delzer:** The reason you put this in originally, not the amendment, was that you wanted the right to charge a fee? So, if we did not feel that a fee is necessary and did not want to put anything in, we should just amend out the whole section #3? Then it stays exactly the way it is right now? You are currently licensing Basic Care? That license is valid for Long term insurance?

**4485-Roger:** Yes. Yes. Yes. Yes. Yes.

**4558-Rep. Kempenich:** With the consumers and providers and the survey, how does that compromise the residence aspect of this?

**4599-Roger:** The language couples the licensing fee with the revision of the rules based on quality improvement model. The quality improvement model is a form of accreditation not really a form of licensing that's very similar to the activity you see for the joint commission for accreditation of health care organizations, but a credited facilities. That particular model or accreditation model does not allow or provide for any kind of enforcement.

**4738-Rep. Kempenich:** Do you give anyone a chance to correct on this and how do you work that right now?

**4771-Roger:** If we were to receive a complaint, we will go into the facility and investigate it. If we have findings that the care is not being provided appropriately, we issue a deficiency report.

**4965-Shelly Peterson:** President of the ND Long Term Care Association.; (refer to attachment # 3)

**5432-Chairman Svedjan:** The food and lodging license was stated as being \$10 annual by Mr. Unger, and what about the inspection fee?

**5465-Roger:** There is no fee in addition to the \$10.

**5480-Rep. Kerzman:** Adult foster care, do they have to get registered and get licensing for food or what?

**5532-Muriel:** They are separate discreet services, so Adult Day Care is not impacted at all by whatever occurs here. Adult Foster Care is already in the state statutes, it must be in a family home. Foster Care is up to 4 and it must be there in that family residence. You can't hire staff to provide care.

**5748-Vice-Chairman Delzer:** The registration fee for Assisted Living, how was that developed? What's the average size?

**5796-Shelly:** We were involved in the discussion of what would be a reasonable licensing fee for Assisted Living. Originally the bill as drafted says \$10 a bed. It was felt that it didn't make any difference whether you were 200 beds or 10 beds, that the registration process would be a simple process of completing a form, with the potential that being no longer than 4 pages or 2 pages double sided.

**6021-Rep. Kempenich:** They had some problems on that last amendment, what's your input?

**6050-Shelly:** We really wanted to develop a survey for some that was collaborative that was providers and health dept. and consumers working together.

**6227-Vice-Chairman Delzer:** Currently is Long Term care insurance paying for Basic Care?

**00- Side B-Shelly:** Yes, but there are eligibility criteria that must be met.

**40-Vice-Chairman Delzer:** Do you see the registration at DHS being enough to cover, so that they will pay for Assisted Living?

**53-Shelly:** In Assisted Living, we believe with the registration process and the licensor process as food and lodging and in working closely with the insurance dept., we feel long term insurance will then pay for that as long as it's in the policy, they meet the other criteria that might be necessary.

**112-Vice-Chairman Delzer:** Could you give us a short synopsis of some of the other criteria?

**125-Shelly:** Being a licensed facility, and a person has to be dependent and need of care services.

**220-Vance Maguason:** With the ND Insurance Dept. If this committee has any questions regarding to insurance payments, I'd be happy to address them.

**240-Vice-Chairman Delzer:** Do you see this as going to accomplish what it's trying to accomplish?

**252-Vance:** It may. Don't know yet.

**375-Vice-Chairman Delzer:** Why do you want to call it registration instead of licensing? We're not doing that for Basic Care, we're only doing if there's complaints?

**398-Muriel:** Two reasons: licensor exposes the state considerably as the highest level of liability. Because of the liability that goes with that, it would require a survey process. When you get into an institutional setting, which is what Basic Care is, I understand the need for oversight and protection on a different level.

**579-Vice-Chairman Delzer:** Currently they have to have the food and lodging license?

**605-Dave:** No, that's what this bill would require them to do.

**622-Vice-Chairman Delzer:** So they have to get a license for that, and their registration. Can't that be done as one license for the \$10 fee?

**636-Muriel:** Restaurant licenses are required for those facilities that want to sell hot meals to the public. They are not required.

**667-Dave:** To combine the two, you're looking at a separate part of the code that does the licensing for Basic Life Safety Code, and the insurance that there is food safety out there. The registration process deals with the cares area, primarily. There's two different functions.

**710-Rep. Warner:** What would the actual cost of the inspection be, and the number of hours involved in the inspection?

**732-Roger:** I can't answer that.



Page 10

Human Resources Division

Bill/Resolution Number 1109

Hearing Date TUESDAY, FEBRUARY 13TH, 2001

779-Dave: I noticed that the fiscal note was prepared by the Health Dept. For our dollars in there, it shows \$19,000. If you look at \$75 a year, and you look at 40 facilities, you're really only looking at \$6,000. The \$19,000 must have been the initial one at \$10 a bed. (\$3,000 a year.)

865-Chairman Syedjan: We will close the hearing on HB 1109.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1109

House Appropriations Committee  
Human Resources Division

☐ Conference Committee

Hearing Date **TUESDAY, FEBRUARY 13TH, 2001**

Tape Number	Side A	Side B	Meter #
<b>2-13-01 #1109</b>	<b>2-X</b>		<b>2097-2925</b>
Committee Clerk Signature			

Minutes      **CHAIRMAN KEN SVEDJAN, VICE-CHAIRMAN JEFF DELZER,**  
**REP. KEITH KEMPENICH, REP. JAMES KERZMAN,**  
**REP. AMY KLINISKE, REP. JOHN M. WARNER**

**2097-Chairman Svedjan:** We'll call the section back to order. Let's go back to HB 1109.

We're going to take action on 1109.

**2184-Vice-Chairman Delzer:** On 1109, I move to remove section 3 out of the engrossed bill on page 2. On page 8 of the engrossed bill, section 6, line 15, I would change \$75 to \$10.

**2352-Chairman Svedjan:** Do we have a second to that motion?

**2358-Rep. Kempenich:** I second.

**2362-Chairman Svedjan:** Any discussion?

**2517-Rep. Kliniske:** Your amendment will just remove the new language, not the entire section?

**2536-Vice-Chairman Delzer:** The amendment would remove all of section 3, which basically reverts that section back to what's in the current language. If you look at that, it would get rid of all of the underlined, but what it would do is get rid of that fee. That's what the Health Dept. asked for originally. By getting rid of this whole part of the bill, it would put that back to exactly what's in code now. We're taking it out of the bill, not the Century Code.

**2659-Arvy:** Do you plan to consider the Department's amendments?

**2683-Vice-Chairman Delzer:** Again, I think that can be taken up in the policy. It should be handled in the Senate.

**2717-Chairman Svedjan:** Any further discussion? Hearing none, we'll take a voice vote on the amendments. All in favor of the amendments say I - 5, opposed say nay - 0. The motion carries. Are there any other amendments?

**2767-Vice-Chairman Delzer:** I move a do pass as amended.

**2773-Rep. Kliniske:** Second it.

**2775-Chairman Svedjan:** A motion's been made and seconded for a do pass as amended.

Any discussion? We'll take a roll call vote on a do pass recommendation on HB 1109.

CHAIRMAN KEN SVEDJAN-Y  
REP. KEITH KEMPENICH-Y  
REP. AMY KLINISKE- Y

VICE-CHAIRMAN JEFF DELZER- Y  
REP. JAMES KERZMAN- Y  
REP. JOHN M. WARNER- absent

**2830-Chairman Svedjan:** The motion carries. Who would like to carry the bill?

Rep. Kempenich will. We will close the hearing on HB 1109.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1109

House Appropriations Committee

☐ Conference Committee

Hearing Date February 20, 2001

Tape Number	Side A	Side B	Meter #
02-20-01 tape #2	1723 - 2050	0 - 391	
Committee Clerk Signature <i>Kelli Hall</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1109.

Rep. Kempenich: This bill deals with assisted living facilities and we amended out most of the language, and the appropriation is about \$400.

(The engrossed bill in the binders was not correct, and was only the first two pages of a nine page bill. The new engrossed bill was reprinted and handed out).

Rep. Kempenich: Moves to adopt amendment 0201 to the engrossed bill dated 2/13/01.

Seconded by Rep. Svedjan.

Rep. Kempenich: Basically what the amendments and the bill are doing is putting license fees and license assisted living facilities. The amendments removed the license fees from basic care and require the health department to put together a survey study. The department came in and other people came in and didn't like the model they were using, so we removed the stricken language between lines 8 and 19. On page 8, they removed the registration fee or reduced it

from \$75 down to \$10. This made the fiscal note about \$400 when everything was done. There are about 40 facilities that would fall under this assisted living.

Rep. Delzer: What the bill is trying to do is register some of the assisted living facilities so that there is a possibility of using long term care insurance, and would help with the situation and the possibility of using long term care insurance to pay for some people who go into assisted living. We took section 3 out of the bill because there was some discussion about licensing. Currently basic care pays the health department a \$10 license fee. They wanted to increase the charge and that was not agreeable, and leaves this the way it is.

Voice vote adopted the amendments.

Rep. Kempenich: Moves a DO PASS AS AMENDED. Rep. Svedjan seconded.

Vote on Do Pass as Amended: 20 yes, 0 no, 1 absent and not voting (Rep. Gulleeson). Bill passes.

Rep. Kempenich is assigned to carry the bill to the floor.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1109

Page 1, line 5, remove "23-09.3-05," and remove the third comma

Page 1, line 7, remove "licensing fees for basic care facilities,"

Page 2, remove lines 7 through 19

Page 8, line 15, replace "seventy-five" with "ten"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**State Department of Health**

HOUSE - This amendment removes provisions that would have required basic care facilities to pay a \$5 per bed license fee and that would have required the State Department of Health to develop a survey process for these facilities.

**Department of Human Services**

HOUSE - This Amendment reduces the annual registration fee for assisted living facilities by \$65, from \$75 to \$10.

Date: 2-20-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1109

House APPROPRIATIONS Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number 18119.0201

Action Taken to adopt amendment

Motion Made By Rep. Kempenich Seconded By Rep. Svedjan

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleason			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*adopted*

Date: 2-20-01  
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1109

House APPROPRIATIONS Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number 18/19.0201

Action Taken DO PASS AS AMENDED

Motion Made By Rep Kempenich Seconded By Rep Svedjan

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman	✓	
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byerly	✓		Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol	✓	
Rep - Delzer	✓		Rep - Svedjan	✓	
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Gulleeson			Rep - Warner	✓	
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich	✓				
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 20 No 0

Absent 1

Floor Assignment Rep. Kempenich

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



HB 1109

House	Appropriations	Committee

Legislative Council Amendment Number \_\_\_\_\_

Motion Made By Rep Delzer Seconded By Rep Karpovich

[illegible]

Absent 1 - Rep Warner.

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

Date: 2-13-01

Roll Call Vote #: 2

~~109~~ # 1109

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

House Appropriations Committee

☐ Subcommittee on Human Resources

or

☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Delzer Seconded By Kliniske

Representatives	Yes	No	Representatives	Yes	No
Chairman Ken Svedjan	✓				
Vice-Chairman Jeff Delzer	✓				
Rep. Keith Kempenich	✓				
Rep. James Kerzman	✓				
Rep. Amy Kliniske	✓				
Rep. John M. Warner					

Total (Yes) 5 No 0

Absent 1

Floor Assignment Rep Kempenich

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

**REPORT OF STANDING COMMITTEE**

**HB 1109: Appropriations Committee (Rep. Timm, Chairman)** recommends  
**AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**  
(20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1109 was placed on the  
Sixth order on the calendar.

Page 1, line 5, remove "23-09.3-05," and remove the third comma

Page 1, line 7, remove "licensing fees for basic care facilities,"

Page 2, remove lines 7 through 19

Page 8, line 15, replace "seventy-five" with "ten"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**State Department of Health**

HOUSE - This amendment removes provisions that would have required basic care facilities to pay a \$5 per bed license fee and that would have required the State Department of Health to develop a survey process for these facilities.

**Department of Human Services**

HOUSE - This Amendment reduces the annual registration fee for assisted living facilities by \$65, from \$75 to \$10.

2001 SENATE HUMAN SERVICES

HB 1109

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1109

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 6, 2001

Tape Number	Side A	Side B	Meter #
1	X		27.7
1		X	3.2
March 19, 2001 1		X	15.7
March 21, 2001 1	X		
Committee Clerk Signature <i>Carol Koleschick</i>			

Minutes:

REPRESENTATIVE CHET POLLERT, Chairman of the House subcommittee, explained the House bill and changes plus changes in House Appropriations who made a few extra changes. We would like to have the \$75 reinstated as the registration fee.

DAVE ZENTNER, Dept. Of Human Services, provided information (Written testimony)

Proposed amendments. SENATOR MATHERN: Amendments don't address the fee. MR.

ZENTNER: we would recommend that it be changed to \$75. SENATOR ERBELE: Isn't the 45 to 60 being addressed in 1196 and isn't it 50? MR. ZENTNER: 1196 has two different areas - one deals with nursing home and the other deals with basic care facilities..

SHELLEY PETERSON, Long Term Care, supports bill. (Written testimony)

VANCE MAGNUSON, ND Insurance Dept, supports bill.( Writtten testimony) SENATOR

FISCHER: How do we get rid of the word hopefully in your testimony? MR. MAGNUSON:

Due to variations in insurance contracts there is probably any magical way to do that. Hopefully

requirements that Human Services is coming up with will be the same requirements that companies use in their contracts. If companies are comfortable with same registration requirements being the same as normal facilities licensed in other states then they will provide benefits of their contracts. Due to the technical difference between licensure and registration we can't make any assurances of how they will proceed. SENATOR KILZER: Are we pretty close to other states? MR. MAGNUSON: From the contracts being filed many of the provisions will be met; again the licensure and registration is still is a distinction.

PENNI WESTON, Long Term Care administration, commented on SENATOR FISCHER'S question. It depends on how global the insurance company is. Most of them have been open to allowing payment. It depends on the company. Supports bill and amendments.

CATHI KLEIN supports bill. Asked the committee to leave in definition of independent living. I represent Sommerset Court; there is a difference between independent living, assisted living, and basic care those differences should be addressed. I agree with MR.ZENTNER'S testimony that eliminating the fee entirely.

No further testimony.

The hearing was closed on HB 1109.

March 19, 2001, Tape 1, Side B, Meter 15, Tape 2, Side A.

SENATOR SCHOBINGER explained his amendments. Basically they call for registration only; not registration fee. Reimbursement from long term care policies have not been a problem in the facility with which he is involved. MR. ZENTNER was called from the Department of Human Services. In general dealings with long term care policies registration or licensure was important. Registration may not be accepted by long term care policies. SHELLEY PETERSON agreed with the amendments also. SENATOR MATHERN moved amendments of Department

of Human Services dated March 6, 2001 with the additional amendment on page 8, line 3 after the . Add the department shall involve facilities in their rule making process. SENATOR FISCHER seconded the motion. Discussion. Roll call vote carried 6-0-0. SENATOR KILZER moved the 1st and 4th sections of SENATOR SHOBINGER'S amendments. SENATOR FISCHER seconded the motion. Discussion included the Department of Health vs Department of Human Services. If there is a complaint we will determine how to inspect - not review on an ongoing basis. The motion was amended by SENATOR KILZER to read DEPARTMENT of HUMAN SERVICES instead of Department of Health. SENATOR FISCHER seconded the amendment to the motion. Discussion. Roll call vote carried 6-0-0. SENATOR MATHERN moved a DO PASS and REREFER to App. SENATOR KILZER seconded the motion. Roll call vote carried 6-0-0. SENATOR MATHERN will carry.

March 21, 2001, Tape 1, Side A.

SENATOR MATHERN moved the reconsider HB 1109. SENATOR FISCHER seconded the motion. Voice vote carried. SENATOR MATHERN moved amendments 18119.0302. SENATOR FISCHER seconded the motion. Voice vote carried the amendments. SENATOR MATHERN moved a DO PASS AS AMENDED. SENATOR FISCHER seconded it. Discussion. The motion was withdrawn..

March 21, 2001, Tape 2, Side A

Discussion was resumed. SENATOR ERBELE moved a DO PASS AS AMENDED. SENATOR KILZER seconded the motion. Roll call carried 6-0-0. SENATOR MATHERN will carry the bill.

93  
3-19-1  
1082

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1109

Page 4, line 4, after the underscored comma insert "medication management,"

Page 5, line 2, replace the first underscored comma with "or" and remove ", or an independent"

Page 5, line 3, remove "living facility"

Page 6, remove lines 2 through 4

Page 6, line 5, replace "11" with "10"

Page 6, line 8, replace "12" with "11"

Page 6, line 11, replace "13" with "12"

Page 6, line 14, replace "14" with "13"

Page 6, line 16, replace "15" with "14"

Page 6, line 19, replace "16" with "15"

Page 6, line 21, replace "17" with "16"

Page 6, line 24, replace "18" with "17"

Page 6, line 29, replace "19" with "18"

Page 7, line 3, replace "20" with "19"

Page 7, line 6, replace "21" with "20"

Page 7, line 8, replace "22" with "21"

Page 7, line 23, replace "holding itself out to the public as an assisted living facility located in this state" with "using the term "assisted living" in its advertising"

Page 7, line 24, remove "by providing such information as the"

Page 7, remove line 25

Page 7, line 26, remove "health"

Page 7, line 28, replace "ten" with "seventy-five"

Page 8, line 3, after the underscored period insert "The department shall involve the facilities in the rulemaking process."



Page 8, line 11, remove "markets its services as an"

Page 8, line 12, remove "assisted living facility."

Renumber accordingly

2 of 2

Date: 3/19/01

Senate	HUMAN SERVICES	Committee
--------	----------------	-----------

or  
☐ Conference Committee

Action Taken Hum. Serv. Assendant. Mac 3/6/01

Motion Made By Sen Mathen Seconded By Sen Fischer

[illegible]

Absent 0

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

Date: 3/19/01

**Senate HUMAN SERVICES**

☐ Subcommittee on \_\_\_\_\_

Legislative Council Amendment Number \_\_\_\_\_

Action Taken See Schubinger's Amendments 1 & 7

Motion Made By Don Kilger Seconded By Don Fickler

[illegible]

Total (Yes) 6 No 0

Absent 0

### Floor Assignment

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

Deals w/ advertising

Date: 3/14/01

## 1109

## Committee

or



Action Taken Do Pass as amended & re-referred

## Seconded

[illegible]

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

**REPORT OF STANDING COMMITTEE**

**HB 1109, as reengrossed: Human Services Committee (Sen. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1109 was placed on the Sixth order on the calendar.**

Page 4, line 4, after the underscored comma insert "medication management,"

Page 5, line 2, replace the first underscored comma with "or" and remove ", or an independent"

Page 5, line 3, remove "living facility"

Page 6, remove lines 2 through 4

Page 6, line 5, replace "11" with "10"

Page 6, line 8, replace "12" with "11"

Page 6, line 11, replace "13" with "12"

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Page 7, line 24, remove "by providing such information as the"

Page 7, remove line 25

Page 7, line 26, remove "health"

Page 7, line 28, replace "ten" with "seventy-five"

Page 8, line 3, after the underscored period insert "The department shall involve the facilities in the rulemaking process."

Page 8, line 11, remove ", markets its services as an"

Page 8, line 12, remove "assisted living facility."

**REPORT OF STANDING COMMITTEE (410)**  
**March 20, 2001 8:54 a.m.**

**Module No: SR-48-6104**  
**Carrier: Kilzer**  
**Insert LC: 18119.0301 Title: .0400**

Renumber accordingly

*adopted*

March 21, 2001

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1109

In lieu of the amendments as printed on pages 873 and 874 of the Senate Journal, Reengrossed House Bill No. 1109 is amended as follows:

Page 4, line 4, after the underscored comma insert "medication management,"

Page 5, line 2, replace the first underscored comma with "or" and remove ", or an independent"

Page 5, line 3, remove "living facility"

Page 6, remove lines 2 through 4

Page 6, line 5, replace "11" with "10"

Page 6, line 8, replace "12" with "11"

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Page 7, line 23, replace "holding itself out to the public as an assisted living facility located in this state" with "using the term "assisted living" in its advertising"

Page 7, line 24, remove "by providing such information as the"

Page 7, remove line 25

Page 7, line 26, remove "health under chapter 23-09"

Page 7, line 28, replace "ten" with "seventy-five"

Page 8, line 3, after the underscored period insert "The department shall involve the facilities in the rulemaking process."

Page 8, line 11, remove ", markets its services as an"

Page 8, line 12, remove "assisted living facility,"

Renumber accordingly



Roll Call Vote #: /

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1109**

Senate HUMAN SERVICES Committee

☐ Subcommittee on \_\_\_\_\_

or  
☐ Conference Committee

Legislative Council Amendment Number 18/19.0 302

Action Taken Amendments 191'

Motion Made By Sen Mathen Seconded By Sen Fischer

[illegible]

Total	(Yes)	No
100	100	0

Absent

### Floor Assignment

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

Date: 3/21/01

Senate	HUMAN SERVICES	Committee
--------	----------------	-----------

Legislative Council Amendment Number 18119.0302

Motion Made By Sen Mathiam      Seconded By Sen Fischer

[illegible]

Absent \_\_\_\_\_

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

Date: 3/21/01

1109

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Action Taken Do Pass as Amended

Motion Made By Sen Erskine Seconded By Sen Kibben

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment *Sen Mathew*

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

**REPORT OF STANDING COMMITTEE**

**HB 1109, as reengrossed: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1109 was placed on the Sixth order on the calendar.

In lieu of the amendments as printed on pages 873 and 874 of the Senate Journal, Reengrossed House Bill No. 1109 is amended as follows:

Page 4, line 4, after the underscored comma insert "medication management."

Page 5, line 2, replace the first underscored comma with "or" and remove ", or an independent"

Page 5, line 3, remove "living facility"

Page 6, remove lines 2 through 4

Page 6, line 5, replace "11" with "10"

Page 6, line 8, replace "12" with "11"

Page 6, line 11, replace "13" with "12"

Page 6, line 14, replace "14" with "13"

Page 6, line 16, replace "15" with "14"

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Page 7, line 24, remove "by providing such information as the"

Page 7, remove line 25

Page 7, line 26, remove "health under chapter 23-09"

Page 7, line 28, replace "ten" with "seventy-five"

Page 8, line 3, after the underscored period insert "The department shall involve the facilities in the rulemaking process."

Page 8, line 11, remove ", markets its services as an"

**REPORT OF STANDING COMMITTEE (410)**  
**March 22, 2001 8:50 a.m.**

**Module No: SR-50-6351**  
**Carrier: T. Mathern**  
**Insert LC: 18119.0302 Title: .0500**

Page 8, line 12, remove "assisted living facility."

Renumber accordingly

2001 SENATE APPROPRIATIONS

HB 1109

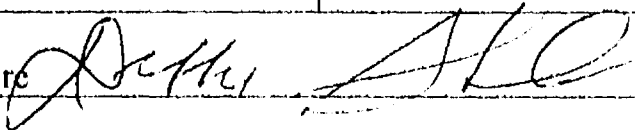
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1109

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 30, 2001

Tape Number	Side A	Side B	Meter #
1		X	35.9-50.6
2	X		0.0-5.0
Committee Clerk Signature 			

Minutes:

Senator Solberg opened the hearing on HB 1109.

David Zentner, Director of Medical Services for the Department of Human Services, testified (testimony attached) departments support of the bill.

Senator Schobinger: The House moved it back to \$10 per facility per year and in your testimony the \$75 per year was in agreement, now \$10 per facility and many in industry are in favor of this. What cost of the Department of Health issuing a licenses under Chapter 23-09?

David Zentner: I based my testimony on my understanding of what the support was from the industry, nobody has contact me that the \$75 was unreasonable. As far as I know the assisted living association has not indicated that the \$75 was inappropriate. I understand that the licensing fee for the restaurant is \$10 and that is where they came up with that.

Senator Schobinger: Do you have a spreadsheet of the costs incurred and why would it cost more for a simple registration of a facility than a license of a facility through the Department of Health? I would like a breakdown of those costs.

David Zentner: We are talking about 40 or 45 facility here at \$75, or generating a little over \$3,000 per year and those dollars would be used to setup, process, paper work, rule making and ongoing monitoring of the program, that is what the dollars here are designed to do. I will furnish you a breakdown of costs for implementation

Senator Andrist: I understand the need for this bill because the insurance companies for nursing home insurance will bring in assisted living facilities only if they are licensed. Is there a difference on how you define the difference between assisted living and congregate care?

David Zentner: There is a difference, both defined in this bill. One issue we were concerned of is making sure that insurance would be covered in assisted living. We hope to incorporate all the things that insurance's want to see in the assisted living administration however because it is a registration and not a licensing process we cannot guarantee that.

Senator Thane: If you require a licensing in the assisted living facility would qualify for a nursing home or long term insurance, correct?

David Zentner: At least from the license requirement that is true. The resident would still have to meet the requirements of the insurance company.

End Tape #1, Side B, meter 50.3

Start Tape #2, Side A, meter 0.0

Shelly Peterson, President of North Dakota Long Term Care Association, testified (testimony attached).

Senator Schobinger: How many dues paying members of assisted living do you represent?



Page 3  
Senate Appropriations Committee  
Bill/Resolution Number HB 1109  
Hearing Date March 30, 2001

Shelly Peterson: On January 1 we didn't have any because we didn't represent them, have recruited since then and have 10 new assisted living facility, based on 30 facility we will represent about 30% of them.

Senator Schobinger: These are due paying.

Shelly Peterson: That is correct.

Senator Schobinger requested that he would like to wait until Monday to vote on this bill, okay by Senator Solberg.

With no further testimony the hearing was closed.

Tape #2, Side A, meter 5.0.

4-02-01 Full Committee Action (Tape 1, Side A, Meter # 0.0 - 6.6)

Senator Nothing reopened the hearing on HB1109 -Related to assisted living facilities.

Senator Schobinger brought amendment 18119.0304 to the full committee. He led the discussion on the amendment and the review of the original request.

Senator Schobinger moved the adoption of amendment; Senator Thane seconded. Discussion; call for the vote: voice vote carried.

Discussion on the bill. Senator Andrist moved a DO PASS AS AMENDED; seconded by Senator Schobinger. Discussion; call for the vote: Roll Call Vote: 14 yes; 0 no. 0 absent and not voting.

Senator Schobinger will carry the amendment on the floor; Senator Tim Mathern, the bill.

Date: 4-2-01

Roll Call Vote #: \_\_\_\_\_

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 1109

Senate Appropriations Committee

☐ Subcommittee on \_\_\_\_\_  
or

☐ Conference Committee

Legislative Council Amendment Number 18119.0304

Action Taken As passed as amended (Recommending  
to passage)

Motion Made By Senator Andrist Seconded By Senator Schobinger

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Senator Schobinger

If the vote is on an amendment, briefly indicate intent: Sen. Dave Nething - bill

**REPORT OF STANDING COMMITTEE**

**HB 1109, as reengrossed and amended: Appropriations Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1109, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments to reengrossed House Bill No. 1109 as printed on pages 873 and 874 and pages 904 and 905 of the Senate Journal, Reengrossed House Bill No. 1109 is amended as follows:

Page 4, line 4, after the underscored comma insert "medication management,"

Page 5, line 2, replace the first underscored comma with "or" and remove ", or an independent"

Page 5, line 3, remove "living facility"

Page 6, remove lines 2 through 4

Page 6, line 5, replace "11" with "10"

Page 6, line 8, replace "12" with "11"

Page 6, line 11, replace "13" with "12"

Page 6, line 14, replace "14" with "13"

Page 6, line 16, replace "15" with "14"

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Page 6, line 29, replace "19" with "18"

Page 7, line 3, replace "20" with "19"

Page 7, line 6, replace "21" with "20"

Page 7, line 8, replace "22" with "21"

Page 7, line 23, replace "holding itself out to the public as an assisted living facility located in this state" with "using the term "assisted living" in its advertising"

Page 7, line 24, remove "by providing such information as the"

Page 7, remove line 25

Page 7, line 26, remove "health under chapter 23-09"

Page 7, line 28, replace "ten" with "seventy-five", after "dollars" insert "for the initial year", and after "facility" insert "and twenty dollars for each subsequent year for each facility"

Page 8, line 3, after the underscored period insert "The department shall involve the facilities in the rulemaking process."

REPORT OF STANDING COMMITTEE (410)  
April 2, 2001 3:51 p.m.

Module No: SR-57-7507  
Carrier: Schobinger  
Insert LC: 18119.0304 Title: .0600

Page 8, line 11, remove ", markets its services as an"

Page 8, line 12, remove "assisted living facility,"

Renumber accordingly

2001 TESTIMONY

HB 1109

**TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE**  
**REGARDING HOUSE BILL 1109**  
**JANUARY 16, 2001**

Chairman Price, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you today to provide information, support this bill and propose several amendments that I will discuss during the course of my testimony.

The 1999 Legislative Assembly passed Senate Bill 2036 that authorized the Department of Health and the Department of Human Services to develop a process that would combine the definition and create a licensing process for basic care and assisted living facilities. The Task Force on Long Term Care Planning was given the responsibility of reviewing the legislation and making recommendations for implementation.

The Task Force was appointed by former Governor Schafer to review the current delivery system for long-term care services and make recommendations for changes. The Task Force included members from government, the long-term care industry and the public. It met during the interim and issued a report in September 2000.

The Task Force appointed an ad hoc committee to determine how the law could be implemented. After much discussion, the committee concluded it would not be appropriate to combine basic care and assisted living into one licensing category because the differences between the categories of services is too great. Assisted living services are generally provided in an apartment-like setting where clients make choices regarding the type of care they receive. Basic care is provided in a congregate setting and provides the same basic services/cares to all residents of the facility including meals, activities and personal care services. •

Based on the recommendations of the ad hoc committee, the Task Force concluded that a different approach should be pursued with regard to basic care and assisted living facilities. It recommended retaining basic care in its present form. It also recommended that Alzheimer's and Related Dementia pilot projects are licensed as basic care facilities.

Rather than require assisted living facilities to use the same licensing process as basic care facilities, the Task Force recommended that a registration process be implemented. It also recommended that the Department of Health license assisted living facilities under the food and lodging requirements under NDCC 23-09 when appropriate.

The bill before you accomplishes the recommendations of the Task Force. Section 1 would permit the Health Department to license assisted living facilities through the boardinghouse definition. Section 2 adds two requirements to the basic care definition regarding the need for staff to be available 24 hours per day and expands the definition to include Alzheimer's dementia or special memory facilities.

Section 3 of the bill establishes a licensing fee for each basic care facility to be collected by the Department of Health that will offset the cost to the Department of conducting reviews of each facility.

Section 4 includes definitions including a new definition for assisted living. The Department proposes a change to this definition to better clarify which facilities will be required to register as an assisted living facility. In addition, we are proposing a change to the definition of individualized support services and instrumental activities of daily living. The section also removes the requirement that the monthly personal needs allowance be \$45 and allows the department to establish the amount that is available to meet the personal needs of residents in basic care facilities.



Section 5 establishes a method to receive complaints regarding the operation of assisted living facilities. The Department of Human Services would be the agency responsible for this activity.

Section 6 establishes the process for registering assisted living facilities. The Department would like to propose an amendment that would change the language regarding the amount of the registration fee to be collected from each assisted living facility. The change would provide a set fee based on provider size. It is anticipated that about 35 facilities will initially be registered as assisted living facilities. The fee designed to offset the cost of the registration and complaint processes would generate about \$7,000 additional funds per year for the Aging Division within the Department. We are also proposing additional language that would permit the Department to use these funds within our appropriation to carry out our responsibilities under this new law.

This section also allows the Department to assess fines of up to \$500 per day for facilities who provide assisted living services, but refuse to register with the Department. We do assume that current assisted living providers will abide by the registration requirement, but also believe we must have some leverage against a facility who refuses to cooperate while their peers comply with the process. We are also proposing an addition to the language that would permit the Department to deposit any fines collected into its operating fund.

Section 7 also deals with removing the set amount for monthly personal care allowances from state law.

Section 8 would repeal language that permits basic care residents to select their own pharmacist. The Health Department requested this section because they believe it is duplicative.

Section 9 establishes an effective date for this legislation.

This bill is a cooperative effort of government, the long-term care industry and advocates to come to a workable compromise with respect to the regulation of assisted living facilities. The Department supports this bill and recommends a do pass.

I would be happy to answer any questions you may have.

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1109**

Page 4, line 17, after "means" Insert "any building or structure containing"

Page 5, line 8, remove "on the same site."

Page 6, line 16, replace "instrumental activities of daily living" with "medication assistance"

Page 6, line 21, replace "medication" with "meal preparation."

Page 6, remove line 22

Page 8, replace lines 8 and 9 with "two hundred dollars for each facility of twenty-five or fewer living units and three hundred dollars for each facility with twenty-six or more living units. Registration fees collected pursuant to this section must be deposited in the department of human services' operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly."

Page 8, line 21, after the period Insert "Fines collected pursuant to this section must be deposited in the department of human services' operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly."

Renumber accordingly

*Testimony on HB1109*

Licensing and registration of basic care and assisted living facilities

*by*

Roger R. Unger, Department of Health,  
Division of Health Facilities

January 16, 2001

Good Morning Madam. Chairperson and members of the Committee, I am Roger Unger, Manager for Licensing and Certification, Department of Health, Division of Health Facilities. I was a member of the Interim Long Term Care Subcommittee assigned to review the licensing of basic care and assisted living in North Dakota.

I am here to provide testimony relating to Section 3 of House Bill 1109 which is proposed as an amendment to Section 23-09.3-05 of the 1999 Supplement to the North Dakota Century Code.

At the present time there are no state general funds designated for survey activity for basic care facilities. Public protection is limited to investigating complaints. The proposed amendment will permit the Department of Health to establish a licensing fee that will permit an onsite survey of basic care facilities for compliance with program and life safety code requirements every two years. The proposal to establish a licensing fee based on the actual cost of licensing and survey is intended to create a state licensing program that is a self funding operation. As seen in the fiscal note attached to this bill, the collection of licensing fees is intended to begin with calendar year 2002. The fiscal note also contains a request for a one-time general fund appropriation for the first six months of the biennium. No additional general fund appropriation is anticipated for the 03-05 biennium.

I am available to answer any questions you may have regarding this portion of HB1109.

**Testimony on HB 1109**  
**House Human Services Committee**  
**January 16, 2001**

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1109. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. For twenty-three years we have represented nursing facilities and basic care facilities. Effective January 1, 2001 we expanded membership to assisted living facilities. As you may be aware, many of our members provide acute care services, swing bed, subacute, independent living and assisted living, so it was a logical step for us to take. Today my comments are also representing, a group of independent assisted living providers, who gathered and met for the purposes of evaluating all the assisted living legislation. I believe our testimony represents the thoughts and concerns of the assisted living providers in North Dakota and appreciate your thoughtful consideration.

First I would like to compliment the Department of Human Services. They worked diligently to follow the directive of SB 2036 which directed them to assemble a workgroup of interested parties and prepare recommendations, legislation and a bill draft converting basic care and assisted living into an integrated long-term housing and service system entitled assisted living. They assembled the workgroup, representing a cross-section of basic care, assisted living, nursing facilities, consumers and government representatives. The workgroup met numerous times and in the end their study produced different results and recommendations than anyone ever anticipated. We are on record supporting the workgroup recommendations and what we thought would translate into HB 1109. Where our concerns arise is when the recommendations converted into legislation, something was lost in the translation. HB 1109 goes far beyond the recommendations of the workgroup in some significant instances.

Comments on HB 1109 and suggestions for improvement:

1. Definition of assisted living does not clearly distinguish it from an independent living facility or congregate living.

**Solution:** We shared our concern with the Department and they are proposing changes in the definition of "assisted living," "individualized support services," and "Instrumental activities of daily living" to address this concern. We are supportive of this amendment and believe it will allow other entities that provide housing with optional services, such as housekeeping, shopping, laundry, transportation and meal preparation, to not fall under the assisted living definition or licensing requirements. To add strength to the Department's new definition of assisted living we recommend that the language at the end of the definition include, "It does not include a facility defined as congregate living or independent living facility."

2. Rule promogation on the licensing and registration of assisted living. HB 1109 gives the Department broad authority to develop rules regarding the mandatory licensure and registration of assisted living facilities. We have concerns about this broad authority and are concerned that the rules could put in requirements that are beyond the intent of legislation.

**Solution:** To remedy this concern we recommend you put in place the same process you mandated in SB 2036. The Department develop a workgroup of industry, public, and governmental representatives and they be charged with the responsibility of developing rules regarding registration and licensing. Further, during the hearing before the Administrative Rules Committee the Department report any conflict between industry and government representatives regarding proposed rules.

3. Penalty - up to five hundred dollar per day penalty against any company that provides assisted living services, markets its services as an assisted living facility, or uses the term assisted living in its marketing without a registration approved by the Department. We are adamantly opposed to this fine. The workgroup never recommended a fine. This was an addition by the Department when they drafted the legislation. Assisted living is an emerging service in North Dakota. It is not a villain that government needs to impose a \$500 per day fine. Today many are using the term assisted living as a marketing term. Our Association will strive to education the assisted living community on all legislation affecting their business, but do we really want to penalize a good provider because they advertized themselves as assisted living, but didn't know they were to register? If in two years, the Department believes providers are ignoring the law, then lets consider a penalty. Today, we do not believe it's necessary or warranted.

**Solution:** Delete all reference to a penalty (page 8 - lines 17-21).

4. Assisted living registration fee of \$10 per unit, except no less than \$100 and no more than \$750. We are opposed to a per unit registration fee, however we would support a filing fee. When the workgroup discussed the registration fee, it was spoken of as a "simple two-page, maybe two sided form." The form would simply gather information. It would not require an onsite visit by the state or follow-up. The state would issue or deny the registration. The person completing the form would make a self-declaration that the information is true and accurate. For the state to record and process the registration requires the same amount of time regardless if the application is a ten bed assisted living facility or a one-hundred twenty bed assisted living facility.

**Solution:** Given the clear, concise, simple registration process envisioned by us, we believe a \$50 per facility annual registration fee is sufficient to cover the state's expenses. We support the mandatory registration process, a process we would like to develop with the Department, but please don't make the fee excessive.

5. Establish a method to receive complaints related to assisted living facilities and to forward the complaints to the appropriate agency for investigation.

We support this concept of a clearing house of receiving complaints and forwarding them to the most appropriate body. Again we do not envision this adding any measurable cost to the Department, as they already have a system in place for receiving complaints in nursing facilities and basic care facilities. Under this process they would not investigate the complaint but simple refer it on for appropriate intervention.

6. Section 13 of HB 1109 - licensing fee for basic care not to exceed the cost of licensing.

We are absolutely opposed to this exorbitant licensing fee, in the fiscal note described at \$45 per bed. The current licensing fee of a nursing facility is \$7 per bed and a hospital is at \$10 per bed. Under this legislation, the facility in Rugby would be required to pay over \$4,500 every year. This organization has operated at a deficient for four years and this type of fee would further cripple their operation.

Again when the workgroup discussed the basic care licensing fee, the providers on the committee spoke of minimal fee. The workgroup members were never informed of this fiscal note and this information was just revealed to us ten days ago when we raised concerns to the Department of Health about HB 1109. The fiscal note doesn't describe a minimal licensing process but a comprehensive survey process. If a comprehensive survey process is going to be implemented we want some assurance it's not going to be like the nursing facility survey process, which has unannounced surveys, sometimes at 4:00 a.m., with punitive fines and sanctions.

**Solution:** Eliminate the licensing fee for basic care and keep the system as it now operates (Remove Section 3). If legislators feel a comprehensive survey process, with two new full time employees is warranted then direct a workgroup be assembled to develop the system and report back to the 2003 legislature.

7. Section 7 - Personal Needs Allowance for Basic Care Residents. This section is changed to allow the Department to determine the personal needs allowance, rather than the \$45 set in statute. Basic care residents have received for as long as anyone can remember \$45 per month. It is expected this money covers their clothing, hair care, personal telephone, cable TV, personal comfort items such as pop, candy bars, cigarettes. This money is simply not sufficient to meet their needs. Basic care residents are still fairly mobile and involved with their community and families. Spending money to assure they have a high quality of life is necessary. We are asking the Appropriations Committee to allow \$60 per month. Adopting section 7 will provide the language necessary to increase the personal needs allowance. If we are not successful with the Appropriations Committee, this language is flexible enough that the \$45 could continue if necessary.

Thank you for listening to our concerns and considering our recommendations. We welcome any opportunity to work with you on improving this legislation. If you have any questions I would be happy to address them at this time. We also have many basic care and assisted living facilities present, and they too would be happy to answer any questions you may have.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660

Testimony Support by:

Basic care, assisted living, and nursing facilities members of the North Dakota Long Term Care Association  
Waterford at Harwood Groves of Fargo  
Waterford on West Century of Bismarck  
Edgewood Vista Assisted Living in Bismarck and Minot  
Brentmoor of Minot



## ★ – BASIC CARE FACT SHEET -- ★

- ★ North Dakota has 42 basic care facilities.
- ★ There are 1,422 licensed basic care beds, 86% occupied.
- ★ The average cost for a single day of basic care is \$42.36, generally less than the cost of one night in a hotel.
- ★ In 1998, an average of 423 individuals needed State Basic Care Assistance to pay for their care.
- ★ Basic care services include room, meals, medication administration, 24-hour supervision and support, activities and nursing consultation.
- ★ The top two reasons an individual will enter basic care is the need for medication administration and 24 hour supervision.
- ★ The purpose of basic care is to help residents maintain their current level of independence and strive to improve their overall health.
- ★ Basic care is the most cost effective level of care for residents who need constant supervision but not 24-hour nursing care.
- ★ 86 percent of residents require total administration of medications by staff.
- ★ 73 percent of residents are ambulatory and need no assistance with devices (cane, walker).
- ★ 59 percent of residents require some help in bathing.
- ★ 28 percent of the residents experience confusion or disorientation.
- ★ 20 percent of residents have a diagnosis of mental illness or mental retardation.
- ★ The average age of a basic care resident is 85 years.
- ★ Age breakdown of basic care residents:

<u>0 - 64</u>	<u>65 - 74</u>	<u>75 - 84</u>	<u>85 +</u>
8%	10%	32%	50%

- ★ The age range of basic care residents is 33 to 102 years old.

## TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

JANUARY 16, 2001 @ 8:30 A.M.

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1109. My name is Kathy Klein speaking for Spectrum Care, the operating company of Somerset Court -- Minot, an independent living facility. We are a new facility in North Dakota, having opened our doors for the first time in September 2000.

Because we are new we were not initial participants in the Ad Hoc Committee that is responsible for the drafting HB 1109. We did however participate in the later portion of the committee meetings. During that process we made recommendations aimed at attempting to assist in defining the new and evolving lifestyle living alternatives becoming available to senior citizens.

As the members of the Ad Hoc Committee are aware and many of you know housing options for seniors are undergoing a significant expansion across the country. As our demographics are changing with greater and greater numbers of seniors in our population mix the housing alternatives becoming available are expanding.

The names being used for these options and the services made available are in a current state of flux. This is a good thing. It shows the dynamic state of the marketplace and the ability of the housing industry to develop a variety of housing options to meet the demands and needs of our expanding senior housing market.

Historically, "elderly housing" was, to the extent it was defined fell into the health and medical care arena. We saw this in the form of such things as nursing homes, care homes, basic care facilities and the like. Over the past ten years we have seen the options in senior housing expanding rapidly. Many of the new housing options have taken on the generic title of "assisted living" facilities. This term however, as everyone recognizes, covers a very large segment of the housing market.

We understand the state health department's interest in monitoring this evolution and hope to participate in that monitoring.

However, we believe that HB 1109 does not approach the newly developing industry in the most helpful manner. While we agree with much of what you will hear to day from others in the

industry who are speaking there are several things we would like to stress and some amendments we wish to offer for your consideration.

**FIRST:** We believe that it is necessary to include a definition of "Independent Living Facility". We offer that as an amendment to HB 1109. This amendment reads as follows:

**"Independent Living Facility", means a living arrangement, regardless of age of resident or location of facility, where residents reside by choice and not due to medical or care needs."**

This amendment is offered to insure that facilities such as ours, which are independent living facilities and not care facilities, are neither identified as such nor regulated as such.

**SECOND:** We offer an additional amendment to clarify the definition as proposed in HB 1109 for "Assisted Living Facilities". This amendment would insert at the end of Line 14, page 5 the following language:

**"or congregate living or independent living facilities."**

Finally we would like to be sure that the members of this committee are aware that our facilities are licensed and regulated. We are required to meet all the building and fire codes, our elevators are licensed and inspected, our restaurants are licensed and inspected by the health department, our beauty salons are licensed and inspected by the health department and we are also regularly inspected by and run fire and emergency evacuation drills in compliance with local fire department regulations.

Our independent living facilities are apartment houses. **Our facilities are not institutions. To impose institutional regulations and requirements on us would be a great disservice to all members of our senior community.** Our units are the homes of our residents. We offer services to our residents, if they wish to have them. Those services include housekeeping, laundry, transportation, and meals at our full service restaurant as well as the services offered in our salon. In addition, we offer for those who wish, medication presentation. This service is provided under the supervision of a Registered Nurse and through the assistance of Certified Medical Aids. These individuals are separately licensed and regulated.

It is important to keep in mind that our FACILITY is an apartment complex. We do not wish, nor do we see any reason to separately license, register or regulate our facilities in addition to the regulation and licensing they are currently under. Further, we believe that the services we do provide are already fully regulated and licensed. At this time further licensing, regulation or imposition of fees

or costs on this industry will provide a disservice to senior citizens and place unnecessary obstacles in the evolution of this industry.

We urge the Committee to consider our proposed amendments and incorporate them into HB 1109.

In closing, we also believe MANDATORY registration of facilities, including independent living facilities, will provide no benefits to seniors but will result in additional costs they must bear.

We will distribute copies of our testimony and copies of our proposed amendments. I would be happy to try to answer any questions you may have and thank you for your time this morning.

Presented by:  
Kathy Klein, Director  
Somerset Court - Minot  
1900 28<sup>th</sup> Street SW  
Minot, North Dakota 58701  
(701) 838-4500  
E-mail: kathyk84@hotmail.com

PROPOSED AMENDMENT TO HB 1109  
January 16, 2001

"INDEPENDENT LIVING FACILITY", means a living arrangement,  
regardless of age of resident or location of facility, where  
residents reside by choice and not due to medical or care needs.

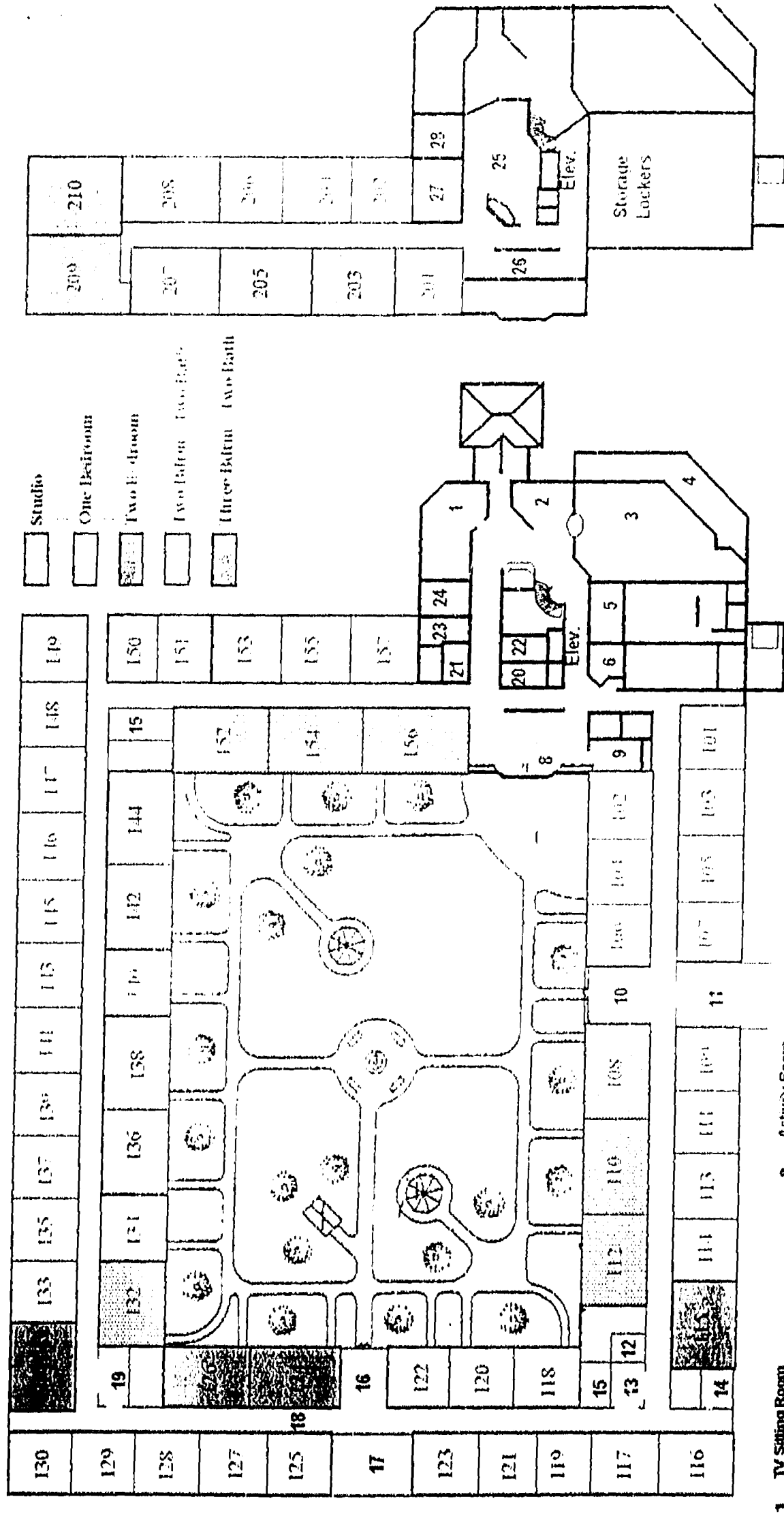
**PROPOSED AMENDMENT TO HB1109**  
**January 16, 2001**

**This amendment would insert at the end of Line 14, page 5**

**the following language:**

**"or congregate living or independent living facilities."**

# Somerset Court Self Tour





**NORTH DAKOTA DEPARTMENT  
OF HUMAN SERVICES**

John Hoeven, Governor  
Carol K. Olson, Executive Director

Aging Services Division

600 S Second St - Ste 1C, Bismarck, ND 58504-1129  
(701) 328-8993  
Senior Information Line/Toll Free 1-800-451-8993  
TTY (701) 328-8998

January 22, 2001

**TO: Chairman Clara Sue Price, House Human Services Committee  
Members of the House Human Services Committee**

**FROM: Muriel Peterson, Program Administrator, Aging Services Division**

**RE: HB 1109, Registering Assisted Living Facilities**

At the hearing on HB 1109 concern was expressed about whether registration of assisted living would be sufficient for long-term care insurance coverage. Vance Magnuson, Insurance Department, was asked to comment. Although he wasn't sure, he provided what insurance companies generally look for -- e.g. daily records, number of units (really is it a facility or just a home trying to collect insurance), quality of care standards, etc. I took note of Vance's comments because I will likely have responsibility for development of the registration process within the Aging Services Division should the registration process become law.

After the hearing I talked with Vance and brought Shelly Peterson into the discussion, and since have shared the following with Department of Human Services' officials. The items mentioned by Vance are sound business practices for any entity providing in-home cares. I believe the items can be part of the registration process -- document that the facility does, or has procedures for, the items. Shelly was supportive of such if it could be accomplished in that manner.

It was agreed a representative of the Insurance Department (Vance or Yuri) would be on the committee established to provide input during development of the registration process and rules. If the items can be covered in the registration, the Insurance Department would advise insurance companies that the registration process in North Dakota includes the items (generally) considered in licensure from the insurance industry stand point.

Continued on next page . . .



Chairman Price, Human Services Committee  
January 22, 2001  
Page 2 of 2 pages

Whether HB 1109 is amended or not to include the committee recommended by the Long-Term Care Association in Shelly's testimony or not, Linda Wright and I had already talked about having a work group. The core of which would be the members from assisted living facilities with whom I worked earlier. And add to that a representative of the Insurance Department and others as appropriate.

If I can be of assistance to the Human Services Committee as they study HB 1109, I can be reached at extension 8905 or by e-mail at [sopetm@state.nd.us](mailto:sopetm@state.nd.us).

MP:hb1109

c: Executive Office (3)

Dave Zentner, State Medicaid Director  
Vance Magnuson, Insurance Department  
Shelly Peterson, LTC Association  
Linda Wright, Director, Aging Services Division

1-11-01  
Peterson

**Testimony on HB 1109**  
**House Appropriations - Human Resource Division Committee**  
**February 13, 2001**

Chairman Svedjan and members of the House Appropriations Committee - Human Resource Division, thank you for the opportunity to testify on HB 1109. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of our members: nursing facilities, basic care facilities and assisted living facilities.

I am here today in support of engrossed HB 1109 and respectfully request a "DO PASS."

The House Human Services Committee worked diligently on improving HB 1109 and we appreciate the work and time they gave HB 1109. As revised HB 1109 accomplishes a number of tasks:

1. Creates an assisted living registration process and requires assisted living facilities to have a food and lodging license. This process will help assure long term care insurance is eligible for payment for covered services.
2. Creates a reasonable enforcement mechanism for assisted living facilities that hold themselves out as assisted living but haven't obtained the proper registration process. Such facilities will be given an advanced warning of 59 days, after which the Department may levy up to a \$50 per day fine.
3. The annual registration fee for assisted living facilities is set at \$75.00.

The Department has indicated they will work with providers and consumers in developing the rules governing the annual registration process. We look forward to working with them on this initiative.

The Human Services Committee also changed the definition of many terms. We were not opposed to any of their changes, however in discussing the revised terms with the Department of Human Services, they have concerns. DHS is proposing amendments that we have considered and we are not opposed to their adoption.

HB 1109 originally created a comprehensive survey process for basic care, creating three new full time employees and burdening basic care with a \$45 per bed basic care licensing fee. The fees for nursing homes and hospitals are only \$7 and \$10 respectively. This fee would have been financially burdensome for basic care. We appreciate the Human Services Committee sensitivity to this concern. We further understand any basic care survey process that is developed will be in cooperation with consumers and providers, will be collaborative and based upon a quality improvement model. If these basic principles can't be achieved then we support keeping the basic care survey process as it currently operates and elimination of the three full time employees.

Basic care is the most cost-effective service for individuals that do not have intensive medical needs, but only need 24-hour supervision, proper nutrition and hydration, activities, and medication administration. They enjoy delivering services at an average cost of \$42.36 per day because they are not over regulated. Let's not race to over-regulate basic care or assisted living and lose the creativity of delivering services in response to a consumer driven environment.

HB 1109 also designates \$60.00 for the personal needs allowance for basic care residents. As shared with you in previous testimony we believe this money will improve the quality of life for basic care residents. We support the money for this initiative coming from HB 1196 - the intergovernmental transfer funds.

Thank you for the opportunity to testify on Engrossed Bill 1109. We support the bill before you and would be happy to answer any questions at this time.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS COMMITTEE  
HUMAN RESOURCES SECTION  
REGARDING HOUSE BILL 1109  
FEBRUARY 13, 2001

Chairman Svedjan, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you today to provide information, suggest amendments and support this bill.

The 1999 Legislative Assembly passed Senate Bill 2036 that authorized the Department of Health and the Department of Human Services to develop a process that would combine the definition and create a licensing process for basic care and assisted living facilities. The Task Force on Long Term Care Planning was given the responsibility of reviewing the legislation and making recommendations for implementation.

The Task Force was appointed by former Governor Schafer to review the current delivery system for long-term care services and make recommendations for changes. The Task Force included members from government, the long-term care industry and the public. It met during the interim and issued a report in September 2000.

The Task Force appointed an ad hoc committee to determine how the law could be implemented. After much discussion, the committee concluded it would not be appropriate to combine basic care and assisted living into one licensing category because the differences between the categories of services is too great. Assisted living services are generally provided in an apartment-like setting where clients make choices regarding the type of care they receive. Basic care is provided in a congregate setting and provides the same basic services/cares to all residents of the facility including meals, activities and personal care services.

In addition, the payment of services for individuals residing in an assisted living facility vary based on the needs of the residents; whereas the charges in a basic care facility consist of a standard daily rate no matter how much care is required for each resident.

Based on the recommendations of the ad hoc committee, the Task Force concluded that a different approach should be pursued with regard to basic care and assisted living facilities. It recommended retaining basic care in its present form. It also recommended that Alzheimer's and Related Dementia pilot projects are licensed as basic care facilities.

Rather than require assisted living facilities be licensed using the same process as basic care facilities, the Task Force recommended that a registration process be implemented. It also recommended that the Department of Health license assisted living facilities for food and lodging requirements under NDCC 23-09 when appropriate.

The bill before you accomplishes the recommendations of the Task Force. Section 1 would permit the Health Department to license assisted living facilities for food and lodging through the boardinghouse definition. Section 2 adds two requirements to the basic care definition regarding the need for staff to be available 24 hours per day and expands the definition to include Alzheimer's dementia or special memory facilities.

Section 3 of the bill establishes a licensing fee for each basic care facility to be collected by the Department of Health that will offset the cost to the Department of conducting reviews of each facility. It also appears to limit the enforcement capabilities of the Health Department. While collaboration and quality improvement are laudable goals, there have been recent situations where facilities have deteriorated to the point that it became necessary to close them and move residents to other facilities. Without enforcement requirements

facilities that threaten the life and safety of residents can continue to operate without fear of closure or other sanctions. The Health Department intends to provide testimony on this issue.

Section 4 includes definitions including a new definition for "Assisted living facility", creates a definition for a new category of facilities called "Independent living facilities" and also redefines "Individualized support services". The last two definitions were created or changed during the amendment process in the House Human Services Committee. The Department had originally suggested that medication management be included as one of the services that would qualify a facility to be registered as an assisted living facility. Medication management is an important service that in many cases can mean the difference between an individual being able to continue living in an alternative setting or having to enter a nursing facility. We believe that it is an integral part of delivering alternative services and should be included as one of the services, that if provided, requires entities to register as an assisted living facility. In addition, one of the reasons for moving to a registration process for assisted living was to ensure that long term care insurance coverage could be obtained for residents of these facilities. If facilities that provide medication management are not required to register as assisted living facilities, those residents could have difficulty accessing their long-term care benefits. We recommend an amendment to add medication management to the "Activities of daily living" definition.

We are also concerned about the definition for "Independent living facility". It would exempt any facility meeting this definition from registering as an assisted living facility. It is defined as any facility where residents reside by choice and not due to medical or care needs. The definition will be difficult to interpret. No resident is forced to enter any type of living arrangement up to and including nursing facility care. Also, it is not clear how to determine if a resident resides in a particular facility due to medical or care needs. The determining factor should center on what type of services are actually offered by a facility, not the particular

care needs of a resident. The Department recommends removing this definition from the bill.

The section also removes the requirement that the monthly personal needs allowance be \$45 and requires the department to increase the amount to \$60 per month. The funds to raise the limit are currently contained in HB1196, but are not included in the Executive budget.

Section 5 establishes a method to receive complaints regarding the operation of assisted living facilities. The Department of Human Services would be the agency responsible for this activity.

Section 6 establishes the process for registering assisted living facilities. It permits the Department to collect a registration fee of \$75 per year from each facility to defray the cost of registration. It also provides for a penalty for those facilities that fail to comply with the registration requirement. We believe some leverage is necessary if a facility refuses to cooperate while their peers comply with the registration requirement.

Section 7 also deals with changing the monthly personal care allowances from \$45 to \$60.

Section 8 would repeal language that permits basic care residents to select their own pharmacist because it is duplicative of language that already exists in statute under patient's bill of rights.

Section 9 establishes an effective date for this legislation.

This bill is a cooperative effort of government, the long-term care industry and advocates to come to a workable compromise with respect to the regulation of assisted living facilities. The Department supports this bill with our proposed

amendments and recommends a do pass; but must note that the funds necessary to increase the personal needs allowance are not currently in our budget and therefore we cannot support this part of the bill.

I would be happy to answer any questions you may have.



**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1109**

Page 4, line 20, remove "and", and after "hygiene" insert ", and medication management"

Page 5, line 19, after the first "facility" replace "," with "or" and after the second "facility" replace ", or an independent" with ","

Page 5, remove line 20

Page 6, remove lines 19 through 21

Renumber accordingly

*Testimony on HB1109*  
Regarding License & Registration for Assisted Living  
& Basic Care Facilities

*before the*  
House Appropriations Committee  
Human Resources Division

*by*  
Roger R. Unger, Department of Health,  
Division of Health Facilities

February 13, 2001

Representative Svedjan and members of the Committee, I am Roger Unger, Manager for Licensing and Certification, Department of Health, Division of Health Facilities. I am here to provide testimony relating to Section 3, page 2, of House Bill 1109 which is proposed as an amendment to Section 23-09.3-05 of the 1999 Supplement to the North Dakota Century Code.

I will address specifically the amended language as written in lines 13-19 of Section 3, page 2, beginning with the word "An" on line 13: "An application for a basic care facility license submitted by a facility that is not owned by the state or its political subdivisions must be accompanied by a license fee of five dollars per bed. License fees collected under this section must be deposited in the state department of health operating fund in the state treasury and any expenditure from the fund is subject to legislative appropriation. The department, with the cooperation of the consumers and providers, shall develop a survey process that is collaborative and based upon a quality improvement model".

The Department of Health recommends the removal of the amended language as written in lines 13-19 of Section 3 beginning with the word "An" on line 13 and recommends an adjustment to the fiscal note for HB1109 to remove the request for state general funds by the Department of Health. This recommendation is made for the following reasons:

- The language as written does not represent the discussions and conclusions of the interim committee for the licensing of basic care facilities.
- The language as amended provides a greater protection for the provider and removes current protection for residents of basic care facilities.
- The amendment directs an unfunded licensing activity for the Department of Health, Division of Health Facilities.

The Department of Health, Division of Health Facilities, believes the current licensing rules and management of complaints will provide a greater level of protection for the residents than will be possible through the amended language as written on lines 13-19 of HB1109. This recommendation is based on the fact that the department has been able to enforce existing rule to the extent that two substandard providers have been removed as providers of basic care services through the complaint investigation process within the past few years.

This concludes my testimony. I would be happy to respond to any questions you may have.

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE**

**REGARDING HOUSE BILL 1109**

**MARCH 6, 2001**

Madame Chairman and members of the Senate Human Services Committee. My name is Vance Magnuson, Senior Form and Rate Analyst for the North Dakota Insurance Department. I am appearing before you in support of HB 1109.

The Insurance Department's interest in this legislation stems from LTC (long-term care) insurance policy claim denials because of policy requirements that benefits are provided only in licensed assisted living facilities. Many older policies have provisions which will provide benefits in basic care facilities because they are licensed but not in assisted living facilities. Due to the moratorium currently imposed on licensing additional basic care beds, our Department has received several complaints regarding claim denials by insurers for care provided in non-licensed facilities.

Legislation requiring licensure of assisted living facilities would be preferable to satisfy LTC insurance contract requirements.

Since HB 1109 requires registration instead of licensure, it is uncertain if insurers will perceive this as meeting their policy licensure requirement. Human Services will incorporate many of the same requirements insurers currently include in their LTC contracts in lieu of licensure as part of the registration process. Hopefully insurers will view this legislation as meeting the licensure intent under their contracts; however, the Committee and other interested parties must realize that individual LTC contractual language and claim circumstances do not guarantee insurer claim payments for residents in assisted living facilities.

I would be happy to answer any questions you may have.

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE**  
**REGARDING HOUSE BILL 1109**  
**MARCH 6, 2001**

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you today to provide information, suggest amendments and support this bill.

The 1999 Legislative Assembly passed Senate Bill 2036 that authorized the Department of Health and the Department of Human Services to develop a process that would combine the definition and create a licensing process for basic care and assisted living facilities. The Task Force on Long Term Care Planning was given the responsibility of reviewing the legislation and making recommendations for implementation.

The Task Force was appointed by former Governor Schafer to review the current delivery system for long-term care services and make recommendations for changes. The Task Force included members from government, the long-term care industry and the public. It met during the interim and issued a report in September 2000.

The Task Force appointed an ad hoc committee to determine how the law could be implemented. After much discussion, the committee concluded it would not be appropriate to combine basic care and assisted living into one licensing category because the differences between the categories of services is too great. Assisted living services are generally provided in an apartment-like setting where clients make choices regarding the type of care they receive. Basic care is provided in a congregate setting and provides the same basic services/cares to all residents of the facility including meals, activities and personal care services. In addition, the payment of services for individuals residing in an assisted living facility vary based on the needs of the residents; whereas the charges in a basic

care facility consist of a standard daily rate no matter how much care is required for each resident.

Based on the recommendations of the ad hoc committee, the Task Force concluded that a different approach should be pursued with regard to basic care and assisted living facilities. It recommended retaining basic care in its present form. It also recommended that Alzheimer's and Related Dementia pilot projects be licensed as basic care facilities.

Rather than require assisted living facilities to be licensed using the same process as basic care facilities, the Task Force recommended that a registration process be implemented. It also recommended that the Department of Health license assisted living facilities for food and lodging requirements under NDCC 23-09 when appropriate.

The bill before you accomplishes the recommendations of the Task Force. Section 1 would permit the Health Department to license assisted living facilities for food and lodging through the boardinghouse definition. Section 2 adds two requirements to the basic care definition regarding the need for staff to be available 24 hours per day and expands the definition to include Alzheimer's dementia or special memory facilities.

Section 3 of the amended bill provides definitions including a new definition for "Assisted living facility", creates a definition for a new category of facilities called "Independent living facilities" and also redefines "Individualized support services". The last two definitions were created or changed during the amendment process in the House Human Services Committee.

The Department had originally suggested that medication management be included as one of the services that would qualify a facility to be registered as an assisted living facility. Medication management is an important service that in

many cases can mean the difference between an individual being able to continue living in an alternative setting or having to enter a nursing facility. We believe that it is an integral part of delivering alternative services and should be included as one of the services, that if provided, requires entities to register as an assisted living facility. In addition, one of the reasons for moving to a registration process for assisted living was to ensure that long term care insurance coverage could be obtained for residents of these facilities. If facilities that provide medication management are not required to register as assisted living facilities, those residents could have difficulty accessing their long-term care benefits. We recommend an amendment to add medication management to the "Activities of daily living" definition.

We are also concerned about the definition for "Independent living facility". It would exempt any facility meeting this definition from registering as an assisted living facility. It is defined as any facility where residents reside by choice and not due to medical or care needs. The definition will be difficult to interpret. No resident is forced to enter any type of living arrangement up to and including nursing facility care. Also, it is not clear how to determine if a resident resides in a particular facility due to medical or care needs. The determining factor should center on what type of services are actually offered by a facility, not the particular care needs of a resident. The Department recommends removing this definition from the bill.

The section also removes the requirement that the monthly personal needs allowance be \$45 and requires the department to increase the amount to \$60 per month. The funds to raise the limit are currently contained in HB1196, but are not included in the Executive Budget.

Section 4 establishes a method to receive complaints regarding the operation of assisted living facilities. The Department of Human Services would be the agency responsible for this activity.

Section 5 establishes the process for registering assisted living facilities. The amended bill permits the Department to collect a registration fee of \$10 per year from each facility to defray the cost of registration. The \$10 fee would generate less than \$1,000 to defray the cost of maintaining the registration process. The original bill allowed the Department to collect a fee of \$10 per bed and would have generated about \$19,000 in the next biennium. During discussion of this bill with the House Human Services Committee there was agreement that a registration fee of \$75 per year was a reasonable amount to charge assisted living facilities for the registration process. It would have produced about \$6,000 in revenue for the Department for the next biennium. The \$75 was included in the bill by that committee and was amended by the House Appropriations committee in its present form. The Department believes that the cost of collecting and accounting for fees that total about \$400 per year is not cost effective. We recommend that this committee restore the \$75 registration fee or eliminate the fee entirely from the bill.

*\$6,000 per biennium*

This section also provides for a penalty for those facilities that fail to comply with the registration requirement. We believe some leverage is necessary if a facility refuses to cooperate while their peers comply with the registration requirement.

Section 6 also deals with changing the monthly personal care allowances from \$45 to \$60.

Section 7 would repeal language that permits basic care residents to select their own pharmacist because it is duplicative of language that already exists in statute under patient's bill of rights.

Section 8 establishes an effective date for this legislation.

This bill is a cooperative effort of government, the long-term care industry and advocates to come to a workable compromise with respect to the regulation of assisted living facilities. The Department supports this bill with our proposed amendments and recommends a do pass, but must note that the funds necessary to increase the personal needs allowance are not included in the Executive budget.

I would be happy to answer any questions you may have.



**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1109**

Page 4, line 4, remove "and", and after "hygiene" insert ", and medication management"

Page 5, line 2, after the first "facility" replace "." with "or" and after the second "facility" replace ", or an independent" with "."

Page 5, remove line 3

Page 6, remove lines 2 through 4

Renumber accordingly

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1109**

Page 4, line 4, remove "and", and after "hygiene" insert ", and medication management"

Page 5, line 2, after the first "facility" replace "." with "or" and after the second "facility" replace ", or an independent" with ":",

Page 5, remove line 3

Page 6, remove lines 2 through 4

Page 7, line 28, replace "ten" with "seventy-five"

Renumber accordingly

SECOND ENGROSSMENT  
REENGROSSED HOUSE BILL NO. 1109

*Sen Schabinger*

AMENDMENT

Page 7, lines 20 – 26 amend to read as follows:

1. An individual, institution, organization, limited liability company, or public or private corporation keeping, operating, conducting, managing, maintaining, advertising, or-  
uses the term assisted living in its advertising holding itself out to the public as  
an assisted living facility located in this state shall register annually with the  
Department of Health <sup>15</sup> With the department by providing such information as  
the department prescribes and shall obtain a license issued by the state  
department of health under chapter 23.09.

AMENDMENT

Page 7, lines 27 – 31: STRIKE

AMENDMENT

Page 8, lines 1 – 3 amend to read as follows:

3. 2. The department shall establish an industry work group consisting of interested  
industry members to establish rules governing the annual registration of an assisted  
living facility, to regulate the application for, approval, denial, revocation, and  
requirements of registration.

AMENDMENT

Page 8, lines 11 and 12 to read as follows:

corporation that provides assisted living services, markets its services as an  
assisted living facility, or uses the term assisted living in its marketing without a

**Testimony on HB 1109**  
**Senate Human Services Committee**  
**March 6, 2001**

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on HB 1109. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of our members: nursing facilities, basic care facilities and assisted living facilities.

I am here today in support of Reengrossed HB 1109 and respectfully request a "DO PASS."

The House worked diligently on improving HB 1109 and we appreciate the work and time they gave HB 1109. As revised HB 1109 accomplishes a number of tasks:

1. Creates an assisted living registration process and requires assisted living facilities to have a food and lodging license. This process will help assure long term care insurance is eligible for payment for covered services.
2. Creates a reasonable enforcement mechanism for assisted living facilities that hold themselves out as assisted living but haven't obtained the proper registration process. Such facilities will be given an advanced warning of 59 days, after which the Department may levy up to a \$50 per day fine.
3. The annual registration fee for assisted living facilities is set at \$10.00. Originally the House Human Services Committee proposed an annual fee of \$75. This was changed in the Appropriation Committee to \$10 annually. We recognize the Department may need more funds to establish the registration process and we support paying more than ten dollars however it should not exceed \$75 annually.

The Department has indicated they will work with providers and consumers in developing the rules governing the annual registration process. We look forward to working with them on this initiative.

The Human Services Committee also changed the definition of many terms. We were not opposed to any of their changes, however in discussing the revised terms with the Department of Human Services, they have concerns. DHS is proposing amendments that we have considered and we are not opposed to there adoption.

HB 1109 also designates \$60.00 for the personal needs allowance for basic care residents. As shared with you in our testimony on HB 1196 we believe this money will improve the quality of life for basic care residents. We support the money for this initiative coming from HB 1196 - the intergovernmental transfer funds.

Thank you for the opportunity to testify on Reengrossed Bill 1109. We support the bill before you and would be happy to answer any questions at this time.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660

HB 1109

TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE  
REGARDING HOUSE BILL 1109  
MARCH 30, 2001

Chairman Nething, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you today to provide information and support this bill.

The 1999 Legislative Assembly passed Senate Bill 2036 that authorized the Department of Health and the Department of Human Services to develop a process that would combine the definition and create a licensing process for basic care and assisted living facilities. The Task Force on Long Term Care Planning was given the responsibility of reviewing the legislation and making recommendations for implementation.

The Task Force was appointed by former Governor Schafer to review the current delivery system for long-term care services and make recommendations for changes. The Task Force included members from government, the long-term care industry and the public. It met during the interim and issued a report in September 2000.

The Task Force appointed an ad hoc committee to determine how the law could be implemented. After much discussion, the committee concluded it would not be appropriate to combine basic care and assisted living into one licensing category because the differences between the categories of services is too great. Assisted living services are generally provided in an apartment-like setting where clients make choices regarding the type of care they receive. Basic care is provided in a congregate setting and provides the same basic services/cares to all residents of the facility including meals, activities and personal care services. In addition, the payment of services for individuals residing in an assisted living facility vary based on the needs of the residents, whereas the charges in a basic

care facility consist of a standard daily rate no matter how much care is required for each resident.

Based on the recommendations of the ad hoc committee, the Task Force concluded that a different approach should be pursued with regard to basic care and assisted living facilities. It recommended retaining basic care in its present form. It also recommended that Alzheimer's and Related Dementia pilot projects be licensed as basic care facilities.

Rather than require assisted living facilities to be licensed using the same process as basic care facilities, the Task Force recommended that a registration process be implemented. It also recommended that the Department of Health license assisted living facilities for food and lodging requirements under NDCC 23-09 when appropriate.

The bill before you accomplishes the recommendations of the Task Force.

This fiscal note for this bill is specific to Section 5. This section establishes the process for registering assisted living facilities. The bill as amended by the Senate Human Services Committee permits the Department to collect a registration fee of \$75 per year from each facility to defray the cost of registration. The \$75 fee would generate about \$6,375 based on the estimate that 40 facilities would register the first year and 45 would register the second year of the biennium. The original bill allowed the Department to collect a fee of \$10 per bed and would have generated about \$19,000 in the next biennium. During discussion of this bill with the House Human Services Committee there was agreement with concurrence with the industry and the Department that a registration fee of \$75 per year was a reasonable amount to charge assisted living facilities for the registration process. Subsequently, the House Appropriations Committee reduced the fee to \$10 and the \$75 was then restored in the Senate. The fees collected by the Department will be used to offset the cost of

developing, maintaining and monitoring the registration and complaint processes required by this legislation.

Sections 3 and 6 of this bill require the Department to increase the personal needs allowance for individuals in basic care facilities from \$45 to \$60 per month. The funds necessary to allow this increase are contained in HB1196 and are not reflected in this fiscal note.

This bill is a cooperative effort of government, the long-term care industry and advocates to come to a workable compromise with respect to the regulation of assisted living facilities. The Department supports this bill and recommends a do pass.

I would be happy to answer any questions you may have.



HB 1109

**Testimony on HB 1109**  
**Senate Appropriations Committee**  
**March 30, 2001**

Chairman Nething, Vice Chairman Solberg and members of the Senate Appropriations Committee, thank you for the opportunity to testify on HB 1109. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of our members: nursing facilities, basic care facilities and assisted living facilities.

I am here today in support of HB 1109, the Second Engrossment with Senate Amendments and respectfully request a "DO PASS."

House Human Services, House Appropriations and Senate Human Services Committees worked diligently on improving HB 1109 and we supportive of all aspects of the bill before you today. The bill has a number of positive features:

1. Creates a mandatory registration process for assisted living. The registration process will help assure long term care insurance pays for assisted living services. This is North Dakota's first attempt to regulate assisted living and we are supportive of this registration process. Regulatory oversight is minimal, which will allow the service to develop based upon consumer demand and need.
2. An annual registration fee of \$75.00 is established for assisted living. We believe this fee is reasonable and one which we negotiated and accepted with the House Human Services Committee. The House Appropriations Committee reduced the fee to \$10 annually and the Senate Human Services Committee re-established it at \$75.00 annually. With the low number of assisted living facilities in North Dakota, we believe no more than 30 facilities, \$10 annually would only yield \$300. We recognize the Department will need more than \$300 to establish the registration process, so we continue to support our original negotiated fee of \$75.00 annually.

3. The bill also requires the Department to involve facilities in the development of the rule making process which will govern the registration process. We have been working with the Department on this issue for the past two years and look forward to again working with them to develop a registration process that is clear, concise and efficient.
4. The bill also establishes a \$50 per day penalty for anyone that does not hold the proper registration. Originally it was a \$500 per day fee and there was no advanced warning for the imposition of the fine. Under the current bill the Department must give a notification of non-compliance to the facility and provide a fifty-nine day grace period for the facility to achieve compliance or show why the registration process does not cover them.
5. The final feature of the bill changes the personal care allowance from \$45 monthly to \$60 monthly for basic care residents. As shared with you in previous testimony on HB 1196, personal needs money is used for clothing, hair care, personal comfort items (pop, candy, gum, cigarettes), personal telephone in room, cable TV, gifts, going out to eat, etc. This fee has not increased since the 1980's.

Thank you for the opportunity to testify on HB 1109. We support the bill before you and would be happy to answer any questions at this time.

Shelly Peterson, President  
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