

**2011 HOUSE HUMAN SERVICES**

**HB 1041**



# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

HB 1041  
January 10, 2011  
12705

☐ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

### Explanation or reason for introduction of bill/resolution:

To create a new chapter to NDCC Title 23 relating to nurse aide registry and amend Chapter 43-12.1 relating to individuals exempt from regulation by the State Board of Nursing and delegation of medication administration.

### Minutes:

**Chairman Weisz:** Called the hearing to order on HB 1041.

**Roxanne Woeste:** Fiscal analyst with the Legislative Council. Bill is a work of the interim long term care committee. (Handed out final report from the committee.) (See attachment 1.) Recommendations are second page of the handout. The committee recommended that the registration of nurse aides, home health aides, medication assistance I and II from the State Board of Nursing to the State Department of Health. Providing the State Department of Health, with rule making authority to implement the necessary changes; Allowing nurses to continue to provide oversight and delegate responsibilities to individuals on the State Department of Health registry and to prohibit fees from being charged for registration.

**Chairman Weisz:** I assume there is a fiscal not in here and assume everyone has seen the fiscal note.

**Shelley Peterson:** From the ND Long Term Care Association testified in support of the bill in support of the bill. (See attached Testimony #2.)

**Rep. Porter:** Help me with the map. How many individuals are we talking about moving from the board of nursing to the health department?

**Shelley Peterson:** The board of nursing is here and they would be able to address that. Look on the back of the February 2 minutes, Dr. Kalanek related to us there were 1405 UAP's, and 233 technicians for a total of 1638 individuals on the UAP register.

**Rep. Porter:** It would be a \$175 per individual for the biennium to have them registered rather than the #30 that it is costing now. Maybe that is a question for the health department why the Fiscal Note is so high.



**Shelley Peterson:** They prepared the Fiscal Note.

**Rep. Paur:** The board of nursing is going to have extra personnel, extra money, would they not if this is going to all be transferred out of their domain?

**Chairman Weisz:** They wouldn't have extra money because that money is not going to them anymore. They will no longer get the registration fees for the UAP. You can ask the board of nursing if they will have excess staff.

**Jerry Jurena:** President of the ND Hospital Association testified in support. (See attached Testimony #3).

**Barb Murray:** Executive Director of ND Association of Community Providers stated her support of the bill.

**Buzz Benson:** RN board member for the ND Board of Nursing and am the current President. No testimony, only the support of HB 1041.

**Chairman Weisz:** Just to clarify the \$30 renewal that the board of nursing charged was that an annual renewal or biennial?

**Buzz Benson:** That is biennial, every other year.

**Chairman Weisz:** We you making money or losing money?

**Buzz Benson:** We weren't making any money. The fee was increased a couple of years ago. It is mostly clerical in nature to take care of the paper work.

**Chairman Weisz:** How many will still be on your UAP registry if this bill would go into effect?

**Buzz Benson:** I don't have the exact number. Probably looking at decreasing our number by 2,000. That does not take into the account the new people coming on the registry.

**Rep. Porter:** If you could get us the information on disciplinary workload and other workload maintaining this registry. If you could get us some historical data on investigation of complaints and dealing with problems.

**Buzz Benson:** I will be more than happy to get that to you. It should be expedited shortly.

**Darlene Bartz:** Section chief of the Health Resources Section for the ND Department of Health provided information on the bill. (See attached Testimony #4.)

**Chairman Weisz:** A question on your fiscal note. Currently you have approximately 13,000 individuals in your registry? How much are you budgeting and what is in your budget now for those 13,000.



**Darlene Bartz:** Yes. (On the 13,000 question.) There is about annually \$150,000.

**Chairman Weisz:** I can understand your \$49,000 of one time fees. But, I am curious about costing \$150,000 to handle 13,000, why would it be \$238,000 to handle an additional 1600.

**Darlene Bartz:** It isn't so much just the 16,000 they are talking about transferring. The rate of renewal for the individuals on the board of nursing registry that they reported to us as approximately 2,000 annually, which is about 4,000 per year. It is a very high number. We questioned this during our committee meetings and that is where the cost comes. Just to renew people and keep them on the registry is not as time consuming as having the initial apps coming in over and over again. We figured it out based on time recorded by the board as to conducting the activity and based on time we have experienced. It is a conservative number on what the cost would be. We also looked at allegations and the cost of investigations and renewal of the programs and different pieces there. When we added it up, the 1600 did seem high, but when you add the turnover rate and the continual need for renewals that is where it ended up being.

**Chairman Weisz:** Why would those numbers be so substantially different than from those that are currently on your registry?

**Darlene Bartz:** I would say it is probably around 300,000 biennially. The renewal process for those on the registry is a more streamlined. Getting an application in is a paper process until it gets to a renewal point the time is more lengthy.

**Rep. Porter:** In regard to the renewal period, is there anything that stops the state from during a two year renewal period rather than a one year one that could cut the workload in half?

**Darlene Bartz:** Our renewal for CNA's is every two years and the board of nursing is also. The board had reported at the April 23 meeting that approximately 2000 renewals were processed on an annual basis which is 4,000 total. Approximately 2700 new applications for entry on the board of nursing registry in the different proposed categories each year. That would include the ones not coming over to us too. The estimated time required to process each renewal is 15-20 minutes in length. Approximately another 20-30 minutes to process a new application. Based on board of nursing annual report it would estimate approximately 35-40 on complaints that would come in on an annual basis. Those would need to be investigated which would take time for staff to go out on sight to the different locations. Following up on complaints is a time consuming process which we needed to add in.

**Rep. Porter:** My other question goes back to the actual dollar amounts set aside for the FTE's. The full-time FTE for biennium is \$161,395. What level of individual are you looking at hiring to fill this position? Also on the part-time position, what level of classification will they fall into?

**Darlene Bartz:** We haven't come up with a classification yet. That person would be managing the program plus responsible for working through complaint process and legal



part of it. That would be an administrator type person. The .5 would be the administrative support who is the person putting information on the registry and keeping it up to date.

**Rep. Paur:** It appears most expense is labor. Wouldn't it be simpler to use the 1.5 FTE's and multiply that times the salary?

**Darlene Bartz:** In addition to the cost of labor there is going to be operating costs associated with anything such as this. In our Fiscal Note we did have operating costs to include travel for investigations of 3,000. Software cost with ITD is \$15,640 and legal costs of \$4,000, general operating of \$9,800 and the start up costs. Always operating costs associated any time you take on a new program.

**Chairman Weisz:** Any opposition to HB 1041. If not, we will close the hearing on HB 1041.



# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

HB 1041  
January 12, 2011  
Job # 12806

☐ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

### Minutes:

No "attached testimony."

**Chairman Weisz:** Explained the bill, as the bill that moves the UAP Registry from the Board of Nursing to the Department of Health. It does have a \$287,000 FN from the Department of Health, which I feel is excessive. We have a couple of options on this bill: it can be a Do Pass as it is, a Do Not Pass or with the advice of Appropriations, we can Do Pass with an Amendment that states they must do this within their current appropriation. Long Term Care Industry would like the combined Registry.

**Rep Porter:** First question I have is should this go from a charged registration to the individual or to free. The next question is the Board of Nursing doesn't want it so it must be a burden to them.

**Chairman Weisz:** Has anyone been on the Interim Committee? Let me give you a little history on this. The Board of Nursing fought to keep the registry, they are technically on board but they are having their arm twisted to make this transition.

**Rep Holman:** It was very clear when Dr Bartz testified earlier this year she did not want the change, even when she testified in support of it.

**Chairman Weisz:** Said that the Health Dept. didn't want it either. Last session there was testimony on large fees and penalties due to not realizing that they had to check the Registry, to renew their registration. Long Term Care feels it is cumbersome to check the two different registries to make sure their employees are properly licensed.

**Rep Holman:** I am totally in agreement with you.

**Rep Paur:** Does the Board of Nursing now charge for the registry?

**Chairman Weisz:** The Registry that the Health Department now has does not charge and they can't. The Board of Nursing does charge \$30.00 initially and \$30.00 every 2 years. If we move this we will not be able to charge them because they fall under the Federal Rules.

**Rep Porter:** I didn't catch that in anyone's testimony. They can't charge CNA's but they could charge this group but they choose not to charge this group.



**Chairman Weisz:** If the registry gets moved to this Registry it falls under the Federal rules and cannot be charged.

**Rep Porter:** The only reason I am bringing that up is that the State Health Department is being reimbursed by CMS and by Medicare. If they would be moved into these Registries they would be reimbursed for these expenses. They could charge because they are talking about setting up a separate Registry inside of that system. So they could still charge because there is no reimbursement for that group.

**Chairman Weisz:** That is not what I understood from the interim testimony. They made it clear that they would not be able to charge.

**Rep Porter:** Inside of Dr Bartz testimony, on the fourth paragraph, she talks about the Federal Regulation from CMS on the Certified Nurse Assistance and the cost to operate the Registry including personnel. This group does not qualify. The next paragraph doesn't state they couldn't, it states they wouldn't. If you look at the expense, the \$30.00 fee would cover those expenses.

**Chairman Weisz:** Would a clarification on if we could charge or not charge, make a potential difference to this committee?

**Rep Porter:** It would to me.

**Rep Louser:** The 238 thousand divided by 1600 is approximately \$150. I had a number of 300 thousand for the current CNA's of 13 thousand which is 6 times what the current CNA cost. But I am unsure of where I got the current 300 thousand.

**Chairman Weisz:** Dr Bartz mentioned that cost per Biennium.

**Rep Porter:** The Committee has to ask, "is this level of certification necessary or need to keep up a registry?"

**Chairman Weisz:** We will get the answer as to why the registry is necessary. I do think it has to do with reimbursement for the health care facility.

**Rep Schmidt:** If I recall we said this was going to cost about 24 to 25 thousand dollars a year to do this. This is our estimation?

**Chairman Weisz:** That is what the Board of Nursing is.

**Rep Schmidt:** I like what Appropriation suggests because an agency the size of the Board of Health, If they can't find the 24 to 25 thousand within a year to do that and having experience with the Federal Government doing this very same thing, than you are having management problems within.

**Chairman Weisz:** They will tell us that the FN is conservative. The department will be down at the Appropriations door step telling them they will need to add one and a half FTE's to complete this and 238,000 to complete this. We will get the important information



**Rep Devlin:** I am more inclined to pass it out without the appropriation. I agree with Rep. Holman that this is not a big fee. I do firmly believe it should come out of the Board of Health. I would like to see an amendment drafted in such an effect to consider at the same time.

**Chairman Weisz:** I have asked the intern to draft an amendment that would basically tell they would do it appropriation, which would move it out.

**Chairman Weisz:** Adjourned the meeting



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
01/12/2011  
12831

☐ Conference Committee

Committee Clerk Signature

*Mary Mauer*

## Minutes:

**Chairman Weisz:** Opens the hearing on HB 1041. I did find out the information that the committee was requesting so I'll pass it on and you can decide what you want to do with it. Yes, we could charge a registration fee it appears. I didn't get one call back from CMS but everybody else said you can do it but the registry that the CMS fully funds, that CNA registry of course you can't because their funding it – that's why it can't be. As far as whether they have to be registered or not – that answer is 'yes' and 'no'. In the early 90's, the state allowed that nurses' aides, etc. could delegate some of the nursing responsibilities to these UAP's but then they had to be registered. Obviously from a stand point of this body, we can change that and say no, they don't have to be registered. From a nursing home's perspective, it's not any different than a dietary aid or anybody else and they're not registered. They don't need to be registered and the fact they're unlicensed tells you that. If you wanted to throw it out, you could. I'm not suggesting that, but because they are called unlicensed. Long term care prefers they stay registered from a stand point from back ground information and insuring some of these things. Do they have to be for their purposes – no. For some of the medical purchases – yes. Under current law if they wanted to perform certain duties delegated by the RN, they would need to be on that registry. Any questions?

**Representative Porter:** I would be interested to have our intern dive into it a bit more to see what it would take to unregulated them and return them to the responsibility of the management of the long term care facility. I understand from the association standpoint of why they want them registered because all of the background work of the employees is done at somebody else's expense. I understand why they don't want to pay for it because then it's really done at somebody else's expense but I think that this issue being brought forward to us raises a flag that we should take a look at it and see why we're regulating someone that is unlicensed to begin with. If it's just an extra hoop or something that we're doing that we don't need to do, I would really like to see what that piece would look like if our intern could dive into it a little bit more.

**Representative Hofstad:** I would be curious to know, during the registry process, how extensive are those background checks?

**Chairman Weisz:** The Board of Nursing requires the full \$47 background check. That's one of the reasons they want to move it over there is because then the State Health Dept.



or you and I will be paying for it. That's one of the reasons they'd like to still have the registry otherwise it would be up to them to decide if they want to do a full background check or not and they wouldn't have to then because they're not registered. I never asked her if they would ever do one on their dietary aid or anybody else. I don't know what their policy is. Those are the options. My understanding from a long term care perspective, all we'd have to do is say they don't have to be registered. We'd have issues with the Board of Nursing but we could do that to. It would just mean that some of the nursing duties would not be able to be handed down. We can sit on this yet but these are our options. We can send it out, just take the money out. We can send it out with the money. We can kill it. We can put a fee on or we could say you don't have to be registered – eliminate the registry and see where the sparks come from. I guarantee that would bring some interest.

**Representative Devlin:** I don't think we want to go there. I think there's great benefit to the regulated public in the state of North Dakota to have that registration and back ground checks. To me, the only debate is over the fiscal note – whether we want to put in enough to cover what the fees would have brought in – the 1600 time \$15 per year so that roughly \$50,000 per year. Do we want to put that in or nothing in or have this fight on a later day with Senate appropriations when it comes back from conference committee? My inclination still is to pass it out without any funding but I could certainly be persuaded to send it out with the funding equal to what it would be based on the registration because obviously the Board of Nursing could do it for that and I think the Health Dept. could do it for that. I don't see that as being an issue but Representative Porter certainly brings up another approach. I'm not inclined to agree with his approach on this one particular thing.

**Chairman Weisz:** I did talk to the Board of Nursing. She indicated that it was costing them more than what they charged but she didn't have a number for me. I think if this committee wants to send it out and fool with the funding, I think the best approach is to just send it out with no funding. They can try to make their case to Appropriations if there should be anything added if they need a half FTE or whatever. Otherwise you just as well send it out with the fiscal note as it applies because they're going to be delving into their FTE's and all the other issues. I would be inclined to stay within the existing appropriations and the Senate Human Service committee will get it and my guess is they'll probably put the money back in and then we'll have that debate in Conference Committee. I think it will at least require the Health Dept to go down and try to justify why they would need an additional 1 and a half FTE for a mere 1600. What I would think, whoever's running their other registry, they should know how to do a registry. Representative Devlin, is that a motion or are you still thinking about it. We can hold this bill. It's not like we're behind.

**Representative Devlin:** My only question is if you would rather have an amendment in hand to strike out the funding before we make a motion that does that. Otherwise I'm certainly more than willing to make a do pass on this with the financing part amended out but you may want to put that in amendment form before we deal with that.

**Chairman Weisz:** We don't have to. What we have done is once the amendment's drafted from LC, we approve it, and then I give everyone a copy. If no one has a problem with it, then I sign the bill and send it on. But we can wait on that to until we get the actual amendment. We were hoping to have some drafted but he couldn't get a hold of anyone in LC that could give us the actual amendment.



**Representative Porter:** Under the Nurse Practices Act, they define an unlicensed assistant person means an assistant to the nurse who regardless of title is authorized by the Board to perform nursing interventions delegated and supervised by the nurse.

**Chairman Weisz:** So that's their point, the Board is authorizing them to do these duties so then they have to be registered.

**Representative Porter:** Number 11 under the exemptions list – this person would then be exempt from the Nurse Practices Act and exempt from being registered. An individual including the feeding assistant performing non-hands on tasks while employed in a Medicare funded organization. They're exempt.

**Chairman Weisz:** Medicare funded?

**Representative Porter:** That would include nursing homes. Anybody who would receive Medicare funding. So it would be hospitals and nursing homes.

**Chairman Weisz:** Interesting way to define the exemption.

**Representative Porter:** That's the two terms. So, they don't list a CNA.

**Chairman Weisz:** They're not in the registry with them. They're all in the Health Dept. registry.

**Representative Porter:** That doesn't matter where they're registered.

**Chairman Weisz:** Aren't you under the Board of Nursing?

**Representative Porter:** No, this is just the practices. This is who can do what to a patient at what point and time. If it's a nurses duty, it can only be delegated by a nurse but they don't list a certified nurse assistant in their practices act, the specifically talk about the unlicensed assistant person. You could take that number 9 and move it over to the persons exempted from the provisions of this chapter and take care of the whole situation. Then they would just be exempt.

**Representative Devlin:** I'm going to move a do pass on HB 1041 with the \$238,576 for the Health Dept. removed from the budget. I would like an amendment drafted that would say they'd have to do these duties within their existing appropriations.

**Chairman Weisz:** I think first we need a motion just for the amendment.

**Representative Devlin:** I would move an amendment that we remove the fiscal note or remove the funding of \$238,576 on HB 1041 and direct the Dept. of Health to provide these services out of existing budgeted dollars.

**Representative Schmidt:** I second.



**Chairman Weisz:** Discussion on the motion? Basically this will send the bill out as is but tells them to find the money in their budget so nothing else changes in the bill. We're still moving the registry, there's no charge for it. So everyone understands.

**Representative Louser:** Would that amendment also include the 49,000 for the data migration?

**Chairman Weisz:** Correct. That would just tell whatever funding they have to find within their own budget. Further discussion? If not, we'll take a voice vote. All those in favor? All those opposed? Motion carries.

**Voice vote: 12 yeas, 1 nay, 0 absent**

**Chairman Weisz:** Any further amendments? Anybody else have anything for this bill? What are the committee's wishes?

**Representative Devlin:** I would move a do pass on HB 1041 as amended.

**Chairman Weisz:** We have a motion, is there a second?

**Representative Schmidt:** Second.

**Chairman Weisz:** We do have a second. Discussion? If not, the clerk will call a roll for a do pass on HB 1041 as amended. Committee – we have a 12-1 do pass. Who would like to carry this? Representative Anderson.

**Vote: 12 Yes 1 No 0 Absent      Do Pass as Amended      Carrier: Rep. Anderson**



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
January 17, 2001  
Job # 12949

☐ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

## Minutes:

**Chairman Weisz:** Called meeting to order. Let's look at the amendment and want to know if everybody is ok with that. This is what the amendment would say; it would limit them to the existing budget. Make sure the committee is ok with that language if not we can try something different. (See Attachment #1.)

**Rep. Schmidt:** We talk here about any full-time positions; do we mean it is full time positions instead of full-time equivalent? We do not want them to add staff, correct? But, they can certainly move staff from one program to another that would change their full-time equivalents.

**Chairman Weisz:** Rep. Anderson FTE can be .1, .2, or .3. What this specifically says, they will not add any FTE's to this, but might shift internally. Does that answer your question?

**Rep. Schmidt:** No, but I'll let it go.

**Chairman Weisz:** Just to be clear, nothing stops the department from asking for dollars and FTE's in appropriation. Nothing will stop the Appropriations Committee from giving that to them.

**Rep. Schmidt:** It would be more interpreted for me to say, "within existing staff".

**Chairman Weisz:** We normally don't say staff. We talk in FTE's. We could have redrafted, but I thought this was as best we can. Steven did a pretty good job. He worked with John Bjornson in Legislative Council. Everybody ok with this. Then I will sign off on this and send it forward. With that committee, we will see you tomorrow.



**FISCAL NOTE**  
Requested by Legislative Council  
04/19/2011

Amendment to: Engrossed  
HB 1041

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$130,000		\$130,000
Expenditures				\$287,870		\$238,576
Appropriations				\$285,000		\$238,576

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill transfers the regulation and registry of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the Health Department.

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

Section 1 transfers the responsibility for the regulation and registration of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the ND Department of Health. This section requires the Department to develop rules to address registry requirements, training and competency requirements, approval of training and competency programs, initial and renewal of registration for these individuals, and reporting and investigation of complaints received related to the individuals on the registry, and to establish a disciplinary process. This section also indicates that the Department may not charge fees for the initial registration or renewal of individuals on the Department's registry consistent with the federal prohibition of charging.

This bill would result in new state level workload for the Department. Based on the Department's experience operating the federal certified nurse aide registry, discussion with the Board of Nursing related to workload, and review of other information available, it was determined that it would require a minimum of 1.5 FTEs of additional staff to handle the ongoing workload related to the registry and regulation of the nurse aides, home health aides, and medication assistants I and II. This would include review of applications, complaint intake and investigation, disciplinary actions as needed, and review and approval of medication assistant training programs. As this is a state activity, federal funds may not be used to cover the associated costs. In order to provide this service, at no fee to the individuals, it is estimated it would cost the department \$238,576 of ongoing costs and \$49,294 of one time start up costs for Unlicensed Assistive Person registry data migration to Department database and registry web changes, and rulemaking. Total cost for the 2011-13 biennium are \$287,870.

Section 2 changes the definition of the Board of Nursing's Unlicensed Assistive Person, removing the nurse aides, home health aides, and medication assistants I and II from their regulatory authority. This will result in a decrease in revenue for the BON as they currently charge a fee for work in these areas as well as a reduction in duties related to regulating these individuals



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 department will collect registration fees of approximately \$130,000 and deposit them in the department's operating account. It is anticipated that a fee of \$25 for each initial registration and renewal will be collected every two years.

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.*

Based on the current workload for the Board of Nursing and the experience the Department has had related to the Certified Nurse Aide registry, it is conservatively estimated that it will take 1.5 FTE to accomplish the added workload. This includes 1 FTE (\$161,395) administrator and a .5 FTE (\$44,741) administrative assistant. The staff will administer the program by providing registry support personnel, staff to review training and competency evaluation programs and complete complaint investigations and associated review process. The total salary and benefits costs would be \$206,136 for the 2011-13 biennium.

Operating costs include associated travel for training and investigations, (\$3,000) registry software costs and ITD storage and maintenance costs (\$15,640) legal costs (\$4,000), and general operating costs (\$9,800). In addition there are also one time start up costs for registry web changes (\$42,794), office equipment (\$1,500) and rulemaking activities (\$5,000). Total operating costs are \$81,734 for the 2011-13 biennium. The total estimated expenditures for the 2011 - 2013 biennium, including salaries and wages, operating expenses, and one time start up costs is \$287,870 and \$238,576 for the 2013-15 biennium.

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

This bill includes an appropriation of \$130,000 from fees generated and deposited into the Department's operating fund and \$155,000 from the health care trust fund. This appropriation also includes funding for an additional 1.5 full time FTE to the state department of health. This funding or FTE's are not included in the department's appropriation bill (HB 1004).

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health Department
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	04/19/2011



**FISCAL NOTE**  
Requested by Legislative Council  
04/06/2011

Amendment to: Engrossed  
HB 1041

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$240,000		\$240,000
Expenditures			\$50,000	\$240,000		\$240,000
Appropriations			\$50,000	\$240,000		\$240,000

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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Section 1 transfers the responsibility for the regulation and registration of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the ND Department of Health. This section requires the Department to develop rules to address registry requirements, training and competency requirements, approval of training and competency programs, initial and renewal of registration for these individuals, and reporting and investigation of complaints received related to the individuals on the registry, and to establish a disciplinary process. This section also indicates that the Department may not charge fees for the initial registration or renewal of individuals on the Department's registry consistent with the federal prohibition of charging.

This bill would result in new state level workload for the Department. Based on the Department's experience operating the federal certified nurse aide registry, discussion with the Board of Nursing related to workload, and review of other information available, it was determined that it would require a minimum of 1.5 FTEs of additional staff to handle the ongoing workload related to the registry and regulation of the nurse aides, home health aides, and medication assistants I and II. This would include review of applications, complaint intake and investigation, disciplinary actions as needed, and review and approval of medication assistant training programs. As this is a state activity, federal funds may not be used to cover the associated costs. In order to provide this service, at no fee to the individuals, it is estimated it would cost the department \$238,576 of ongoing costs and \$49,294 of one time start up costs for Unlicensed Assistive Person registry data migration to Department database and registry web changes, and rulemaking. Total cost for the 2011-13 biennium are \$287,870.

Section 2 changes the definition of the Board of Nursing's Unlicensed Assistive Person, removing the nurse aides, home health aides, and medication assistants I and II from their regulatory authority. This will result in a decrease in revenue for the BON as they currently charge a fee for work in these areas as well as a reduction in duties related to regulating these individuals



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 department will collect registration fees of approximately \$240,000 and deposit them in the department's operating account. It is anticipated that a fee of \$50 for each initial registration and renewal will be collected every two years.

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.*

Based on the current workload for the Board of Nursing and the experience the Department has had related to the Certified Nurse Aide registry, it is conservatively estimated that it will take 1.5 FTE to accomplish the added workload. This includes 1 FTE (\$161,395) administrator and a .5 FTE (\$44,741) administrative assistant. The staff will administer the program by providing registry support personnel, staff to review training and competency evaluation programs and complete complaint investigations and associated review process. The total salary and benefits costs would be \$206,136 for the 2011-13 biennium.

Operating costs include associated travel for training and investigations, (\$3,000) registry software costs and ITD storage and maintenance costs (\$15,640) legal costs (\$4,000), and general operating costs (\$9,800). In addition there are also one time start up costs for registry web changes (\$42,794), office equipment (\$1,500) and rulemaking activities (\$5,000). Total operating costs are \$81,734 for the 2011-13 biennium. The total estimated expenditures for the 2011 - 2013 biennium, including salaries and wages, operating expenses, and one time start up costs is \$287,870 and \$238,576 for the 2013-15 biennium.

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

This bill includes an appropriation of \$50,000 from the general fund for one-time costs and \$240,000 of other funds to the state department of health. This appropriation includes funding for an additional 1.5 full time FTE to the state department of health. This funding or FTE's are not included in the department's appropriation bill (HB 1004).

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	04/06/2011



**FISCAL NOTE**  
Requested by Legislative Council  
03/14/2011

Amendment to: Engrossed  
HB 1041

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$287,870		\$238,576	
Appropriations			\$287,870		\$238,576	

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill transfers the regulation and registry of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the Health Department.

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

Section 1 transfers the responsibility for the regulation and registration of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the ND Department of Health. This section requires the Department to develop rules to address registry requirements, training and competency requirements, approval of training and competency programs, initial and renewal of registration for these individuals, and reporting and investigation of complaints received related to the individuals on the registry, and to establish a disciplinary process. This section also indicates that the Department may not charge fees for the initial registration or renewal of individuals on the Department's registry consistent with the federal prohibition of charging.

This bill would result in new state level workload for the Department. Based on the Department's experience operating the federal certified nurse aide registry, discussion with the Board of Nursing related to workload, and review of other information available, it was determined that it would require a minimum of 1.5 FTEs of additional staff to handle the ongoing workload related to the registry and regulation of the nurse aides, home health aides, and medication assistants I and II. This would include review of applications, complaint intake and investigation, disciplinary actions as needed, and review and approval of medication assistant training programs. As this is a state activity, federal funds may not be used to cover the associated costs. In order to provide this service, at no fee to the individuals, it is estimated it would cost the department \$238,576 of ongoing costs and \$49,294 of one time start up costs for Unlicensed Assistive Person registry data migration to Department database and registry web changes, and rulemaking. Total cost for the 2011-13 biennium are \$287,870.

Section 2 changes the definition of the Board of Nursing's Unlicensed Assistive Person, removing the nurse aides, home health aides, and medication assistants I and II from their regulatory authority. This will result in a decrease in revenue for the BON as they currently charge a fee for work in these areas as well as a reduction in duties related to regulating these individuals



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

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

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

Based on the current workload for the Board of Nursing and the experience the Department has had related to the Certified Nurse Aide registry, it is conservatively estimated that it will take 1.5 FTE to accomplish the added workload. This includes 1 FTE (\$161,395) administrator and a .5 FTE (\$44,741) administrative assistant. The staff will administer the program by providing registry support personnel, staff to review training and competency evaluation programs and complete complaint investigations and associated review process. The total salary and benefits costs would be \$206,136 for the 2011-13 biennium.

Operating costs include associated travel for training and investigations, (\$3,000) registry software costs and ITD storage and maintenance costs (\$15,640) legal costs (\$4,000), and general operating costs (\$9,800). In addition there are also one time start up costs for registry web changes (\$42,794), office equipment (\$1,500) and rulemaking activities (\$5,000). Total operating costs are \$81,734 for the 2011-13 biennium. The total estimated expenditures for the 2011 - 2013 biennium, including salaries and wages, operating expenses, and one time start up costs is \$287,870 and \$238,576 for the 2013-15 biennium.

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

Section 6 of this bill includes an appropriation of \$287,870 from the general fund to the state department of health. This appropriation includes funding for an additional 1.5 full time FTE to the state department of health. This funding or FTE's are not included in the department's appropriation bill (HB 1004).

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	03/14/2011



**FISCAL NOTE**  
Requested by Legislative Council  
02/04/2011

Amendment to: HB 1041

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$385,085		\$326,732	
Appropriations			\$385,085		\$326,732	

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill transfers the registration and regulation of all unlicensed assistive persons from the ND Board of Nursing to the Health Department.

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

Section 1 and Section 6 would have a fiscal impact for the Department.

Section 1 transfers the responsibility for the regulation and registration of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the ND Department of Health. This section requires the Department to develop rules to address registry requirements, training and competency requirements, approval of training and competency programs, initial and renewal of registration for these individuals, and reporting and investigation of complaints received related to the individuals on the registry, and to establish a disciplinary process. This section also indicates that the Department may not charge fees for the initial registration or renewal of individuals on the Department's registry consistent with the federal prohibition of charging. Section 6 transfers the remainder of the UAP registry to the Department for regulation and registry which includes medication assistants I, II, and III, dialysis technicians, surgical technicians, and medical assistants.

This bill would result in new state level workload for the Department. Based on the Department's experience operating the federal certified nurse aide registry, discussion with the Board of Nursing related to workload, and review of other information available, it was determined that it would require a minimum of 2.0 FTEs of additional staff to handle the ongoing workload related to the registry and regulation the individuals identified in the above discussion. This would include review of applications, complaint intake and investigation, disciplinary actions as needed, and review and approval of medication assistant training programs. As this is a state activity, federal funds may not be used to cover the associated costs. In order to provide this service, at no fee to the individuals, it would cost the department \$325,732 of ongoing costs and \$59,353 of one time start up costs for Unlicensed Assistive Person registry data migration to Department database and registry web changes, and rulemaking. Total cost for the 2011-13 biennium are \$385,085

The changes resulting from this bill will result in a decrease in revenue for the BON as they currently charge a fee for work in these areas as well as a reduction in duties related to regulating these individuals.



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

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

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

It is conservatively estimated that it will take 2.0 FTE to accomplish the added workload. This includes 1.5 FTE (\$242,063) administrator and a .5 FTE (\$44,741) administrative assistant. The staff will administer the program by providing registry support personnel, staff to review training and competency evaluation programs and complete complaint investigations and associated review process. The total salary and benefits costs would be \$286,804 for the 2011-13 biennium.

Operating costs include associated travel for training and investigations, (\$3,600) registry software costs and ITD storage and maintenance costs (\$18,768) legal costs (\$4,800), and general operating costs (\$11,760). In addition there are also one time start up costs for registry web changes (\$51,353), office equipment (\$2,000) and rulemaking activities (\$6,000). Total operating costs are \$98,281 for the 2011-13 biennium.

The total estimated expenditures for the 2011 - 2013 biennium, including salaries and wages, operating expenses, and one time start up costs is \$385,085 and \$326,732 for the 2013-15 biennium.

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

Funding for the 2.0 FTE's for this project are not included in the Department's appropriation bill (HB1004). The Department will need an appropriation for these funds and the FTE's to carry out this project.

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	02/07/2011



# FISCAL NOTE

Requested by Legislative Council  
12/15/2010

Bill/Resolution No.: HB 1041

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$287,870		\$238,576	
Appropriations			\$287,870		\$238,576	

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill transfers the regulation and registry of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the Health Department.

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

Section 1 would have a fiscal impact for the Department.

Section 1 transfers the responsibility for the regulation and registration of nurse aides, home health aides, and medication assistants I and II from the ND Board of Nursing to the ND Department of Health. This section requires the Department to develop rules to address registry requirements, training and competency requirements, approval of training and competency programs, initial and renewal of registration for these individuals, and reporting and investigation of complaints received related to the individuals on the registry, and to establish a disciplinary process. This section also indicates that the Department may not charge fees for the initial registration or renewal of individuals on the Department's registry consistent with the federal prohibition of charging.

This bill would result in new state level workload for the Department. Based on the Department's experience operating the federal certified nurse aide registry, discussion with the Board of Nursing related to workload, and review of other information available, it was determined that it would require a minimum of 1.5 FTEs of additional staff to handle the ongoing workload related to the registry and regulation of the nurse aides, home health aides, and medication assistants I and II. This would include review of applications, complaint intake and investigation, disciplinary actions as needed, and review and approval of medication assistant training programs. As this is a state activity, federal funds may not be used to cover the associated costs. In order to provide this service, at no fee to the individuals, it would cost the department \$238,576 of ongoing costs and \$49,294 of one time start up costs for Unlicensed Assistive Person registry data migration to Department database and registry web changes, and rulemaking. Total cost for the 2011-13 biennium are \$287,870.

Section 2 changes the definition of the Board of Nursing's Unlicensed Assistive Person, removing the nurse aides, home health aides, and medication assistants I and II from their regulatory authority. This will result in a decrease in revenue for the BON as they currently charge a fee for work in these areas as well as a reduction in duties related to regulating these individuals.



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

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

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

Based on the current workload for the Board of Nursing and the experience the Department has had related to the Certified Nurse Aide registry, it is conservatively estimated that it will take 1.5 FTE to accomplish the added workload. This includes 1 FTE (\$161,395) administrator and a .5 FTE (\$44,741) administrative assistant. The staff will administer the program by providing registry support personnel, staff to review training and competency evaluation programs and complete complaint investigations and associated review process. The total salary and benefits costs would be \$206,136 for the 2011-13 biennium.

Operating costs include associated travel for training and investigations, (\$3,000) registry software costs and ITD storage and maintenance costs (\$15,640) legal costs (\$4,000), and general operating costs (\$9,800). In addition there are also one time start up costs for registry web changes (\$42,794), office equipment (\$1,500) and rulemaking activities (\$5,000). Total operating costs are \$81,734 for the 2011-13 biennium.

The total estimated expenditures for the 2011 - 2013 biennium, including salaries and wages, operating expenses, and one time start up costs is \$287,870.

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

Funding for the 1.5 FTE's for this project are not included in the Department's appropriation bill (HB1004). The Department will need an appropriation for these funds and the FTE's to carry out this project.

<b>Name:</b>	Kathy J. Albin	<b>Agency:</b>	Health
<b>Phone Number:</b>	328.4542	<b>Date Prepared:</b>	12/29/2010



January 17, 2011

VK  
1/18/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1041

Page 1, line 4, remove the first "and"

Page 1, line 6, after "administration" insert "; and to provide for application"

Page 3, after line 29, insert:

**"SECTION 6. APPLICATION.** The department of human services shall implement and administer the registration of unlicensed assistive persons as provided under section 2 of this Act within the limits of the budget requested by the department. The department may not add any full-time equivalent positions to assist with the implementation and administration of the registration of unlicensed assistive persons."

Renumber accordingly



Date: 1-12-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1041

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Devlin Seconded By Schmidt

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. CONKLIN		
VICE-CHAIR PIETSCH			REP. HOLMAN		
REP. ANDERSON			REP. KILICHOWSKI		
REP. DAMSCHEN					
REP. DEVLIN					
REP. HOFSTAD					
REP. LOUSER					
REP. PAUR					
REP. PORTER					
REP. SCHMIDT					

Total (Yes) 12 No 1

Absent 0

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

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

Voice



Date: 1-12-11  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1041

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Devlin Seconded By Schmidt

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. CONKLIN	✓	
VICE-CHAIR PIETSCH	✓		REP. HOLMAN	✓	
REP. ANDERSON	✓		REP. KILICHOWSKI	✓	
REP. DAMSCHEN	✓				
REP. DEVLIN	✓				
REP. HOFSTAD	✓				
REP. LOUSER	✓				
REP. PAUR	✓				
REP. PORTER	✓	✓			
REP. SCHMIDT	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment Anderson

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



**REPORT OF STANDING COMMITTEE**

**HB 1041: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1041 was placed on the Sixth order on the calendar.

Page 1, line 4, remove the first "and"

Page 1, line 6, after "administration" insert "; and to provide for application"

Page 3, after line 29, insert:

**"SECTION 6. APPLICATION.** The department of human services shall implement and administer the registration of unlicensed assistive persons as provided under section 2 of this Act within the limits of the budget requested by the department. The department may not add any full-time equivalent positions to assist with the implementation and administration of the registration of unlicensed assistive persons."

Renumber accordingly



2011 SENATE HUMAN SERVICES

HB 1041



# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

HB 1041  
3-2-2011  
Job Number 14866

☐ Conference Committee

Committee Clerk Signature

*R. Monson*

### Explanation or reason for introduction of bill/resolution:

Relating to a nurse aide registry, individuals exempt from regulation by the state board of nursing, and supervision of nursing interventions.

### Minutes:

Attached testimony.

**Senator Judy Lee** opened the hearing on HB 1041 which includes a fiscal note.

**Shelly Peterson**, ND Long Term Care Association, testified in support of HB 1041. Attachment #1 includes a copy of the bill as amended in the House, minutes from the workgroup, and names of the members of the workgroup and the organizations they represented.

**Senator Tim Mathern** asked Ms. Peterson to specifically note what in the bill she wanted changed.

**Ms. Peterson** replied that page 3 section 6 refers to section 2 and the health department believes it brings in all the other people on the Board of Nursing Registry. It was her preference to take out the reference to section 2 because they believe those people should stay with the Board of Nursing.

The fiscal note was an issue – within the limits of the budget requested by the department. That means that HB 1004 (House budget bill) needs to contain it and right now it does not contain it.

**Senator Tim Mathern** asked for specifics on her preference of an appropriation amount or a reference to the appropriation bill added.

**Ms. Peterson** responded that either would be ok as long as there is either a reference to it and there is an appropriation in HB 1004 or the fiscal note and the positions they need to administer it are contained within this one.

**Jerry Jurena**, President of the ND Hospital Association, testified that the hospital association is in favor of this bill and supported the clarification recommended by Ms. Peterson.



**Barb Murry**, Director of the ND Association of Community Providers, said the Association was a part of the study and supports the bill.

**Bev Nielson**, ND School Boards Association, testified that they were neutral on the issue discussed in this bill but talked about the potential for a friendly amendment that would help them.

It is a practice now for school personnel to dispense medication to students with written permission from the parents. It has always been assumed that the written permission from parents is sufficient but they would like somewhere in code for that to be clarified.

**Senator Tim Mathern** asked if they wanted one of those persons licensed or registered here to be that dispensing person in a school or a new category of people that would be dispensing.

**Ms. Nielson** didn't really want a classification – certification and training to hand the medicine to the child. They just want it clear in law that if they have the parents' permission school personnel can hand the person their pill.

**Senator Dick Dever** asked if the school boards can do that through their policies.

**Ms. Nielson** replied that they could do it through their policies but what they are asking for is clarification in law that they are not guilty of a Class B misdemeanor of dispensing medication and being unlicensed.

Discussion followed on past legislation concerning inhalers and injections which is different from what they are talking about here. What they are concerned about now are those temporary medications they are dispensing with the parents' permission and instructions. They also discussed who should be dispensing the medications. Ms. Nielson said it is problematic if it is too specific.

**Senator Gerald Uglen** thought maybe it should be somewhere in education law – saying it is permissible.

**Ms. Nielson** replied that it is probably possible to put it in the education code but the problem is that the penalty for it is in this chapter.

**Bridget Weidner**, ND Department of Health, provided information on HB 1041. Attachment #2

**Senator Tim Mathern** asked what her preference was with this bill.

**Ms. Weidner** said the health department feels the primary preference would be what the workgroup recommended – to transfer the nurse aides, home health aides, medication assistants I and II to the health department. However, if the committee feels it is best to move all of them they would be supportive of that with the appropriate appropriation.



**Senator Judy Lee** explained that the workgroup worked hard and overcame strong questions on how to do this. People were being penalized for not being registered and there was confusion on which registries they should be on.

CNA education was discussed. Not all UAP's would want to become CNA's. Fees were discussed. Sometimes the employer helps with the fees.

There was discussion on why the House amended the original bill. The intent was not to change the intent but to address the funding within the limits of the health departments budget. The appropriation is not in the Department of Health's budget bill 1004. There are unintended consequences because of the way it was written with reference to section 2 being the unlicensed assistive persons.

**Dr. Constance Kalanek**, Executive Director of the Board of Nursing, presented testimony from Buzz Benson, CRNA Board President. Attachment #3

**Dr. Kalanek** said the board agreed with the plan as presented by the workgroup so the intent was to transfer part of it to the health department.

**Senator Tim Mathern** asked if the board preferred amending the bill to transfer some back under the Board of Nursing.

**Dr. Kalanek** replied that the board has not discussed the issue.

**Senator Judy Lee** asked about the lowest level of training and if there would be a benefit to offering it for those individuals who are administering medication schools.

**Dr. Kalanek** explained that the training for medication assistant I is a very minimal training. It might be something that would be applicable in the school system.

**Senator Dick Dever** asked what the circumstances were that led to the consideration of this bill.

**Dr. Kalanek** responded that there were a number of individuals who worked in long term care related facilities that either did not renew their registration or did not initially become registered. Therefore, those individuals were practicing without a current registry status and were fined for that occurrence.

There was no further testimony.

They public hearing was closed.

The committee was brought to order for discussion of HB 1041.

**Senator Judy Lee** reported that the intention of the House was to just pull out the money. She said that Rep. Kreidt suggested keeping this as a clean policy bill and have the funding for the registry be in the health department budget.



**Senator Tim Mathern** wondered if they could work on the amount. It would appear that the amount the Department of Health needs to do this should be a little bit closer to the cost of what it was for the Board of Nursing.

The fiscal note was discussed and comparisons were made between the Department of Health and Board of Nurse registries. The problem with combining these units into one profession – they would be moved to the Board of Nursing and the ones currently in the health department can't be charged (federal rules). The ones in the Board of Nursing have a fee charge.

The school situation was discussed – school nurses, alternative to school nurses, zero tolerance policies, training for those dispensing medications.

At the request of **Senator Judy Lee, Bridget Weidner** from the Department of Health answered questions from the committee. The Board of Nursing charges a fee and the Department of Health would prefer not to charge a fee consistent with how they currently operate the registry. The fiscal note also includes the one time start up costs with data migration and rule making.

The consensus of the committee was to find some reasonable number to allow this to move forward. **Ms. Weidner** agreed to compare the costs from the Board of Nursing and the Department of Health to see if there was any way to tighten this up.

If there are FTE's in the budget the fiscal note could be reduced.

Discussion followed - encouraging those administering medication in schools to qualify for the medication assistant I, whether it is appropriate for school settings, reduction of liability clause if trained.

The committee was recessed for the day.



# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

HB 1041

3-7-2011

Job Number 15055

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

### Minutes:

Attachments

**Senator Judy Lee** opened discussion on HB 1041.

Amendments prepared for Bev Nielson were discussed. Attachment #5 The School Board Association does not want training such as the Medication Assistant I.

The amendment from **Shelly Peterson** (part of Attachment #1) was also reviewed.

Testimony from Buzz Nelson, Board of Nursing, was discussed. **Senator Tim Mathern** pointed out that the testimony does not say whether they are for this bill.

**Senator Judy Lee** said that Buzz Nelson was saying what the Board of Nursing recognizes is important to do. A lot of work has been done by the stakeholders who came up with the agreement on how to split it out.

**Senator Judy Lee** asked Darlene Bartz to comment on the unintended consequence of the House amendment which was that it appears to include more people than it was suppose to.

**Darlene Bartz** from the ND Department of Health responded by telling what the workgroup did. They looked at what was best to sit with the Department of Health. They wanted to have a consolidated nurse aide registry. The section 6 amendment opened it up to areas that the workgroup didn't feel belonged on the registry such as students on their way to becoming an RN, those who had national certification, surgical technicians, dialysis technicians etc – people who had gone to formal training and were educated and received some certification that made them eligible to go on the Board of Nursing Registry.

The intent was never to look at replacing what the Board of Nursing does. The group felt that those medication assistants III's, surgical techs, dialysis techs, etc. were more of a professional category of people that would be better served by the Board of Nursing.

If the Department of Health took that on they would have an unending amount of requirements that would be needed. They would have to be looking at rulemaking.



**Senator Judy Lee** pointed out the concern was they wanted to make sure the House amendment is changed or removed if it is bringing people over that shouldn't be there. They support the idea that those people with special skills would remain with the Board of Nursing.

**Ms. Bartz** said that when she read the amendment what it told her was that they would get not only what the committee recommended but everything on the UAP registry. That was never what the workgroup felt was in the best interests of the public.

Discussion followed on leaving the new language out of section 2.

**Ms. Bartz** provided Attachment #4 of fiscal information based on the fiscal note if they went back to the original bill. Right now there is no appropriation and no FTE's. If the Department of Health is going to do this work they would need the appropriation and FTE's. She explained that the Board of Nursing would still have an UAP registry and the Department of Health's registry would be a nurse aide registry. Section 6 gives everything in Section 2 that wasn't in the remainder of the bill so the cleanest thing to happen would be to remove Section 6. The Board of Nursing asked specifically if the Department of Health would add the section 2 amendment. The workgroup agreed because they felt it provided clarity and the Board of Nursing would still have the UAP registry to handle the medical assistants, surgical techs, etc. It would be a clean separation. Section 6 blurs it and really directs the Department of Health to take everything.

**Senator Tim Mathern** asked what the consequence would be if they corrected this bill and put in an appropriation and FTE's and then the bill was defeated.

**Ms. Bartz** said they would have the same system they currently have – the UAP registry including the nurse aides, home health aides, the medication assistants I and II would remain with the Board of Nursing. In practice that would mean if someone was hiring a person who was a medication aide they would have to contact both the Department of Health and the Board of Nursing to make sure they had the status of the individual. The other thing that would happen is that people forget that they need to renew in two places.

**Senator Judy Lee** pointed out that the bottom line was if they consolidate the registry it is going to take money to do it. The two choices are to (1) pass this bill and include money and 1.5 FTE's or (2) continue the way it is even though it's not the ideal situation.

**Ms. Bartz** agreed. She has very few programs that have general funds and, if they are forced to take those general funds and put them into this, then programs they have right now would cease to exist because they don't have the funding to do it.

**Senator Tim Mathern** asked if there was another option where they could somehow eliminate the Department of Health connection.

**Senator Judy Lee** replied that then everyone would pay and now those with the health department don't pay. The feds say the health department can't charge. Section 6 was put on in the House policy committee. It did not go to House Appropriations.



The committee reviewed earlier versions of this bill and the need to put appropriations back into it.

Changing the application to administer the registration of individuals on the nurse aide registry as provided under Section 2 would eliminate bringing over the people they don't want brought over.

Verbiage in Section 6 was discussed. The purpose was to say they couldn't hire any FTE's. Section 6 would not be needed if the money and FTE's are addressed.

**Senator Judy Lee** suggested that an appropriate amendment would be to amend out Section 6 and to add 1.5 FTE's and \$287,870.

**Senator Tim Mathern** supported the effort but wanted to know if that brings this bill to the same application as the bill was when it was introduced in the House.

**Ms. Bartz** replied that the only other consideration they might want to give was to the introduction to the bill.

**Senator Tim Mathern** suggested that the Department of Health come up with an amendment that addressed what she was suggesting and to make sure the details of the rest of the bill fit it.

**Ms. Bartz** agreed.

The amendment suggested by the School Boards Association was addressed. There was committee consensus that they wouldn't deal with the school issue at this time.

**Senator Gerald Uglem** commented that all the way through the interim committee hearings the goal, in his view, was to eliminate the duplication and eliminate the fee because these are some of the lowest paid workers who are really needed.

Committee work was adjourned for the day.



# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

HB 1041  
3-9-2011  
Job Number 15219

☐ Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

Attachment

**Vice Chair Senator Gerald Uglen** opened committee work on HB 1041.

**Darlene Bartz**, Department of Health, brought amendments as requested. This takes out the language related to application and instead in the introduction provide for an appropriation. The language in Section 6 would be changed from application to appropriation. With this change it would go back to the original fiscal note. This brings them in line with what the workgroup had requested – limit the transfer to the Department of Health to the nurse aides, home health aides, and the medication assistants I and II. Attachment #6 (3-8-2011).

**Senator Tim Mathern** asked if this amendment accomplishes the second purpose.

**Ms. Bartz** responded that the amendment removes lines 30-31. The application language is changed to the appropriation language. The lines on page 4, 1-3, are removed. This amendment replaces all of what is in the current Section 6 with a new Section 6 which would be appropriation.

After discussion on clarifying language in Section 2 **Senator Tim Mathern** suggested changing line 12, page 3, to say "individual who is registered on the State Department of Health" and remove the language "under Section 1 of this act" and to make the same changes on page 3, line 17.

**Ms. Bartz** had a concern that this goes to both chapters 43 and 23 and when it's not in one bill like this there will be no reference to Section 1. These changes would clarify it. Section 3 goes solely under the Board of Nursing requirements.

An amendment was drafted by the intern. Attachment #7 (3-9-2011).

**Ms. Bartz** talked about the transition process if this bill should pass.



**Senator Tim Mathern** moved the amendment (Attachment #7).

Seconded by **Senator Dick Dever**.

Roll call vote 4-0-1. **Amendment adopted.**

**Senator Dick Dever** moved a **Do Pass as Amended** and rerefer to Appropriations.

Seconded by **Senator Tim Mathern**.

Roll call vote 4-0-1. **Motion carried.**

Carrier is **Senator Judy Lee**.



3-9-2011

#7

**PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL NO. 1041**

Page 1, line 7 replace "application" with "an appropriation"

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, replace lines 30-31 with

**"SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$287,870, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and maintaining a nurse aide registry for the biennium beginning July 1, 2011 and ending June 30, 2013. This appropriation includes an additional 1.5 FTEs provided to the state department of health to maintain the nurse aide registry."**

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 4, remove lines 1 through 3

Renumber accordingly



Date: 3-9-2011

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1041

Senate HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 3-9-2011

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Mathern Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry					

Total (Yes) 4 No 0

Absent 1

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

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



March 9, 2011

*JB*  
3-9-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, line 30, replace "**APPLICATION**" with "**APPROPRIATION**"

Page 3, line 30, remove "The state department of health shall implement and"

Page 3, remove line 31

Page 4, replace lines 1 through 3 with "There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$287,870, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and maintaining a nurse aide registry for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry."

Renumber accordingly



Date: 3-9-2011

Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1041

Senate HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0260.07002 Title 08000

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Dever Seconded By Sen. Mathern

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry					

Total (Yes) 4 No 0

Absent 1

Floor Assignment Sen. J. Lee

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



**REPORT OF STANDING COMMITTEE**

**HB 1041, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1041 was placed on the Sixth order on the calendar.**

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, line 30, replace "**APPLICATION**" with "**APPROPRIATION**"

Page 3, line 30, remove "The state department of health shall implement and"

Page 3, remove line 31

Page 4, replace lines 1 through 3 with "There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$287,870, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and maintaining a nurse aide registry for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry."

Renumber accordingly



**2011 SENATE APPROPRIATIONS**

**HB 1041**



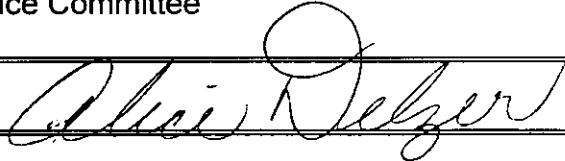
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041  
03-18-2011  
Job # 15654

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an ACT relating to a nurse aide registry, individuals exempt from regulation by the state board of nursing, relating to definitions, and delegation of medication administration.

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Friday, March 18, 2011 at 9: 15 am in reference to HB 1041. All committee members were present. Sara Chamberlin, Legislative Council and Tammy R. Dolan OMB were also present.

(there was discussion regarding HB 1266 at the beginning of this hearing. This information has been filed in HB 1266)

**Chairman Holmberg:** We will now address state Board of Nursing, HB 1041.

**Senator Judy Lee, District 13, Fargo,** 1041 is the bill we are talking about right here. Just a brief introduction, Rep. Kreidt is here and he will provide additional information. We have worked over the last several years to deal with some problems we've had with two different registries for those folks working in skilled care and comparable facilities and there are certain workers who the federal government says have to be regulated by the Health Department and there can be no charge in order to register those particular workers. There are other workers who have slightly higher levels of skills that are registered through the Board of Nursing and they do have license fees and this has been confusing; it has led to some penalties, so it's been a great deal of effort put into combining these in the best way we can into one registry for unlicensed assisted persons and so what you have before you is the transition of the folks who have been registered under the Board of Nursing over to the registry within the Health Department and it's something we have worked at doing, most states have a single registry and it really is a workable solution that a task force has spent a lot of time working on this. It's just a more streamlined way to do this. I would urge you to pass this bill.

**Chairman Holmberg:** Rep. Kreidt is going to be presenting an amendment to the bill. I want you to make sure that you have had an opportunity to look at it. It changes section 6.

**Senator Lee:** It's just a source of funds and it is ok with me.



**Rep. Kreidt:** testified in favor of HB 1041 and presented proposed amendment to engrossed HB 1041 (11.0260.07003) and explained that it changes the funding source. The Appropriations Committee used general funds to fund the registry that would be coming over to the Health Department and what my amendment does is change it to the health care trust fund. You are aware how the fund developed and the money that comes into this fund comes from Health Care facilities. It's generated through interest and repayment of loans, the interest and principal and the fund accumulates around \$1M a biennium. I thought this would be a more appropriate source of using those dollars and general fund dollars to move this forward. The funds would be one time funds, to start the computer program and material to start the registry with the Health Department and personally having been involved with this for a number of years moving this registry into the Health Department creating one registry is really going to save a lot of headaches for a lot of people. The individuals that would be moved over or unlicensed assisted persons, they pay a registry to the Board of Nursing. Part of that fund will assist for their payment to be registered. CNA's - that is the federal program. I feel it would be beneficial to individuals wanting to start a health care career and move up we would be assisting those individuals.

**Chairman Holmberg:** The committee members should be aware that the estimated ending fund balance in the trust fund is 800 and change so the money is there projected to the end of this biennium. He was told that is correct.

**Senator Kilzer:** How many people do you anticipate registering in a biennium? He was told around 1,500 people. It's a moving target. He was told there is around 2,000 renewals every year and approximately 2,000 new ones, so about 4,000.

**Senator Christmann:** What was the amendment that the Senate already put on and were you and the House people supportive of that?

**Rep. Kreidt:** The bill was introduced in the House, with the funding in. The House Human Services Policy Committee removed the funding, we had an agreement that I was going to do some amendments with it, I was going to amend the 1004, the Health Department's budget, it was in original content. When the bill came over to Senate Human Services Policy Committee they put the funds back in into general funds. We are going to leave the funding in 1041 instead of moving it into 1004.

**Chairman Holmberg:** Thank-you very much for your additional work on the bill. If not we will close the hearing on 1041. I have to ask our subcommittee on the Health Department if you need to view this within the confines of the Health Department

**Senator Kilzer:** I think we should review it.

**Chairman Holmberg:** Let's take 1041 and put the same folks on as the Health Department and so that is Senator Kilzer, Senator Fischer, Senator Robinson.

The hearing was closed on HB 1041.



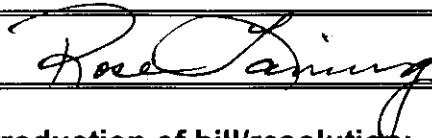
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041 subcommittee  
March 29, 2011  
Job # 16120

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing on HB 1041 which relates to the State Board of Nursing.

### Minutes:

You may make reference to "attached testimony."

Subcommittee **Chairman Kilzer** called the subcommittee hearing to order on HB 1041. Subcommittee members **Senator Fischer** and **Senator Robinson** were present.

**Sheila M. Sandness** - Legislative Council; **Lori Laschkewitsch** - OMB.

**Dr. Darlene Bartz, Department of Health:** HB 1041 moves the nurse aides, home health aides, medication assistants I and II from the board of nursing registry to the Department of Health registry. In that proposal, because CNA registry does not have any fees, it's prohibited by federal regulation. What we are proposing that individuals coming from board of nursing also would not be charged fees for their registration. This would improve communication in that there would be one registry for everybody to check rather two. It would also be a benefit to our lower paid employees because there's a great shortage of nurse aides. There was an amendment that was proposed at the hearing – from Rep. Kreidt. He was recommending that the funding for this come out of the Health Care Trust Fund rather than the general fund.

**Senator Robinson:** Is the fiscal note from March 14, for \$287,000 still active – although those dollars would come from the health care trust fund? Answer Yes.

**Dr. Bartz:** In the amendment that was put on by the Senate Human Services committee, there also is an appropriation for 1.5 FTE to complete this work. We tried keep this to the lowest amount possible.

**Senator Robinson:** The fiscal note is \$287,870 for the upcoming biennium. The next biennium of 2013-15, it drops to \$238,576.

**Dr. Bartz:** The reason for that is we had one time set up costs in doing our website.

**Senator Kilzer** asked about the Kreidt amendment?



**Senator Robinson:** This amendment changed the source of funding from the general fund to the health care trust fund.

**Senator Kilzer:** How much is in that - that's the old IGT fund - the health care trust fund?

**Lori Laschkewitsch** said a little over a million dollars and the 11-13 ending balance will be \$800,000 at end of biennium.

**Senator Kilzer:** The federal regulations don't allow us to get the registration fee from the people who are being registered - why is that?

**Dr. Bartz:** There is a code of federal regulations for interstate registry and they prohibit charging the individual for registration for training or renewal. We have about 14,000 individuals on interstate registry that there's no fee for.

**Senator Kilzer:** If we add that on from the health care trust fund or from the general fund, can't we reduce it from the board of nursing?

**Dr. Bartz:** They were charging registration fees to the individual.

**Senator Kilzer:** Who was paying that - the individuals or their employer?

**Dr. Bartz:** the individual or the employer, whoever. Their revenue would decrease automatically.

**Senator Kilzer:** Maybe we should also expect employer to pay it. Just because they're going to the Dept. of Health to do their registering, why should the state have to assume that \$287,000 burden?

**Dr. Bartz:** The amount of funding that we're requesting would wind up increasing their fees significantly because actually what the board of nursing wound up doing is increasing the fees for nurses and they use that money to offset the costs that wasn't being covered for the nurses registry. Even with the fees they were generating, they weren't really getting enough people to work. If we would try to fund this with fees for the nurse aide, the fees that they are currently paying would go up significantly. I think it's about \$35 for every two years.

**Shelly Peterson, Long Term Care Association:** Yes it's \$35 and then there are some other fees and the initial one is added onto that.

**Dr. Bartz:** Our ability to do it is a little bit less expensive than the board of nursing. They're supplementing the revenue they get from generating fees with revenues they're getting off the licenses of their other individuals and so that's what's making it up. We would need to charge double that.

**Lori Laschkewitsch** said there is predicted to be \$1.4M in health care trust fund and there is one bill appropriated out of there which is HB 1325 which increases the payments to basic care and long term care facilities for \$546,000 leaving an ending balance of \$807,000.

**Senator Kilzer:** Does the income into the health care trust fund look pretty steady for next biennium because if we keep doing this year after year, this is money that never comes back.



It seems to me that this should not be the responsibility of the state. It should either be the employer or the employee to have this registration. Or maybe we don't need this registration at all. What is the registration used for – background checks and things like that?

**Dr. Bartz:** We're ensuring that they have a certain level of competency to perform the care that they're rendering to the public. Depending on what they would go into, it would ensure they have certain qualifications. The other thing it does is give the avenue that if someone would have a complaint, and they would come to us with the complaint, we would be able to go out and investigate that. If it needed disciplinary action, they would be able to do that and it provides a greater level of safety and insurance quality of care to the people that we would serve.

**Senator Kilzer:** I think you've made the point that it's necessary. Our remaining question is who will have to pay for it?

**Senator Robinson:** You're getting pushback from providers. If this is assessed back to them, what do we do if they don't pay it? If we're going to have a registry, we want to do it right and complete. Is there a penalty if they don't pay?

**Dr. Bartz:** To some of individuals, the \$35 - 40 is a stretch because they are some of the lowest paid individuals. If they couldn't pay, then we'd have to tell them they couldn't work. This would hurt because there is already a shortage.

**Senator Kilzer:** Do all these people work for an employer? Or are a lot of them independent practitioners?

**Dr. Bartz:** There would be a certain number that would be independent. Last session, there was a bill in Human Services which allowed the nurse to go in and do an assessment, then an individual would come in and provide the care, but they put it in where there was a separation between the assessment and the care of the individual. In situations like that, there wouldn't necessarily have an employer component.

**Senator Robinson:** Today in your analysis, how often have you identified issues or problems in terms of qualifications.

**Dr. Bartz:** Over the years, we validate about 25% of complaints. I think we're running close to 200 people that we've validated concerns on over the years. I feel strongly that if people have concerns, they should have an avenue to go to with those concerns.

**Shelly Peterson, ND Long Term Care Association:** The vast majority of states that have registries, all of them but six are in state health dept. My understanding of those is that they are not charged to the participants that are on those registries. Right now 14,000 people are on the health dept. registry and are there by mandate and that they not be charged and adding 4000 more that have a fee would give inconsistent treatment depending on who you work for. The vast majority of people on the UAP registry now are either working in basic care, assisted living, home health or private home settings. The people who have it free are generally working for a nursing facility because they have to be a CNA. Nursing facilities are more likely to have funds than the other employers who have far less income available to them.



**Senator Kilzer:** You mentioned all but six states are registered in the health dept., who pays for their registration?

**Shelly Peterson:** For the most part, federal funds pay for it. In the other ones, they have two registries like ND, one in the health dept. and one in the board of nursing. We're trying to streamline it. If those other states have people other than CNAs and it's more inclusive, I'm not sure.

**Senator Kilzer:** These are outside the board of nursing that we are talking about here.

**Dr. Bartz** said they are looking to bringing over those currently on the board of nursing and streamlining the process because many individuals end up being on two lists. One registration expires and the other one they think they are renewing it on one but they haven't renewed it on the other.

**Senator Kilzer** asked if we are creating a problem by doing this. The nurses would still be with the board of nursing? Answer yes.

**Senator Kilzer:** Then the nurse aide would just be with the health dept. right?

**Dr. Bartz:** Right, but this would streamline it and eliminate all the confusion.

**Senator Kilzer:** If we stick with the funding, we have to decide who pays.

**Dr. Bartz:** Federal law prohibits us from charge for the registry.

**Senator Kilzer:** Federal law doesn't prevent the employer from paying. That's the one who has knowledge who first of all has an interest in hiring this person so they've already done part of their screening, but they'll tell the possible employee that you will have to pass the drug screen test and you're going to have to get through the background check OK and you're going to have to register. I assume they're practically registered with the employer before they're ever going through your registration process, right?

**Dr. Bartz:** The certified nurse aid has to go through training and testing to be eligible to work. They have a four month period before they have to be registered. If they are employed by a facility, they have that amount of time. That's consistent with the board of nursing. It's an individual registration, not a facility registration. That may be a benefit for the employee if they help them out, but there is nothing that says an employer would be responsible.

**Senator Fischer:** How many are to be registered?

**Shelly Peterson:** There would be 2000 initially and another 1000 annually.

**Senator Kilzer:** This would go down to \$238,000 is the 13-15 biennium, but it would probably stay there. For every subsequent biennium, it would be \$230,000 or so. I just shake my head at this: professional fees, registration fees and that kind of goes with the territory of your employment. I have a hard time with the state having to pay for it.



**Shelly Peterson:** Once they are on the registry, the ability to investigate issues of concern and complaints, abuse, neglect, exploitation and assuring to the public that we have a state's workforce and they are not on the abuse registry. A lot of that is the registration process, but a lot goes with to investigate allegations.

**Senator Kilzer:** This is really a parallel situation to a license. I pay a couple hundred dollars every year for my license and that covers the bad actors; the ones that need to be investigated and the ones that go through port and appeals. That's part of my licensing or registration fee. I think all areas should do that, whether it be teachers or anyone who deals with the public, even clergy. They all have to have a back ground check so the bad apples can be properly screened out.

**Shelly Peterson:** Our concern with this group is that they have the lowest pay, the lowest income. \$35 doesn't seem like a lot, but it can become a burden.

**Dr. Bartz:** If we would wind up charging them the fee, it would be higher than \$35 because now that has been supplemented with the nursing licenses and that supplementation would not be there and so we would have to go up in fees.

**Senator Kilzer:** If the employer wants this employee bad enough, they should be willing to put this amount of money out front to have that employee. They go through their own screening to this point. I would think the employer, if interested in hiring this person, would put out that much.

**Senator Kilzer:** That part troubles me and so does the termination in the health care trust fund. Those funds are not out on loan. They're just gone.

**Lori Laschkewitsch:** According to the Dept. of Human Services, based on the amortization schedule, we should get \$1M each biennium through 2023 and then as the loans are paid off they'll slowly decrease each biennium until the 2033-2035 biennium when they will receive about \$115,000.

**Senator Kilzer:** I need to mull this one over because there are some things that bother me. We'll be meeting on Wednesday or Thursday.



# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041 subcommittee  
March 30, 2011  
Job # 16188

☐ Conference Committee

Committee Clerk Signature

*Rose Lanning*

### Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing on HB 1041 which relates to the State Board of Nursing.

### Minutes:

See attached testimony # 1 - 2.

Subcommittee **Chairman Kilzer** called the subcommittee hearing to order on HB 1041. Subcommittee members **Senator Fischer** and **Senator Robinson** were present.

**Sheila M. Sandness** – Legislative Council; **Sheila Peterson** – OMB.

**Senator Kilzer:** We're talking about the registration of CNAs. Some of us thought that the state taxpayer should not be held to the registration fees. It should either be by the registrant or the employer.

**Sheila M. Sandness** made copies of amendment 11.0260.07004 – see attached #1

**Senator Kilzer** asked **Sheila M. Sandness** to explain amendment.

**Sheila M. Sandness:** This amendment is in lieu of the amendments that were adopted by the Senate Human Services committee. It incorporates the language that was in the Senate Human Services amendment. However, there are a couple of changes. The first engrossment with Senate Amendments (.08000) - this amendment incorporates all of the changes that are in this document, however, on page 3, line 5 it removes the "not" to say that the department "may charge fees" and "after charges" inserts "registration" so it says the department may charge registration fees. It removes line 6 & 7 & 8. After line 8, it inserts #5 that says "registration fees collected by the department must be deposited in the department's operating account". The remainder of these changes are the same as what was adopted in the Human Services committee, however when you get to the appropriations section which is on the bottom of page 3 and top of 4, but it basically keeps the appropriation at 1.5 FTE, however it appropriates the \$287,870 from the state department of health operating fund rather than the general fund.

**Dr. Bartz, Department of Health:** My concern with this is that we are hiring people then dependent on the fees. That's not a stable income for hiring people. The cost of registering the nurse aides on the board of nursing registry right now they are charging \$35 and then they have the additional for the criminal background check. We would have to go up at least double and probably even more in what we would be charging the CNAs to fully recover that



\$287,000. Right now, the board of nursing has subsidized the nurse aides and payment and cost of doing the registrations and complaints with increased fees to RNs and LPNs and people who are licensed by the board. Our only recourse would be to increase the fees. We're dealing with a group of people who already are the lowest paid in the state.

**Senator Kilzer:** I've heard that argument and I really don't go along with that, although I do like realistic figures. I've heard some of why the \$287,000 probably wouldn't be enough, but I would expect you to do a couple of things. First of all, to make the registration fee at a proper level to cover your charges and if you need an initial fee, the first time, that's larger than the annual renewal fee, that's OK too. I would hope that could be worked out. How much might you need because you register other professionals?

**Dr. Bartz:** The items that go into the registration or go into regulating an individual are far more than just placing their name on a registry. You need to review that application. There are some one-time expenses. We'd have to do our data base on the web and that would be additional expenses. Anytime you have regulation, we also have to have the capability to handle complaints and go out and investigate and to provide them with a hearing process.

**Senator Kilzer:** How would this be different from how you treat radiologic technicians?

**Dr. Bartz:** I'm not familiar with the radiologic technicians. That's not in my area. What we regulate is the certified nurse aide. Right now there is no cost to the individual at all. The federal government requires that it be at no cost. The fees for actually every step of that process is covered through Medicare and Medicaid funding. There's no general fund going into that at all. But all the work that we would be getting from the board of nursing is state works so I can't use those dollars for the new work coming in.

**Senator Kilzer:** The only thing here that the committee wants to change is WHO is paying for it. The amount shouldn't make any difference who's paying for it. You make it sound like its going to cost more just because we have the registrants or employers pay for it. Why should that make a difference on the amount.

**Dr. Bartz:** The dollar amount will stay the same, but where the increases come is to the cost of the registrant. Part of the fee that I pay for my registration is helping the board of nursing have the money they need to regulate the nursing. I

**Senator Kilzer:** Maybe the state could get you something to get it up and running and then charge registrant or the employer to keep it going.

**Senator Fischer:** I'd like to have a rundown of exactly what the board of nursing is providing and why they're requesting funding and know exactly what they're up to.

**Dr. Bartz:** We put together an analysis as to the comparison between the two to registries (see attached #2).

**Senator Robinson:** This information would be helpful.



# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041 subcommittee  
April 4, 2011  
Job # 16301

☐ Conference Committee

Committee Clerk Signature

*Rose Lanning*

### Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing relating to the State Board of Nursing and registration fees for CNAs.

### Minutes:

No Attachments

Subcommittee **Chairman Kilzer** called the subcommittee hearing to order on HB 1041. Subcommittee members **Senator Fischer** and **Senator Robinson** were present.

**Becky J. Keller** – Legislative Council; **Sheila Peterson** – OMB.

**Senator Kilzer** opened the hearing on 1041. This is the bill about the nurse aides being registered, not in the Board of Nursing, but in the Health Dept. It has a \$287,000 appropriation. This committee thought the taxpayer shouldn't be responsible for the \$287,000. Are these the latest amendments? Amendment 11.0260.07004? They are dated March 29<sup>th</sup>.

**Becky J. Keller:** They must be.

**Senator Kilzer :** Could you tell us about the amendments? Do they address the problem of the registrant or the employer being responsible for the registration fees?

**Becky J. Keller:** Were you under the assumption there was a problem with the payment of fees?

**Senator Kilzer** discusses who was responsible for payment of fees. It would either be the responsibility of the registrant or the employer.

**Senator Robinson:** I think that is what you said. Reading this, I don't think this wording accomplishes that.

**Senator Fischer:** Arvy, were you going to talk to him?

**Arvy Smith, Deputy State Health Officer:** the amendment on page 3, line 5 it removed the word "not". That's where it says the department may not charge fees. Taking out the "not" it says the department may charge fees under this chapter....



**Senator Kilzer:** Would that leave a place for the employer to pay it or not?

**Arvy Smith:** I don't think this addresses that.

**Senator Kilzer:** It was my understanding that there is some federal law that says the registrant cannot be held .....

**Arvy Smith:** only CNAs - the federal government pays us to take care of that. Either the state needs to pay or charge a fee. Currently these individuals are paying the board of Nursing \$30 annually or \$50 biennially. If we do this, the biennial fee will go from \$30 to \$50.

**Senator Fischer:** Is there a fee also tied to this - like for a background check.

**Dr. Darlene Bartz, Department of Health:** They would not be receiving a background check. They were initially paying \$50 and then... inaudible. Our costs are higher because approximately one third of the Board of Nursing expenses ....inaudible. ..this comes from other sources...part of the licensure fees that they collect...inaudible

**Senator Fischer:** Doesn't state law require background checks?

**Dr. Martz:** It's optional. We could put in language that if mandated by federal government...inaudible. The provider is doing the state back ground check...inaudible.

**Senator Kilzer:** When you said the Board of Nursing has other payers, who would that be?

**Dr. Bartz:** Licensure fees and other individuals that register, 1/3 of costs come through licensure...inaudible.

**Senator Kilzer:** So they would cost shift over to the LPNs? Or RNs?

**Dr. Bartz:** They are currently arguing that. What we need to be looking at is to cover our costs..inaudible.

**Senator Kilzer:** Renewal is for a 2 year period? \$25/year? I don't think that is too high.

**Becky J. Keller:** It does not address that the employer will pay it. It changes it so that the department can charge a fee for the registrations under this chapter and it removes that it would be from a CNA. Is that correct? It allows the department to charge the registration fee for whatever is covered under this new chapter and removes the last three lines in part 4 so I am assuming that's removing the fees for the CNAs?

**Dr. Bartz:** I'm thinking that...inaudible. I do not see where the employer will or can pay the fees.

**Senator Kilzer:** I would like it to say either the registrant or the employer. If the registrant can't, then it would come to employer.



**Senator Robinson:** If you want to pass this out and then Legislative Council can make the change. Or we can meet again.

**Senator Kilzer:** If we use either/or, who would you send the bill to?

**Dr. Bartz:** To the registrant...inaudible... they converse with employer...inaudible. It would not be a problem for us, it's just who is being registered...inaudible.

**Senator Kilzer:** Would you even know who the employer is?

**Dr. Bartz:** That's only as long as the form is current.

**Senator Robinson moved Do Pass with changes.**

**Senator Fischer seconded.**

**Senator Kilzer** will show committee members before they vote on full committee.

**Senator Kilzer:** Do we need an appropriation at all for the Health Dept for this?

**Senator Robinson:** My understanding on what we received this morning \$287,870 in total expenditures. But there is \$49,294 in one time start up costs. Where will you find that money if it is not appropriated?

**Dr. Bartz:** If I recall ...inaudible... maybe appropriating general funds for one time start up costs. \$50 registration fee... inaudible so we really haven't accounted for how we will get our start-up fees and haven't totally figured IT costs.

**Senator Kilzer:** So would \$50,000 do it?

**Senator Robinson:** I'll change my motion to include the \$50,000 in one time startup costs to the Health Dept .

**Senator Kilzer:** So that will have to be in the revised amended version.

**Dr. Bartz:** Do we need authorization – two separate issues...inaudible.

**Becky J. Keller:** Two thirds of mine would still need to be appropriated for special revenue from our operating fund. So that would be two separate numbers.

**Dr. Bartz:** So we are going to keep the language for the operating one, just change it to 230. inaudible...

**Senator Kilzer:** Make it \$50,000 from the general fund to start out with and \$240,000 from special funds which will be the money coming in as the people register. This will be our last meeting on HB 1041 and I will show the last amendments when they come. We will close the hearing on HB 1041.



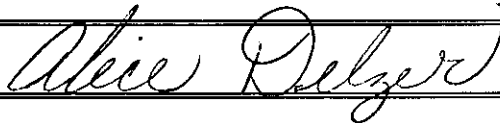
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041  
04-04-11  
Job # 16329

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A ROLL CALL VOTE FOR A DO PASS AS AMENDED RELATING TO A NURSE AIDE REGISTRY

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee back to order in reference to HB 1041. Tammy R. Dolan, OMB and Becky J. Keller, Legislative Council were both present.

**Senator Kilzer (recorder starts during his explanation of the bill)** At the present time these low wage-earning people register with the Board and Nursing and they lose money on that and the Nursing Board wants to send them over the Health Department for their registration. And that's basically what 1041 does. Our concern is with the registration fee. The bill came in asking the tax payer to pay the \$287,000 that it would cost to register these people. Your subcommittee decided all professions have to pay our licensing and registration fees, what this does, it appropriates \$50,000 to the Health Department to set everything up, and then the \$240,000 is special funds which the registrants themselves or their employers will pay and apparently there is a number of these people that federal law says that they should not have to pay their own registration but in that case the employers would have to pay it. \$240,000 of special funds, that amounts to \$50.00 every two years. Amendment # 11.0260.07005 .

**Senator Robinson moved the amend 07005. Seconded by Senator Kilzer.** The way the amendment differs from the main bill is the amendment makes the registrant responsible for their own registration fee. The original bill would have made the taxpayer pay and given the whole \$287,000 to the Health Department.

**Senator Warner:** is this an allowable cost under allocation formula for determining rates in nursing homes?

**Senator Kilzer:** I didn't hear anything from the nursing home administration people about it.

**Senator Warner:** I know we passed a bill earlier this year that allowed for tuition to send continuing ed was going to be an allowable cost. I was just wondering if this one was.



**Senator Kilzer:** If the employer, which would be the nursing home, if they pay it, it would be an allowable cost.

**Senator Christmann:** I won't waste time making a motion, I guess I kind of liked Rep. Kreidt's amendment. I think this was a good use of health trust fund money. I would of much preferred that, maybe that's the direction we end up before we are done.

**A ROLL CALL VOTE WAS TAKEN ON AMENDMENT #11.0260.07005 ON HB 1041. YEA: 11; NAY: 2; ABSENT: 0. MOTION CARRIED.**

**Senator Kilzer moved Do Pass as Amended. Seconded by Senator Robinson.**

**A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON HB 1041. YEA: 13; NAY: 0; ABSENT: 0. THE BILL PASSES. SENATOR KILZER WILL CARRY THE BILL.**

The hearing on HB 1041 was closed.



April 4, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

In lieu of the amendments adopted by the Senate as printed on page 710 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 5, replace "not charge" with "collect registration"

Page 3, line 5, remove "for initial registration or"

Page 3, remove lines 6 and 7

Page 3, line 8, replace "renewal of registration as a certified nurse aide" with "from the individual or the individual's employer"

Page 3, after line 8, insert:

"5. Registration fees collected by the department must be deposited in the department's operating account."

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, line 30, replace "APPLICATION" with "APPROPRIATION"


Page 3, line 30, remove "The state department of health shall implement and"

Page 3, remove line 31



Page 4, replace lines 1 through 3 with "There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$240,000, or so much of the sum as may be necessary, to the state department of health for the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry."

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. One-time funding amounts are not a part of the entity's base budget for the 2013-15 biennium. The state department of health shall report to the appropriations committees of the sixty-third legislative assembly on the use of this one-time funding, for the biennium beginning July 1, 2011, and ending June 30, 2013."





Renumber accordingly





Date: 4-4-11Roll Call Vote # 1

## 2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1041Senate APPROPRIATIONS Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number 11.0260 07005Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Robinson Seconded By Kilzer

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman		✓	Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann		✓			
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 11 No 2Absent 0

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

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



Date: 4-4-11Roll Call Vote # 2

## 2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1041Senate APPROPRIATIONS Committee☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Kilzer Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓	1			
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Kilzer

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



**REPORT OF STANDING COMMITTEE**

**HB 1041, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1041, as amended, was placed on the Sixth order on the calendar.**

In lieu of the amendments adopted by the Senate as printed on page 710 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 5, replace "not charge" with "collect registration"

Page 3, line 5, remove "for initial registration or"

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Page 3, line 8, replace "renewal of registration as a certified nurse aide" with "from the individual or the individual's employer"

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Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, line 30, replace "**APPLICATION**" with "**APPROPRIATION**"

Page 3, line 30, remove "The state department of health shall implement and"

Page 3, remove line 31

Page 4, replace lines 1 through 3 with "There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$240,000, or so much of the sum as may be necessary, to the state department of health for the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry."

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. One-time funding amounts are not a part of the entity's base budget for the 2013-15 biennium. The state department of health shall report to the appropriations committees of the sixty-third legislative assembly on the use of this one-time funding, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly



2011 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1041



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
April 13, 2011  
Job #16547

☒ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

## Minutes:

You may make reference to "attached testimony."

**Rep. Kreidt:** Opened the conference committee meeting on SB 1041. Roll call was taken and all members were present. (Did an overview of bill history.) Last session I was receiving complaints from facilities and individuals about the registry with the board of nursing. When a UAP (unlicensed assistants didn't get registered in a timely manner and were working; the board of nursing found out they weren't registered and were given severe monetary penalties. Most of the people are working at a minimum wage and also receiving sanctions, disciplines. Some were giving up their positions because the fines were too steep. We are short of healthcare staff as it is. After visiting with the board of nursing and industry, last session we passed a bill and passed through both houses. It was not the fault of the person. They just weren't aware of what they had to do. What the legislation did last time was if there was an infraction they received a warning to get into compliance and there were no fines or sanctions. Then there was discussion that we have two registries. One through the Health Dept. and one through the board of nursing and thought there should be just one registry. In the interim committee, we thought we would bring forth a bill to have one registry which is before you today. There have been concerns about the source of funding. The registry would be through the Health Dept. and not through the board of nursing.

**Sen. J. Lee:** Asked Rep. Kreidt to emphasize why there were two with the feds requiring certain people to be registered with the Dept. of Health and the lack of charges.

**Rep. Kreidt:** Through the Health Dept. they register the nurse aid assistants and receive training and that is a federal program that has been put into place. The CAN's register with the Health Dept. and the cost for the registry is through federal dollars. There are no charges for the CAN's that work in health facilities. With the UAP's with the board of nursing do pay a \$30 fee for two years and now \$50. Originally we hoped through appropriations we would not have the UAP's pay a fee out of their pocket. Now I have a different way we can do that and I'll wait with that.

**Sen. Kilzer:** When this came to the Senate Appropriations Committee we felt it was not up to the tax payers to pay this fee and that what this bill would have done; \$287,000 if I remember correctly. The health dept said for \$50,000 they could set it up the program and from there they could use special funds from their fees wish I think is \$50 for 2 years.



**Sen. Kreidt:** That is my understanding too, that it is at the \$50 rate. The Human Services Committee took out the funding of the bill. The money then was put in with general funds in the Senate. We were looking at \$287,870 a one-time cost. I would like to present for discussion is, I do not want to use general funds, but to look at a fee from the UAP's. I visited with Health Dept. and we can put this program together with a fee to the UAP's and set up the registry using some money out of the healthcare trust fund. Some adjustments have been made in the budget with the Health Dept. and we can have a staff member there that will begin the work on the registry. Using money out of the healthcare trust fund and giving them the money to reduce the fee and get the registry into place. It would take about \$150,000.

**Sen. Kilzer:** Would you expect to do that every biennium or is this a one-time thing?

**Rep. Kreidt:** We hope once it is up and running the Health Dept. can build this into their budget. The healthcare trust fund is perpetual and is ongoing and will probably go on for 20 some years yet. That money generated from that trust fund is from loans and made to facilities. The interest and principles on those loans are coming back in at a yearly basis somewhere around \$1 million dollars and would come back into that fund. If we have to assist them a little next session that possibility would be there.

**Sen. Lee:** Was there an option where an employer can pay the fee? I don't want the fee to be a barrier for people to get on the register.

**Rep. Kreidt:** If the facility wanted to pay the fee I would be more than glad to have them do that. I would hope there would be some reduction of the \$50 with the amount of money we are putting in.

**Mathern:** I think most of the services these people deliver are paid for by tax payers. I don't see any reason why the public can't be involved in paying this fee. I also see the idea of the employer paying for it. These are the lowest paid folks and they have to pay so many different fees.

**Sen. Lee:** If the employer pays the fee and have quite a few employees, how will this affect their reimbursement and rate setting?

**Rep. Kreidt:** I would assume there would be allowable costs that would come back to their reimbursement system. I think we can reduce this fee. The numbers are flexible. If we need more money we could look at doing that. At our next meeting I could come back with what maybe the fee would be and more of an exact amount we need to use out of the trust fund.

**Rep. Anderson:** Isn't it two parts; a fee and a background check?

**Shelley Peterson:** \$30 initial fee and \$20 for criminal check. The employer has to do the background check. (Spoke from audience and no microphone. Most conversation inaudible.)



**Sen. Lee:** I 'd like the stakeholders to respond on how it would affect them.

**Arvy Smith:** Have to check the numbers and crunch them. I don't know if the \$125,000 includes the \$50,000 one-time. If that is in there we might be a little tight. If the on-time is on top of that then we will be closer to keep it around the \$30. I need clarification on the proposal.

**Rep. Kreidt:** Meeting adjourned.



## 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
April 14, 2011  
Job #16613

☒ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

### Minutes:

You may make reference to "attached testimony."

**Rep. Kreidt:** Called the conference committee meeting to order on HB 1041. Roll Call was taken and all members were present. We had a good discussion in our last meeting and hope we can come to a conclusion today.

**Sen. Kilzer:** You mentioned last time that you would like the funding come for the healthcare trust fund. I don't have any objections to that. Have you drafted an amendment already?

**Rep. Kreidt:** Not yet, I want to explain my proposal and if the committee is in agreement we can then have the amendments drafted.

**Sen. Kilzer:** I would like to see either the individual being registered and/or the employer who is paying for have a little skin in the game. So if it is \$50 for two years registration fee, I would like to see the registrant or the employer pay at least \$25 of that and the healthcare trust fund could pay the rest.

**Rep. Kreidt:** After discussion with the Health Dept. we would use money out of the healthcare trust fund in the amount of approximately \$130,000 and that would bring the fee down to the \$30 range. And that would allow them to get the startup and operating costs into place. Staff would be provided to run the registry. The \$130,000 out of the trust fund and could put language in that the registrant or facility would pay the registration fee. We can get amendments drafted and look at them.

**Rep. Kilzer:** Are you looking at the registrant or the employer being responsible for the first \$30?

**Rep. Kreidt:** Correct.

**Sen. Mathern:** Was concerned that some people do not have any money to pay that fee and would like to see in the amendments that the employer pay the fee.

**Sen. Kreidt:** We will be very clear about that.

**Sen. Lee:** Is there any interest in splitting it \$25 and \$25?



**Sen. Kreidt:** What you are asking that the individual pay part?

**Sen. Lee:** No. Instead of \$30 remaining for the employer or employee that it is \$25.

**Rep. Kreidt:** The understanding I have is that the money we are using out of the healthcare trust fund; the \$50 fee will be reduced to \$30 with some of that money.

**Sen. Lee:** I'm saying the \$30 should be dropped to \$25.

**Rep. Kreidt:** Ok. We'd have to run the numbers on that and see how much additional dollars we would need to do that. (Called Arvy Smith to the podium.)

**Arvy Smith:** Health Officer from the Dept. of Health You would have to put another \$30,000 onto the \$125,000 onto the healthcare trust fund if you want it to be down to \$25.

**Rep. Kreidt:** I didn't look to see what was left in the trust fund. I think it is about \$800,000.

**Sen. Kilzer:** It might be better to have a certain amount in you amendment that is the obligation of to the registrant and/or the employer and what every is left over would come from the trust fund.

**Rep. Kreidt:** We are looking at the one-time and then they have to register every two years. (Called Darlene Bartz to the podium.)

**Darlene Bartz:** From the Dept. of Health. With the addition of the fees we have additional expenses that are going to come and so the number of receipts we have to process increases our costs. If we split it and have half paid by two entities that would double our cost for processing. Accounting said if we are using credit cards and going through accounting and then through our area to make sure everything is correct; 11% goes for cost of processing. If we could keep it down to a one-time rather than splitting through two entities that would be more cost effective.

**Rep. Holman:** I support the \$25 and we might want to leave it open ended and put an "up to" on there. I agree locking in the fee and leaving the rest with flexibility.

**Rep. Kreidt:** I'd like to reduce this fee down as low as we can get it by using the \$155,000 in the healthcare trust fund.

**Sen. Lee:** I would move that we establish the fee structure as follows: The \$25 would be paid by the registrant or their employer and the balance of the cost would be covered through the healthcare trust fund and the language.

**Sen. Mathern:** I don't know if we need a motion if you are going to bring the amendments back. Sen. Lee, are you saying this would be up to each facility to determine whether they paid or the registrant pays? I'm hoping that the facility would pay. Someone on their own and work independently would pay the \$25, but if with a facility that the facility pays. I would like the amendment drafted that the facility pays.



**Sen. Lee:** I think we need to discuss that.

**Sen. Kilzer:** If you have an individual at several different places at the same time I think it is best to state that either the registrant or the employer pay. I think you should put "either or" in the language.

**Rep. Kreidt:** Agreed with the either or. (Asked Shelley Peterson to come to the podium.)

**Shelly Peterson:** With the Long Term Care Association. We discussed this with the Fargo region yesterday and their strong consensus is it should be at the option of the employee and employer. We feel an "either or" should be in language.

**Sen. Mathern:** How does this happen on the other fees, does that create a stumbling block to get employed or is that not an issue?

**Shelly:** Right now the registry for UAP's is at the Board of Nursing and they need to apply to be on the registry. On the initial registration the individual would apply and pay a \$30 fee, a \$20 processing fee and an additional \$47.25 criminal history record check. That individual would pay that fee. Then every two years they would renew for \$30 and that is the individual's responsibility. With this bill they would have to register every two years with the Health Dept.

**Sen. Mathern:** I understand how this would work. I am asking if there is a barrier getting people into the system?

**Shelly:** If it were I would think the employer could pay it and could do a payroll reduction to pay the employer back.

**Sen. Lee:** There is a turnover which is an additional reason for flexibility where the employer can pay if he wishes too.

**Rep. Anderson:** I agree it is nice to help people, but I think people need to show a commitment on paying the fee.

**Rep. Holman:** Second the motion. We can look at this again when we bring back the amendment. I see this as a recruiting device a move in a positive direction.

**Rep. Kreidt:** I feel it is a positive move also.

**VOTE: 6 y 0 n 0 absent Motion Carried**

**Rep. Kriedt:** We will get the amendments together and take a look at them.



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
April 15, 2011  
HB #16671

☒ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

## Minutes:

See Attachment #1-2

**Rep. Kreidt:** Called the conference committee meeting to order on HB 1041. The roll was called and all members were present.

**Steven Podoll:** Legislative Intern for Human Services conference committee. (See attachment #1) The 7000 version of amendments I passed out is the version that came from the Senate from the House. These are similar to 7005 version which became the 9000 version and the last version out of the Senate. I put asterisks next to the two lines that I changed. (Referred to the changes with the asterisks.)

**Sen. Kilzer:** Which is primary? Does the individual or the employer pay the first \$25 for sure the I thought I heard the word may.

**Steven:** It does read "may". That is correct.

**Sen. Kilzer:** I think that is different from what our intention was when we last met. The \$25 would be the first part of it and if there is an additional fees during the biennium that the healthcare trust fund would pick it up.

**Steven:** When I talked to Jennifer Clark from Legislative Council, I asked how do we write that into an appropriation bill. Maybe I misunderstood and didn't get the quite clear. It is an indistinct number.

**Rep. Kilzer:** My concern is when you say "may", they don't have to.

**Sen. Lee:** Can't we make the "may" to "shall"?

**Sen. Kilzer:** I agree.

**Sen. Lee:** Just making that one change on page 3, line 5, we would replace, "may not charge" with "shall collect registration".

**Steven:** The Section 7 amendment is to be incorporated into the amendment. (See attachment #2)



**Sen. Mathern:** In the wording under page 4 for the healthcare trust fund, the words nurse aid registry are used. Are you comfortable that this covers all the people we are trying to address? We are trying to address a number of persons. I want to make sure that phrase is broad enough to cover all the people.

**Rep. Holman:** I think if you look at Section 6 of the bill of definitions it pretty much tells us that. The definition is on page 2, line 7. It defines the vehicle where all these categories are kept.

**Sen. Mathern:** I don't see unlicensed assisted person in there. Are we covering those or are they a different group?

**Rep. Kreidt:** Section 2 and 3 lists (stops). Section 2 is line 11 addresses the unlicensed assistive person.

**Sen. Mathern:** From the Health Department's perspective, did we cover everybody by using those three words?

**Darlene Bartz:** From the Dept. of Health. When we met we decided we were not taking all of the individuals over from the UAP registry. We were focusing on those who were nurse aids, the home health aides and the medication assistants I and II. Those individuals who actually had professional certifications and degrees such as the surgical technicians, your end stage renal dialysis technicians, your medication III's and your medical assistants would stay on the UAP registry with the board of nursing. We will actually have a nurse aid registry. In 9000 bill and we are looking at the 7000 today, we also needed language in there and appropriation for us to take money out of our operating fund for the licensure fees so we could expend those funds. That language needs to be back in there again. In the 9000 version we had a section 6 that said, "There is appropriated out of the money in the State Dept of Health's operating fund in the state treasury", and those are not in the 7000 version. So, right now we are collecting money, but no appropriation to spend the money. That would need to go in there. My understanding we weren't looking at the \$155,000 as a one-time fund, but would be an on-going appropriation if we are looking at the \$25 per registrant. Our start-up fees were \$49,000 and this was taking monies we need on an on-going basis. I think the way the amendment is written it is a one-time fee.

**Rep. Kreidt:** My understanding this would be a one-time funding and the next biennium it would be built into the budget.

**Darlene:** Are you looking at switching from healthcare trust fund dollars to general fund dollars?

**Rep. Kreidt:** Correct.

**Sen. Lee:** I can't find the two things Darlene was talking about. Did we amend them on 09000?



**Sen. Kilzer:** I think it was brought out before that the licensing would not be coming from the general fund. Most of us pay our registrations individually or firms where we work. With the transfer from the nursing board to the health department, we felt tax payer money should not be used for registration.

**Rep. Kreidt:** They would still be collecting the fee though.

**Sen. Kilzer:** That is a debate for another day.

**Rep. Kreidt:** We could have addition to this that the 63<sup>rd</sup> session will review the registry again.

**Sen. Lee:** I see in 09000 it says the operating fund. Do we need to add that paragraph in Section 6 of the 09000 version?

**Darlene:** We do need language in there that says we can take a certain amount out of our operating funds because this is the first time we had money coming from two sources.

**Sen. Lee:** Otherwise they can collect the fees, but cannot spend it.

**Rep. Kreidt:** But, you don't know how much the fees are going to be.

**Darlene:** I can give you an estimate. Another thing I don't see in this amendment that is very important is the 1.5 FTE's that we need to operate the registry.

**Rep. Kreidt:** In my conversations the FTE's are already in the department that are going to be doing this and we are not adding FTE's to this. There is some miscommunication here someplace. My discussion that I had was the \$155,000 which would lower the fee that you would be collecting. The FTE's are in the department at this time and you would be utilizing them.

**Darlene:** To my knowledge they aren't unless they come from another program.

**Sen. Mathern:** When we heard this in the Senate we were bringing in the money and authorize them to use the money and then they would have 1 ½ persons working on it.

**Rep. Kreidt:** We would be covering the FTE's with the \$155,000 and the fees coming into it. Is that correct Darlene?

**Darlene:** The 1.5 would be funded with the \$155,000 plus the fees.

**Rep. Kreidt:** We have the fees to do that with the \$155,000 plus the fees, but no general fund?

**Darlene:** That is correct.

**Rep. Kreidt:** You said you had an estimate of an amount that would be necessary with the fees and the \$155,000.



**Darlene:** What we need appropriation for is approximately an additional \$130,000 along with the \$155,000.

**Sen. Kilzer:** Wouldn't you be getting the money back in the special funds from the \$25 per individual?

**Darlene:** I'm asking for an appropriation so we can spend the dollars we are collecting.

**Sen. Kilzer:** I don't understand this. In a previous version the whole thing was \$287,000 and that was when you weren't collecting any registration fees.

**Darlene:** We will be collecting those funds and it will be going into the department's operating fund and we are asking for an appropriation to expend those funds.

**Sen. Kilzer:** You put in your \$25 per individual that you collect and that goes into your operating fund. Does that lower total of the \$280 something?

**Sen. Lee:** What was brought to us in policy committee is they can collect the money, but not authorized to spend the money. The goal was allow them to spend the dollars they collected.

**Rep. Kreidt:** You are correct.

**Darlene:** If you are adding the \$130,000 with the \$155,000 that ends up as \$285,000 which is a little less than what we originally had requested.

**Rep. Kilzer:** My misunderstanding was that this was on top of everything.

**Rep. Kreidt:** No. This would be part of the appropriations.

**Sen. Lee:** I move that the Senate recede from their amendments and further amend with the proposed amendments from today that were drafted on the 7000 version of 1041. With correction on page 3, line 5, replacing "may not charge" with "shall collect registration" and also adding in Section 7; the section on the ND Healthcare Trust Fund. And also adding on from the 09000 version of 1041 Section 6 Appropriations with the change from \$240,000 to \$130,000. That section will authorize the Health Dept. to be able to spend the dollars that are collect in order to operate the nurse aid register.

**Rep. Holman:** Second.

**VOTE: 6 y 0 n 0 absent**

**Motion Carried**

**Bill Carriers: Rep. Kreidt and Sen. J. Lee**



# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Human Services

Bill/Resolution No. 1041 as (re) engrossed

Date: 4-14-11

Roll Call Vote #: 1

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Lee Seconded by: Holman

Representatives	4-13	4-14	Yes	No		Senators	4-13	4-14	Yes	No
KREIDT	✓	✓	✓			J. Lee	✓	✓	✓	
ANDERSON	✓	✓	✓			Kilzer	✓	✓	✓	
HOLMAN	✓	✓	✓			Mather	✓	✓	✓	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*motion for \$155,000 from trust fund and then \$25 paid by employer or employee and the rest from the trust fund*



April 15, 2011

VR  
4/15/11  
102

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

That the Senate recede from its amendments as printed on pages 1421 and 1422 of the House Journal and pages 1171 and 1172 of the Senate Journal and that Engrossed House Bill No. 1041 be amended as follows:

Page 1, line 4, replace the second "section" with "sections"

Page 1, line 5, after "43-12.1-16" insert "and 50-30-02"

Page 1, line 6, remove the first "and"

Page 1, line 6, after "administration" insert ", and the health care trust fund"

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 5, replace "may not charge" with "shall collect registration"

Page 3, line 5, after "fees" insert "of twenty-five dollars per individual"

Page 3, line 5, remove "for initial registration or"

Page 3, remove lines 6 and 7

Page 3, replace line 8 with "from the individual or the individual's employer."

5. Registration fees collected by the department must be deposited in the department's operating account."

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, remove lines 30 and 31

Page 4, replace lines 1 through 3 with:

"**SECTION 6. AMENDMENT.** Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-02. North Dakota health care trust fund created - Uses - Continuing appropriation.**

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:



- a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
  - b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
  - c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.
  - d. Operation and maintenance of the nurse aide registry.
2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.
  3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06, except for the operation and maintenance of the nurse aide registry as provided for in this section.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$130,000, or so much of the sum as may be necessary, to the state department of health for the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry.

**SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$155,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly



# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Human Services

Bill/Resolution No. 1041 as (re) engrossed

Date: 4-15-11

Roll Call Vote #: 1

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1421 - 1422

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) 1041 was placed on the Seventh order of business on the calendar

Motion Made by: Sen. J. Lee Seconded by: Holman

Representatives		Yes	No		Senators		Yes	No
Kreidt	✓	✓			J. Lee	✓	✓	
ANDERSON	✓	✓			Kitzer	✓	✓	
Holman	✓	✓			Mathern	✓	✓	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Kreidt Senate Carrier Sen. J. Lee

LC Number 110260 . 07006 of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment



**REPORT OF CONFERENCE COMMITTEE**

**HB 1041, as engrossed:** Your conference committee (Sens. J. Lee, Kilzer, Mathern and Reps. Kreidt, Anderson, Holman) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1421-1422, adopt amendments as follows, and place HB 1041 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1421 and 1422 of the House Journal and pages 1171 and 1172 of the Senate Journal and that Engrossed House Bill No. 1041 be amended as follows:

Page 1, line 4, replace the second "section" with "sections"

Page 1, line 5, after "43-12.1-16" insert "and 50-30-02"

Page 1, line 6, remove the first "and"

Page 1, line 6, after "administration" insert ", and the health care trust fund"

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 5, replace "may not charge" with "shall collect registration"

Page 3, line 5, after "fees" insert "of twenty-five dollars per individual"

Page 3, line 5, remove "for initial registration or"

Page 3, remove lines 6 and 7

Page 3, replace line 8 with "from the individual or the individual's employer."

5. Registration fees collected by the department must be deposited in the department's operating account."

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, remove lines 30 and 31

Page 4, replace lines 1 through 3 with:

**"SECTION 6. AMENDMENT.** Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-02. North Dakota health care trust fund created - Uses - Continuing appropriation.**

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:



- a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
  - b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
  - c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.
  - d. Operation and maintenance of the nurse aide registry.
2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.
  3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06, except for the operation and maintenance of the nurse aide registry as provided for in this section.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$130,000, or so much of the sum as may be necessary, to the state department of health for the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry.

**SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$155,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly

Engrossed HB 1041 was placed on the Seventh order of business on the calendar.



**2011 TESTIMONY**

**HB 1041**



SECTION 3. STATEMENT OF LEGISLATIVE INTENT. *HB 1041*

It is the intent of the sixty-second legislative assembly that the department implement and administer the registration of unlicensed assistive persons as provided under section 2 of this Act within the limits of the budget requested by the department and that the department will not add any full-time equivalent positions to assist with the implementation and administration of the registration of unlicensed assistive persons.



**Testimony on HB 1041**  
**Testimony before Senate Human Services Committee**  
**March 2, 2011**

Good Morning Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson with the North Dakota Long Term Care Association. Our Association represents assisted living facilities, basic care facilities and nursing facilities in North Dakota. I am here to testify in support of HB 1041 and urge your passage. HB 1041 has been a long time in coming and I'm here to share with you that it reduces duplication, confusion and is good public policy. The purpose of the bill is to move the regulation and registration of nurse aides, home health aides, and Medication I and IIs into the existing CNA registry at the Department of Health. Currently North Dakota is one of six states that have two registries for this group of caregivers. The vast majority of all states have one registry for this group of individuals and it is housed in almost all instances in State Departments of Health.

From our perspective and the facilities we represent, having two registries has been confusing, burdensome and not in the public interest of the greater good. We have talked about this issue for many years and finally in this interim under your directive a study was commissioned. In the 2009 legislative session, you passed HB 1269 which directed a study of the steps necessary to enable the Department of Health to administer the registry for certified nurse assistants (which they already do) and to bring over unlicensed assistive persons (currently at the Board of Nursing). The study was to examine the possibility of one registry and a location for that registry. Although each registry calls the registrant (CNA vs. UAP) by a different name, they essentially provide the hands on care and support to individuals unable to care for themselves. The study looked at the requirements of a person to obtain their initial registration, the renewal process, investigation of complaints, disciplinary process and the function of each entity (Board of Nursing and Health Department) in relation to the registry.



The Health Department convened a workgroup to study this issue and periodically members of the workgroup reported back to the Long Term Care Interim Committee, Chaired by Representative Gary Kreidt. In the end, the workgroup brought forward draft legislation for the Interim Committee to consider and ultimately it was adopted and supported by the Interim Committee.

Workgroup representatives included:

North Dakota Department of Health (Chair)

North Dakota Board of Nursing

North Dakota Hospital Association

North Dakota Department of Human Services

Developmental Disability Community Providers

Home Health Care Representative

North Dakota Long Term Care Association

Several meetings of the workgroup were held and there were some points where I thought we would never reach agreement. In the end we did reach agreement. We stayed focused on the goal of one registry while ensuring the health and safety of the citizens of North Dakota. Today there are over 13,000 individuals on the Health Department registry and approximately 1,400 UAPs and 230 technicians on the Board of Nursing registry (02-02-10 workgroup). We spent a lot of time to determine who from the Board of Nursing registry should remain with the Board. The consensus was Medication IIIs who are generally working in clinics waiting for licensure as a nurse and technicians working as medical assistants and surgical technicians would be most appropriate to stay with the Board of Nursing.

The House Human Services Committee amended the bill and added a new section 6, titled Application. My understanding of this change was they wanted the funds for the cost of the registry to be included in HB 1004, the Department of Health Budget bill. The Health Department believes the amendment goes a step further and now requires everyone on the Board of Nursing UAP registry (including Medications III's and other higher technician positions) to be transferred to the Health Department registry. I don't believe this was the intent of the House Human Services Committee.



It is our position that the bill needs to be clarified and that only nurse assistants, certified nurse assistants, Medication I's and II's and UAPs be transferred to the Health Department registry and all others stay with the BON.

In the original HB 1041 all nurse assistants, certified nurse assistants, Medication I's and II's and UAP's would be under one registry. With the passage of this legislation the work of designing and administrating the registry will continue. The Department of Health is given the authority to develop rules and must work in consultation with the Board of Nursing and other key stakeholders. The rules will address:

1. Training and competency for those on the registry.
2. Initial registration and the renewal process.
3. Reporting and investigation of complaints against registrants.
4. Discipline process for someone with a validated finding.

HB 1041 states that no fees will be charged for the initial registration or renewal. We hope you retain this important feature. Currently federal law requires the Health Department registry for CNAs be free for registrants and we would like this to be uniform for all registrants that would be coming over from the Board of Nursing. The Health Department will be further addressing the fiscal note. We recognize the Health Department needs some state general funds to administer this additional work. They receive federal funds to administer the nursing facility CNA registry, but are not allowed to expend any federal funds for the new activities outlined in HB 1041. We request that someone communicate with Senate Appropriations about the need to designate funding with HB 1004 for this purpose or restore funding in HB 1041.

In conclusion we urge your support of HB 1041. It is good public policy, reduces the duplication of two registries and maintains public safety. Thank you for your consideration of HB 1041. I 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  
Cell (701) 220-1992 • [www.ndltca.org](http://www.ndltca.org) • E-mail: [shelly@ndltca.org](mailto:shelly@ndltca.org)



## HOUSE BILL NO. 1041

Introduced by

Legislative Management

(Long-Term Care Committee)

1 A BILL for an Act to create and enact a new chapter to title 23, subsection 13 to section  
2 43-12.1-04, and section 43-12.1-16.1 of the North Dakota Century Code, relating to a nurse  
3 aide registry, individuals exempt from regulation by the state board of nursing, and supervision  
4 of nursing interventions; ~~and to amend and reenact subsection 9 of section 43-12.1-02 and~~  
5 section 43-12.1-16 of the North Dakota Century Code, relating to definitions, individuals exempt  
6 from regulation by the state board of nursing, and delegation of medication administration; and  
7 to provide for application.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1.** A new chapter to title 23 of the North Dakota Century Code is created and  
10 enacted as follows:

11 **Definitions.**

12 As used in this chapter, unless the context otherwise requires, the following definitions  
13 apply:

- 14 1. "Certified nurse aide" means an individual who is registered on the nurse aide registry  
15 and who has either successfully completed the requirements for the  
16 department-approved training and competency evaluation program or has successfully  
17 completed the requirements of the department-approved competency evaluation  
18 program.
- 19 2. "Department" means the state department of health.
- 20 3. "Home health aide" means an individual who is registered on the nurse aide registry  
21 and who renders personal related service under the supervision of a registered  
22 professional nurse.
- 23 4. "Medication assistant" means an individual who is registered on the nurse aide registry  
24 and who has successfully completed the requirements of a department-approved



- 1           medication assistant program for a specific employment setting. A medication  
2           assistant may be designated a medication assistant I or a medication assistant II.
- 3       5.   "Nurse aide" means an individual who is registered on the nurse aide registry and who  
4           has successfully completed the competency requirements identified by the department  
5           to provide nursing or nursing-related services to an individual in a health care facility or  
6           other setting.
- 7       6.   "Nurse aide registry" means a listing of individuals who the department has  
8           determined have successfully completed the requirements established by the  
9           department to be designated as certified nurse aide, home health aide, nurse aide, or  
10          medication assistant.

11       **Nurse aide registry - Rules.**

- 12       1.   The department shall establish and administer a nurse aide registry. The registry must  
13           include disciplinary findings, including findings of abuse, neglect, or misappropriation  
14           of property, and must include the eligibility of the individual to be employed.
- 15       2.   The health council shall adopt rules to regulate and register an individual who receives  
16           compensation for engaging in the provision of nursing or nursing-related services to an  
17           individual in a health care facility or other setting. The rules do not apply to a licensed  
18           health care professional practicing within the scope of that profession, an unlicensed  
19           assistive person under chapter 43-12.1, or a volunteer in the course of providing  
20           services without pay. In developing the rules, the health council shall consult with the  
21           state board of nursing and other key stakeholders.
- 22       3.   The rules required under subsection 2 must include the regulation of certified nurse  
23           aides, home health aides, medication assistants, and nurse aides. For each category  
24           of regulated individuals, the rules must address:
- 25           a.   Nurse aide registry requirements;  
26           b.   Training and competency requirements;  
27           c.   Approval of training programs;  
28           d.   Initial registration and renewal of registration of individuals who have met training  
29               and competency requirements;  
30           e.   Reporting and investigation of complaints regarding individuals on the registry;  
31               and



f. A disciplinary process for a validated finding of abuse, neglect, or misappropriation of resident or client property and for other misconduct that has the potential to be harmful to a resident or client by an individual on the nurse aide registry.

4. The department may not charge fees under this chapter for initial registration or renewal of registration of an individual's registration status on the nurse aide registry, consistent with federal prohibition of charging an individual for initial registration or renewal of registration as a certified nurse aide.

**SECTION 2. AMENDMENT.** Subsection 9 of section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Unlicensed assistive person" means an assistant to the nurse, other than an individual who is registered on the nurse aide registry under section 1 of this Act, who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a nurse.

**SECTION 3.** Subsection 13 to section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

13. An individual who is registered on the nurse aide registry under section 1 of this Act, including a certified nurse aide, home health aide, nurse aide, and medication assistant.

**SECTION 4. AMENDMENT.** Section 43-12.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**43-12.1-16. Delegation of medication administration.**

A licensed nurse may delegate medication administration to a person exempt under ~~subsections~~ subsections 9 and 13 of section 43-12.1-04.

**SECTION 5.** Section 43-12.1-16.1 of the North Dakota Century Code is created and enacted as follows:

**43-12.1-16.1. Supervision and delegation of nursing interventions.**

A nurse may supervise and delegate nursing interventions to an individual exempt under subsection 13 of section 43-12.1-04.

**SECTION 6: APPLICATION.** The state department of health shall implement and administer the registration of unlicensed assistive persons as provided under section 2 of this



Sixty-second  
Legislative Assembly

- 1 Act within the limits of the budget requested by the department. The department may not add
- 2 any full-time equivalent positions to assist with the implementation and administration of the
- 3 registration of unlicensed assistive persons.



## **FEBRUARY 2, 2010 WORKGROUP MEEING**

### **Board of Nursing Registry Presentation**

Dr. Kalanek gave a presentation regarding the Unlicensed Assistive Person (UAP) Registry. She emailed her presentation to the workgroup members following the meeting (see handout). Presentation summary:

- There are 1,405 UAPs and 233 technicians for a total of 1,638 individuals on the UAP registry.
- Individuals on UAP registry include UAPs in Acute Care, Home Health, Hospice, Dialysis Technicians, Medical Assistants, Surgical Technicians, Workers in correctional facilities, and Workers in the DD setting.
- Individuals meet status for registration through Competency Validation by employer or successful completion of the NNAAP.
- Individuals can obtain a 90 day temporary permit and work 4 months prior to registration.
- Fees: Initial registration is \$30, and renewal is \$30 (Late fee of \$60); Criminal History Record Check processing Fee of \$20 and BCI Fee of \$47.25.
- The BON staff members investigate all complaints.
- Disciplinary options include reprimand; revocation or suspension of registration, encumbrance or denial of registration.
- Online verification — Primary source — No charge.
- Online Examination, Endorsement, and Renewal.
- The NDBON registry recognizes the ND Department of Health CNA registry and the ND Department of Human Services QSP registry.

## **APRIL 5, 2010 WORKGROUP MEEING**

### **Department of Health Registry Presentation**

Bruce Pritschet gave a presentation on the CNA Registry from other states. Handouts were provided for workgroup participants (see handout).

Presentation summary:

- The Department of Health or other departments oversees the CNA registry in 40 states (78.5%). While the Board of Nursing oversees the CNA registry through agreement in 11 state (21.5%). The Wyoming registry is now under the Department of Health again.
- Only six states (12.2%) have more than one nurse aide registry
- Twelve states (24.5%) report findings of validated abuse for certified nurse aides to the National Practitioner Data Bank.
- Only 10 states (20.4%) discipline nurse aides for issues beyond the validation of abuse/neglect.
- Thirteen states (26.5%) conduct federal criminal background checks on individuals prior to adding their name to the federal certified nurse aide registry.



## **APRIL 5, 2010 WORKGROUP MEEING**

### **North Dakota Board of Nursing Presentation**

Connie Kalanek gave a presentation on the Medication Assistant Registry.

Handouts were provided for workgroup participants (see handout).

Presentation summary:

- "Medication Assistant" means an individual who has a current registration as an unlicensed assistive person, has had additional training in administration of medication, and possesses a current registration from the board.
- The level of medication assistants and requirements needed to complete the program were reviewed.
- Medication assistant II can work in nursing homes and must be a certified nurse assistant.
- Medication assistant I can work in a basic care, assisted living, Intermediate Care Facility for the Mentally Retarded, and developmental facilities such as HIT.
- Medication assistant III can work in clinics.
- Medication Assistants are not used in hospitals.
- The workgroup discussed whether QSP's (Quality Service Providers) provide medication assistance. QSP's are trained for a specific setting. Darleen inquired as to how a QSP meets the requirements if they are not a UAP or CNA. It was recommended getting clarification as to their requirements.
- Registration fees were reviewed.
- A medication assistant is automatically put on the UAP registry.
- CMA renewal is every two years.



**North Dakota Department of Health  
Registration of Health Care Professionals Study Workgroup  
01-10**

**Health Resources Section**

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### **ND Long Term Care Association**

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### **Developmental Disabilities**

Barbara Murry, Executive Director  
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### **Home Health Care Services**

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**Testimony**  
**House Bill 1041**  
**Senate Human Services Committee**  
**Wednesday, March 2, 2011; 9:00 a.m.**  
**North Dakota Department of Health**

Good morning, Madam Chair and members of the Senate Human Services Committee. My name is Bridget Weidner, and I am a program manager in the Health Resources Section for the North Dakota Department of Health. I am here today to provide information about House Bill 1041.

The purpose of House Bill 1041 is to move the regulation and registration of nurse aides, home health aides and medication assistants I and II from the North Dakota Board of Nursing to the North Dakota Department of Health.

Currently, the Department of Health operates the federal registry for certified nurse aides (CNAs) and the Board of Nursing operates the state registry for unlicensed assistive persons (UAPs), which include nurse aides, home health aides, medication assistants, medical assistants, and surgical and dialysis technicians. The Department of Health's registry for CNAs is recognized by the Board of Nursing as specified in North Dakota Administrative Code 54-07-01-03.

The Department of Health, Division of Health Facilities, is designated by the U.S. Centers for Medicare & Medicaid Services for registration of CNAs in North Dakota. The federal certification requirements for CNAs can be found in the Social Security Act at 1819(e)(2)(A) and 1919(e)(2)(a). The cost to operate the CNA registry is covered by Medicare and Medicaid. Federal regulations require that no fee be charged to CNAs for initial registration or renewal, or for other costs associated with the regulation of CNAs.

During the 2009 Legislative Assembly, Section 3 of House Bill 1269 directed a study of the steps necessary to enable the Department of Health to administer the registry for certified nurse aides, nurse aides and unlicensed assistive persons and to examine the feasibility of one registry and a potential location for that registry. The study resulted from a need identified by the long-term care industry for one location to check the registry status of nurse aides in North Dakota.

At the request of the Long Term Care Interim Committee, the Department of Health convened a workgroup to study this issue and report back to the committee. The workgroup included members representing the Department of Health, the



Board of Nursing, the North Dakota Hospital Association, the North Dakota Long Term Care Association, the Department of Human Services, Developmental Disabilities, and Home Health Care.

The workgroup held several meetings to study this issue. All members of the workgroup agreed that ensuring the health and safety of the recipients of care was of utmost importance. With this in mind, the workgroup made the following recommendations:

- Transfer the regulation and registry of nurse aides, home health aides and medication assistants (I and II) from the Board of Nursing to the Department of Health.
- Not to charge registration fees for individuals on the nurse aide registry consistent with the federal prohibition of charging for the registration of CNAs on the department's registry.
- To seek positions and general fund support for the time and costs related to this activity.

House Bill 1041 was amended by the House to transfer the remaining individuals on the Board's UAP Registry to the Department of Health.

During the workgroup meetings, much discussion was held related to who should be transferred from the Board of Nursing's UAP Registry to the department's Nurse Aide Registry. The workgroup decided that individuals who had received formal technical training from an accredited school, and/or held national certification in their specialty area, should remain with the Board of Nursing and the individuals trained or competency evaluated as nurse aides should be transferred to the Department of Health. Examples of professions that the workgroup felt should stay with the Board of Nursing included medication assistant IIIs, medical assistants, surgical technicians and dialysis technicians.

The original fiscal note on House Bill 1041 estimated that it would require a minimum of 1.5 FTEs and \$287,870 to handle the additional workload. The cost to the department included \$238,576 for review of applications, complaint intake and investigation, disciplinary actions as needed, and review and approval of medication assistant training programs and one-time start-up costs of \$49,295 for data migration of the nurse aides, home health aides, and medication assistants I and II from the Board of Nursing registry to the Department of Health database, to make the associated web changes, and to conduct rulemaking.



With the amendment added in the House which includes the registry and regulation of all individuals and categories on the Unlicensed Assistive Persons Registry, the Department of Health would need a minimum total of 2 FTEs to handle the workload, and the total cost for the 2011-2013 biennium would increase to \$385,085.

As currently written, House Bill 1041 does not include the appropriation or FTEs needed to complete this work. Also, there is no appropriation or FTEs included in House Bill 1004, the Department of Health's budget, to complete the added workload in this bill. If this bill is passed without the needed resources, other work within the department currently covered with state funds would need to be halted to do this work. This could include activities such as surveys of basic care facilities, onsite construction visits, or programs in other areas of the department's budget.

This concludes my testimony. I am happy to answer any questions you may have.





## **NORTH DAKOTA BOARD OF NURSING**

919 S 7th St., Suite 504, Bismarck, ND 58504-5881

Telephone: (701) 328-9777 Fax: (701) 328-9785

Web Site Address: <http://www.ndbon.org>

Workplace Impairment Program: (701) 328-9783

**To: Senate Human Services Committee**

**From: ND Board of Nursing**  
**Buzz Benson CRNA, Board President**

**RE: HB 1041 Nurse Aide Registry**

**Date: March 2, 2011**

Chairman Lee and members of the committee, thank you for the opportunity to provide comments related to the proposed legislation for the transfer of the registry for nurse aides and medication assistants to the ND Department of Health.

My name is Buzz Benson CRNA, Board President from Bismarck. The Board Members and staff of the Board have worked with this Work Group to complete the provisions in the study. I do commend Dr. Bartz for her diligence and persistence in completing the charge of the Work Group.

The Board has participated in the development of the steps necessary to move the UAP Registry to the ND Department of Health. We have also evaluated and compared the fiscal impact of the move to the current UAP Registry income and expenses as well as the structural needs and human and other resources needed to establish another registry.

The NDBON has managed the Unlicensed Assistive Person(UAP) registry for nearly 20 years within the overall mission of public safety. The current registry is self sufficient with the use of the licensure and registry fees. The Board must comply with the Nurse Practices Act (NDCC chapter 43-12.1) and the North Dakota Administrative Code (NDAC Title 54) when regulating the practice of Nursing. The Board, in my opinion has done a superior job of regulating the practice of nursing and those that assist in the practice of nursing.



**Will staffing at the Board of Nursing need to be adjusted?**

**Yes, the work of the registry impacts all of the staff at the Board including the Special Assistant Attorney General. I have attached an expense breakdown for your information.**

**This concludes my testimony. I am happy to answer any questions you may have.**



**UAP MEDICATION ASSISTANT REGISTRIES  
EXPENSES BREAKDOWN**

EXPENSES		2007-2008	2008-2009	2009-2010
Professional Staff Salary & Benefits	.45 FTE	38878	40740	44081
Administrative Staff - Registry Processing	.6 FTE	30082	27640	36173
Administrative Staff - CHRC, Positive Resp	.4 FTE		16676	23470
Disciplinary Review Panel Meetings		2891	3000	3000
35% Technology & Maintenance		23367	24621	14040
35% Operating Expenses		14306	15448	23382
30% Legal Expenses		10640	10422	11689
<b>TOTALS</b>		<b>120164</b>	<b>138547</b>	<b>155835</b>

\* Instituted Criminal History Record Checks beginning 7/1/2008

	2007-2008	2008-2009	2009-2010
Income	69955	97775	100665
Expenses	120164	138547	155835
<b>Net (Loss) Gain for UAP &amp; Med Assist Registries:</b>	<b>50209</b>	<b>40772</b>	<b>55170</b>





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## HB1041 – Based on December 15, 2010 Fiscal Note

## Comparison between Costs for Operating Federal CNA Registry and Projected Costs of Addition of Nurse Aides, Home Health Aides, and Medication Assistants I and II

	ND DoH Federal CNA Registry	NEW Cost related to Transfer from BON
<b>Salaries and Wages</b>		
Administrator	\$ 124,776 (1.0 FTE)	\$117,744 (1.0 FTE)
Fringe	\$ 44,987	\$ 43,651
Admin Supp.	\$ 62,388 (1.0 FTE)	\$ 28,656 (.5 FTE)
Fringe	\$ 33,134	\$ 16,085
<b>Total Salaries and Wages</b>	<u>\$265,285</u>	<u>\$206,136</u>
<b>Operating Costs</b>		
Travel	\$10,000	\$1,000
IT-Software/Supp	\$11,480	\$8,320
Misc Supplies	\$ 10,000	\$4,000
Office Supplies	\$ 5,540	\$ 800
IT – Data Processing	\$ 9,480	\$7,320
IT – Telephone	\$18,000	\$5,000
Prof. Development	\$ 4,000	\$2,000
Legal Costs	\$16,000	\$4,000
<b>Total Operation (without Start Up Costs)</b>	<u>\$84,500</u>	<u>\$32,440</u>
<b>Start up Costs (one- time costs)</b>		
IT Registry Data Migration/Web Changes		\$42,794
Other Equip <\$5,000		\$ 1,500
Rulemaking		\$ 5,000
<b>Total One Time Operating Costs</b>		<u>\$49,294</u>
<b>Total Operating Costs</b>	<u>\$84,500</u>	<u>\$81,734</u>
<b>Total Biennial</b>	<u>\$349,785</u>	<u>\$238,576</u> plus
<b>With one time costs</b>		One- time costs of \$49,734 = <u>\$287,870</u>

**February 4, 2011 Fiscal Note Adjustments resulting from Section 6 amendment.** With the addition of Section 6, the costs related to operation of the registry are anticipated to increase by 25%, which would result in an increase of .5 FTE (total 2 FTE), and other costs for a total of \$385,085 for the biennium, which includes an increase of start up costs of \$2,059 (total \$51,353 start up costs).



## Annual Workload

Analysis Based on December 15, 2011 Fiscal Note

ND DoH CNA Registry	BON UAP Registry (Nurse Aides, Home Health Aides, Medication Assistants I and II)
<p>Approximately 14,000 Current CNAs :</p> <ul style="list-style-type: none"> <li>• General program oversight/phone calls/ receipt of allegations/correspondence: <b>Average 10 hours per week.</b></li> <li>• Individuals who are on the CNA registry are eligible to work in LTC, however are also used in other settings.</li> <li>• An individual must complete a department approved training program and a department approved national written and skills competency test to be placed on the department's registry.</li> <li>• Applications have been reviewed initially by the test vendor; those identified with concerns go through an additional review by management. <ul style="list-style-type: none"> <li>○ There are <b>approximately 2,600 Initials</b> applications per year with an average processing time of 10 minutes each by Admin Support</li> <li>○ Additional review is required on about 130 of the 2,600 initial applications which takes approximately an additional 15 minutes each</li> </ul> </li> <li>• Renewals are every two years <ul style="list-style-type: none"> <li>○ There are approximately 5,000 renewals processed each year which take an average of 8 minutes each.</li> <li>○ Endorsements from other states approximately 720 annually at an average of 15 minutes each.</li> </ul> </li> </ul>	<p>For 2008-2009, the BON reported 4009 active UAPs on their registry.</p> <ul style="list-style-type: none"> <li>• General program oversight/ phone calls/ receipt of allegations/ correspondence – unknown – <b>estimated 10 hours per week.</b></li> <li>• Individuals on the BON registry work in hospitals, home health, assisted living, basic care, developmental disabilities, and in consumer directed situations.</li> <li>• Individuals can be placed on the BON registry through <b>competency evaluation by an employer or licensed nurse, or through taking a national nurse aide competency evaluation testing program.</b> The BON reported in April 2010 that they have approximately <b>2,700 new applications each year.</b> The BON reported that it took approximately <b>25-30 minutes</b> to process a new application. It was also reported that <b>158</b> applicants needed extensive review due to history. <b>(No estimate of time provided for the additional review).</b> For Budgeting purposes we used the 15 minutes average it takes the DoH to do additional reviews.</li> <li>• Also, there is a process for placement on the BON registry as Medication Assistants I or II which would require the individual to complete initial registration as a certified/nurse aide. For 2008-2009, <b>1565</b> individuals on the registry were Medication Assistants I and II. <b>The additional time related review application to become a Medication Assistant I or II was not identified, and therefore is not included in the projected costs.</b></li> <li>• Renewals are every two years <ul style="list-style-type: none"> <li>○ The BON reported that there are 2,000 renewals annually which take 15-20 minutes to process.</li> </ul> </li> </ul>



<ul style="list-style-type: none"> <li>• Quality Assurance <ul style="list-style-type: none"> <li>○ Is completed on approximately 10 percent (average of 500 annually) of the online renewals and takes approximately 5 minutes each. This includes telephone or email verification with the employer that the information submitted online by the applicant is correct.</li> </ul> </li> <li>• Telephone/Email Verifications/Information Requests <ul style="list-style-type: none"> <li>○ Approximately 110 per month – 5 minutes each</li> </ul> </li> <li>• Complaints Investigated – Ave 22/year <ul style="list-style-type: none"> <li>○ Average time 24 hours/case</li> <li>○ Manager review of each investigation takes an additional 2 hours/case.</li> <li>○ Admin Supp 1 hour per case</li> <li>○ If a hearing is requested, it takes approximately an additional 27 hours/case. There is an average of hearings annually.</li> </ul> </li> <li>• Training Programs <ul style="list-style-type: none"> <li>○ Currently, there are 59 training programs in the state that are reviewed onsite every two years. The time to complete the preparation, onsite review, and follow-up is 16 hours per program.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Complaints Investigated – 35-40/year (There were 45 Potential Violation Reports validated on UAPs in 2008-2009) <ul style="list-style-type: none"> <li>○ Can come from any setting the UAP works in.</li> <li>○ <b>Please note that no information was received related to the time or costs related to the complaint investigations or the hearing process for complaints.</b> For the purposes of this estimate 24 hours per case for investigation was included.</li> </ul> </li> <li>• Medication Assistant Training Program Renewals <ul style="list-style-type: none"> <li>○ There are 3 Medication Assistant I programs and 11 Medication Assistant II Programs. The average time to review the programs is 14 hours/program every 4 years.</li> </ul> </li> </ul>
Time: Administrative: 1458 hours annually Admin Support: 1597 hours annually Total: 3055 hours	Time: Total hours: 3025-3537 hours annually
For Federal Budgeting purposes, an FTE is considered to produce 1500 work hours per year. The other 580 included holiday time, annual leave, sick leave, training, required breaks, and meetings.	BON reported their <b>annual cost</b> of running their UAP program to be <b>\$155,835</b> <del>(\$311,760)</del> for two years for the 2001-2010 year. This does not include the 3% which is to be added to projected budget each year for the next two years.



To: Senator Judy See

#5

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

Page 1, line 4, after "43-12.1-02" insert ", subsection 9 of section 43-12.1-04,"

Page 2, line 19, after the underscored comma insert "an employee of a school district or nonpublic school who is exempt from chapter 43-12.1 under subdivision f of subsection 9 of section 43-12.1-04,"

Page 3, after line 14, insert:

**"SECTION 3. AMENDMENT.** Subsection 9 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. A person that provides medications, other than by the parenteral route:

- a. Within a correctional facility, in compliance with section 12-44.1-29;
- b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
- c. Within a treatment or care center for developmentally disabled persons licensed under chapter 25-16;
- d. Within a group home, a residential child care facility, or an adult foster care facility licensed under section 50-11-01 or North Dakota Administrative Code chapter 75-03-16;
- e. Within the developmental center at westwood park, Grafton, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of human services; or
- f. Within a school setting, to the extent the individual who provides the medication is an employee of a school district or a nonpublic school, the medication is provided to a student of that school district or nonpublic school, and the school has on file a document from the student's parent or guardian which authorizes the provision of the medicine and provides instructions; or
- g. Within a human service center licensed under chapter 50-06."

Renumber accordingly

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Darlene Barth 3-8-2011

#6

PROPOSED AMENDMENTS TO HOUSE BILL 1041

Page 1, line 7 remove "application" and insert "an appropriation"

Page 3, replace lines 30 and 31 with

**SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$287,870, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and maintaining a nurse aide registry for the biennium beginning July 1, 2011 and ending June 30, 2013. This appropriation includes an additional 1.5 FTEs provided to the state department of health to maintain the nurse aide registry.

Page 4, remove lines 1 through 3

Renumber accordingly



from 7000 version

#1

PROPOSED AMENDMENTS TO ENGROSSED HB 1041

That the Senate recede from its amendments as printed on pages 1171 and 1172 of the Senate Journal and pages 1421 and 1422 of the House Journal and that Engrossed House Bill No. 1041 be amended as follows:

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 5, replace "not charge" with "collect registration"

\* Page 3, line 5, after "fees" insert "of twenty-five dollars per individual"

Page 3, line 5, remove "for initial registration or"

Page 3, remove lines 6 and 7

Page 3, line 8, replace "renewal of registration as a certified nurse aide" with "from the individual or the individual's employer"

Page 3, after line 8, insert:

"5. Registration fees collected by the department must be deposited in the department's operating account."

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, line 30, replace "APPLICATION" with "APPROPRIATION"

Page 3, line 30, remove "The state department of health shall implement and"

Page 3, remove line 31

\* Page 4, replace lines 1 through 3 with "There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$155,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly



#2  
"SECTION 5. AMENDMENT. Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-02. North Dakota health care trust fund created - Uses - Continuing appropriation.**

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:
  - a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
  - b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
  - c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.
  - d. Operation and maintenance of the nurse aide registry.
2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.
3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06, except for the operation and maintenance of the nurse aide registry as provided for in this section."



March 29, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

In lieu of the amendments adopted by the Senate as printed on page 710 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

Page 1, line 7, replace "for application" with "an appropriation"

Page 3, line 5, remove "not"

Page 3, line 5, after "charge" insert "registration"

Page 3, line 5, remove "for initial registration or"

Page 3, remove lines 6 and 7

Page 3, line 8, remove "renewal of registration as a certified nurse aide"

Page 3, after line 8, insert:

"5. Registration fees collected by the department must be deposited in the department's operating account."

Page 3, line 12, after "the" insert "state department of health"

Page 3, line 12, remove "under section 1 of this Act"

Page 3, line 17, after "the" insert "state department of health"

Page 3, line 17, remove "under section 1 of this Act"

Page 3, line 30, replace "**APPLICATION**" with "**APPROPRIATION**"

Page 3, line 30, remove "The state department of health shall implement and"

Page 3, remove line 31

Page 4, replace lines 1 through 3 with "There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$287,870, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry."

Renumber accordingly



requested information 2  
 HB 1041 Subcommittee  
 3-30-11

HB1041 – Based on March 14, 2011 Fiscal Note  
 Comparison between Costs for Operating Federal CNA Registry and Projected Costs of Addition of Nurse  
 Aides, Home Health Aides, and Medication Assistants I and II

	ND DoH Federal CNA Registry	NEW Cost related to Transfer from BON
<b>Salaries and Wages</b>		
Administrator	\$ 124,776 (1.0 FTE)	\$117,744 (1.0 FTE)
Fringe	\$ 44,987	\$ 43,651
Admin Supp.	\$ 62,388 (1.0 FTE)	\$ 28,656 (.5 FTE)
Fringe	\$ 33,134	\$ 16,085
Total Salaries and Wages	<u>\$265,285</u>	<u>\$206,136</u>
<b>Operating Costs</b>		
Travel	\$10,000	\$1,000
IT-Software/Supp	\$11,480	\$8,320
Misc Supplies	\$ 10,000	\$4,000
Office Supplies	\$ 5,540	\$ 800
IT – Data Processing	\$ 9,480	\$7,320
IT – Telephone	\$18,000	\$5,000
Prof. Development	\$ 4,000	\$2,000
Legal Costs	\$16,000	\$4,000
Total Operation (without Start Up Costs)	<u>\$84,500</u>	<u>\$32,440</u>
<b>Start up Costs (one- time costs)</b>		
IT Registry Data Migration/Web Changes		\$42,794
Other Equip <\$5,000		\$ 1,500
Rulemaking		\$ 5,000
<b>Total One Time Operating Costs</b>		<u>\$49,294</u>
<b>Total Operating Costs</b>	<u>\$84,500</u>	<u>\$81,734</u>
<b>Total Biennial</b>	<u>\$349,785</u>	<u>\$238,576</u> plus
<b>With one time costs</b>		One- time costs of \$49,734 = <u>\$287,870</u>



## Annual Workload

Analysis Based on March 14, 2011 Fiscal Note

ND DoH CNA Registry	BON UAP Registry (Nurse Aides, Home Health Aides, Medication Assistants I and II)
<p>Approximately 14,000 Current CNAs :</p> <ul style="list-style-type: none"> <li>• General program oversight/phone calls/ receipt of allegations/correspondence: <b>Average 10 hours per week.</b></li> <li>• Individuals who are on the CNA registry are eligible to work in LTC, however are also used in other settings.</li> <li>• An individual must complete a department approved training program and a department approved national written and skills competency test to be placed on the department's registry.</li> <li>• Applications have been reviewed initially by the test vendor; those identified with concerns go through an additional review by management. <ul style="list-style-type: none"> <li>○ There are <b>approximately 2,600 Initials</b> applications per year with an average processing time of 10 minutes each by Admin Support</li> <li>○ Additional review is required on about 130 of the 2,600 initial applications which takes approximately an additional 15 minutes each</li> </ul> </li> <li>• Renewals are every two years <ul style="list-style-type: none"> <li>○ There are approximately 5,000 renewals processed each year which take an average of 8 minutes each.</li> <li>○ Endorsements from other states approximately 720 annually at an</li> </ul> </li> </ul>	<p>For 2008-2009, the BON reported 4009 active UAPs on their registry.</p> <ul style="list-style-type: none"> <li>• General program oversight/ phone calls/ receipt of allegations/ correspondence – unknown – <b>estimated 10 hours per week.</b></li> <li>• Individuals on the BON registry work in hospitals, home health, assisted living, basic care, developmental disabilities, and in consumer directed situations.</li> <li>• Individuals can be placed on the BON registry through <b>competency evaluation by an employer or licensed nurse, <u>or</u> through taking a national nurse aide competency evaluation testing program.</b> The BON reported in April 2010 that they have approximately <b>2,700 new applications each year.</b> The BON reported that it took approximately <b>25-30 minutes</b> to process a new application. It was also reported that <b>158</b> applicants needed extensive review due to history. <b>(No estimate of time provided for the additional review).</b> For Budgeting purposes we used the 15 minutes average it takes the DoH to do additional reviews.</li> <li>• Also, there is a process for placement on the BON registry as Medication Assistants I or II which would require the individual to complete initial registration as a certified/nurse aide. For 2008-2009, <b>1565</b> individuals on the registry were Medication Assistants I and II. <b>The additional time related review application to become a Medication Assistant I or II was not identified, and therefore is not included in the projected costs.</b></li> <li>• Renewals are every two years <ul style="list-style-type: none"> <li>○ The BON reported that there are 2,000 renewals annually which take 15-20 minutes to process.</li> </ul> </li> </ul>



<p>average of 15 minutes each.</p> <ul style="list-style-type: none"> <li>• Quality Assurance <ul style="list-style-type: none"> <li>○ Is completed on approximately 10 percent (average of 500 annually) of the online renewals and takes approximately 5 minutes each. This includes telephone or email verification with the employer that the information submitted online by the applicant is correct.</li> </ul> </li> <li>• Telephone/Email Verifications/Information Requests <ul style="list-style-type: none"> <li>○ Approximately 110 per month – 5 minutes each</li> </ul> </li> <li>• Complaints Investigated – Ave 22/year <ul style="list-style-type: none"> <li>○ Average time 24 hours/case</li> <li>○ Manager review of each investigation takes an additional 2 hours/case.</li> <li>○ Admin Supp 1 hour per case</li> <li>○ If a hearing is requested, it takes approximately an additional 27 hours/case. There is an average of hearings annually.</li> </ul> </li> <li>• Training Programs <ul style="list-style-type: none"> <li>○ Currently, there are 59 training programs in the state that are reviewed onsite every two years. The time to complete the preparation, onsite review, and follow-up is 16 hours per program.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Complaints Investigated – 35-40/year (There were 45 Potential Violation Reports validated on UAPs in 2008-2009) <ul style="list-style-type: none"> <li>○ Can come from any setting the UAP works in.</li> <li>○ <b>Please note that no information was received related to the time or costs related to the complaint investigations or the hearing process for complaints.</b> For the purposes of this estimate 24 hours per case for investigation was included.</li> </ul> </li> <li>• Medication Assistant Training Program Renewals <ul style="list-style-type: none"> <li>○ There are 3 Medication Assistant I programs and 11 Medication Assistant II Programs. The average time to review the programs is 14 hours/program every 4 years.</li> </ul> </li> </ul>
<p>Time: Administrative: 1458 hours annually Admin Support: 1597 hours annually Total: 3055 hours</p>	<p>Time: Total hours: 3025-3537 hours annually</p>
<p>For Federal Budgeting purposes, an FTE is considered to produce 1500 work hours per year. The other 580 included holiday time, annual leave, sick leave, training, required breaks, and meetings.</p>	<p>BON reported their <b>annual cost</b> of running their UAP program to be <b>\$155,835 (\$311,760</b> for two years). This does not include the 3% which is to be added to projected budget each year for the next two years.</p>