

**FIRST ENGROSSMENT  
with Senate Amendments**

Fifty-eighth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1400**

Introduced by

Representatives Devlin, Boucher, Nelson, Price

Senators Fischer, J. Lee

1 A BILL for an Act to amend and reenact sections 23-09.3-01.1 and 23-16-01.1 of the North  
2 Dakota Century Code, relating to a moratorium on expansion of the licensed basic care and  
3 long-term bed capacity, the conversion of beds, and the transfer of existing basic care beds  
4 from one municipality to another municipality or to a tribal reservation.

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

6 **SECTION 1. AMENDMENT.** Section 23-09.3-01.1 of the North Dakota Century Code  
7 is amended and reenacted as follows:

8 **23-09.3-01.1. Moratorium on expansion of basic care bed capacity.**

- 9 1. Except when a nursing facility that converts licensed nursing facility bed capacity  
10 to basic care bed capacity or the alzheimer's and related dementia pilot projects  
11 established under section 50-06-14.4 requests licensure of the facility's existing  
12 beds as basic care bed capacity, or unless the applicant demonstrates to the  
13 department and to the department of human services that a need for additional  
14 basic care bed capacity exists, the department may not issue a license under this  
15 chapter for any additional bed capacity above the state's gross licensed capacity of  
16 one thousand four hundred seventy-one beds, adjusted by any reduction in beds  
17 before July 31, ~~2004~~ 2003, during the period between August 1, ~~2004~~ 2003, and  
18 July 31, ~~2003~~ 2007.
- 19 2. Transfers of existing beds from one municipality to another municipality must be  
20 approved if the licensing requirements are met, during the period August 1, ~~2004~~  
21 2003, to July 31, ~~2003~~, ~~only to the extent that for each bed transfer approved the~~  
22 ~~total number of licensed beds in the state is reduced by the same number~~  
23 ~~transferred~~ 2007. Existing licensed beds released by a facility and transferred to

another facility must become licensed within ~~twenty-four~~ forty-eight months of transfer.

3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, ~~2004~~ 2003, to July 31, ~~2003~~ 2007, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to ~~twice~~ the number of beds transferred. A tribal facility may seek to participate, within ~~twenty-four~~ forty-eight months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. ~~The converted beds must be located in the same block of rooms within the facility.~~

**SECTION 2. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when a nursing facility converts basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, ~~2004~~ 2003, during the period between August 1, ~~2004~~ 2003, and July 31, ~~2003~~ 2007.

- 1           2.   Transfers of existing beds from one municipality to another municipality must be  
2           approved if the state department of health licensing requirements are met, during  
3           the period August 1, ~~2004~~ 2003, to July 31, ~~2003~~, ~~only to the extent that for each~~  
4           ~~bed transfer approved the total number of licensed beds in the state is reduced by~~  
5           ~~the same number transferred~~ 2007. Existing licensed beds released by a facility  
6           and transferred to another facility must become licensed within ~~twenty-four~~  
7           forty-eight months of transfer.
- 8           3.   Transfer of existing beds from one municipality to a tribal reservation during the  
9           period August 1, ~~2004~~ 2003, to July 31, ~~2003~~ 2007, may occur, only to the extent  
10          that the facility transferring beds reduces the facility's licensed capacity by an  
11          amount equal to ~~twice~~ the number of beds transferred. A tribal facility may seek to  
12          participate, within ~~twenty-four~~ forty-eight months of any transfer of beds, in the  
13          medical assistance program. Medical assistance payments may only be made to  
14          a medicaid-certified tribal facility that agrees to participate and adhere to all federal  
15          and state requirements of the medical assistance program including participation,  
16          screening, ratesetting, and licensing requirements.
- 17          4.   Not more than once in a twelve-month period, a nursing facility may convert  
18          licensed nursing facility bed capacity to basic care bed capacity or may convert  
19          basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to  
20          licensed nursing facility bed capacity. At least ninety days before the conversion,  
21          the facility shall notify the state department of health of the facility's intent to  
22          convert bed capacity. ~~The converted beds must be located in the same block of~~  
23          ~~rooms within the facility.~~