

**FIRST ENGROSSMENT  
with Senate Amendments**

Fifty-ninth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1190**

Introduced by

Representatives Devlin, Kreidt, Metcalf

Senators Fischer, J. Lee, Robinson

- 1 A BILL for an Act to amend and reenact section 23-09.3-01.1 of the North Dakota Century  
2 Code, relating to a moratorium on the expansion of basic care bed capacity.

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

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

6 **23-09.3-01.1. Moratorium on expansion of basic care bed capacity.**

7 1. ~~Except when a nursing facility that converts licensed nursing facility bed capacity~~  
8 ~~to basic care bed capacity or the alzheimer's and related dementia pilot projects~~  
9 ~~established under section 50-06-14.4 requests licensure of the facility's existing~~  
10 ~~beds as basic care bed capacity, or unless the applicant demonstrates to the~~  
11 ~~department and to the department of human services that a need for additional~~  
12 ~~basic care bed capacity exists, the department may not issue a license under this~~  
13 ~~chapter for any additional bed capacity above the state's gross licensed capacity of~~  
14 ~~one thousand four hundred seventy one beds, adjusted by any reduction in beds~~  
15 ~~before July 31, 2003, Basic care beds may not be added to the state's licensed~~  
16 ~~bed capacity during the period between August 1, 2003 2005, and July 31, 2007,~~  
17 except when:

- 18 a. A nursing facility converts nursing facility beds to basic care; or  
19 b. An entity demonstrates to the state department of health and the department  
20 of human services that basic care services are not readily available within a  
21 designated area of the state or that existing basic care beds within a fifty-mile  
22 radius have been occupied at ninety percent or more for the previous twelve  
23 months.

- 1           2.   Transfers of ~~existing~~ basic care beds from one ~~municipality~~ basic care facility to  
2           another ~~municipality~~ must be approved if the licensing requirements are met,  
3           ~~during the period August 1, 2003, to July 31, 2007.~~ Existing licensed entity is  
4           permitted. Transferred basic care beds released by a facility and transferred to  
5           ~~another facility~~ must become licensed within forty-eight months of transfer. The  
6           entity receiving the transferred beds or any new facility may seek to participate in  
7           the basic care assistance program. If the entity can demonstrate that individuals  
8           can be cared for at a more independent level and that this service will delay entry  
9           into the nursing facility, the entity may be approved for basic care assistance  
10          funds.
- 11          3.   ~~Transfer of existing beds from one municipality to a tribal reservation during the~~  
12          ~~period August 1, 2003, to July 31, 2007, may occur, only to the extent that the~~  
13          ~~facility transferring beds reduces the facility's licensed capacity by an amount~~  
14          ~~equal to the number of beds transferred.~~ If an Indian tribe acquires basic care  
15          beds on a reservation, the tribal facility must meet state licensing requirements for  
16          those beds within forty-eight months of acquisition. A tribal facility may seek to  
17          ~~participate, within forty-eight months of any transfer of beds,~~ in the basic care  
18          assistance program. Basic care assistance payments may only be made to a tribal  
19          facility that agrees to participate and adhere to all federal and state requirements  
20          of the basic care assistance program including participation, screening, ratesetting,  
21          and licensing requirements.
- 22          4.   ~~Not more than once in a twelve month period, a nursing facility may convert~~  
23          ~~licensed nursing facility bed capacity to basic care bed capacity or may convert~~  
24          ~~basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to~~  
25          ~~licensed nursing facility bed capacity. At least ninety days before the conversion,~~  
26          ~~the facility shall notify the state department of the facility's intent to convert bed~~  
27          ~~capacity.~~