

**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

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

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

21 **23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

- 22 1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are
23 converted for use by the alzheimer's and related dementia population under the
24 projects provided for in section 50-06-14.4 or when a nursing facility converts basic
25 care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing
26 facility bed capacity, the state department of health may not issue a license for any
27 additional bed capacity above the state's gross licensed capacity of seven
28 thousand one hundred forty beds, adjusted by any reduction in beds before
29 July 31, ~~2004~~ 2003, during the period between August 1, ~~2004~~ 2003, and July 31,
30 ~~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.~~