

**SECOND ENGROSSMENT  
with House Amendments**

Fifty-seventh  
Legislative Assembly  
of North Dakota

**REENGROSSED SENATE BILL NO. 2098**

Introduced by

Human Services Committee

(At the request of the Indian Affairs Commission)

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 the moratorium on expansion of basic and long-term care bed  
3 capacity.

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

5 **SECTION 1. AMENDMENT.** Section 23-09.3-01.1 of the 1999 Supplement to the  
6 North Dakota Century Code is amended and reenacted as follows:

7 **23-09.3-01.1. Moratorium on expansion of basic care bed capacity.**

- 8 1. Except when ~~existing beds are converted for use by a nursing facility that converts~~  
9 ~~licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's~~  
10 ~~and related dementia population under the pilot projects provided for in~~  
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, ~~4999~~ 2001, during the period between August 1, ~~4999~~ 2001, and  
18 July 31, ~~2004~~ 2003.
- 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, ~~4999~~  
21 2001, to July 31, ~~2004~~ 2003, only to the extent that for each bed transfer approved  
22 the total number of licensed beds in the state is reduced by the same number  
23 transferred. Existing licensed beds released by a facility ~~which are not~~  
24 ~~immediately and~~ transferred to another facility ~~may not be banked for future~~

- 1           ~~transfer to another facility~~ must become licensed within twenty-four months of  
2           transfer.
- 3           3. Transfer of existing beds from one municipality to a tribal reservation during the  
4           period August 1, 2001, to July 31, 2003, may occur, only to the extent that the  
5           facility transferring beds reduces the facility's licensed capacity by an amount  
6           equal to twice the number of beds transferred. A tribal facility may seek to  
7           participate, within twenty-four months of any transfer of beds, in the basic care  
8           assistance program. Basic care assistance payments may only be made to a tribal  
9           facility that agrees to participate and adhere to all federal and state requirements  
10           of the basic care assistance program including participation, screening, ratesetting,  
11           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 1999 Supplement to the North  
20           Dakota Century Code is 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, ~~4999~~ 2001, during the period between August 1, ~~4999~~ 2001, and July 31,  
30           ~~2004~~ 2003.

- 1           2. Transfers of existing beds from one municipality to another municipality must be  
2 approved if the department of health licensing requirements are met, during the  
3 period August 1, ~~1999~~ 2001, to July 31, ~~2004~~ 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. Existing licensed beds released by a facility ~~which~~  
6 ~~are not immediately~~ and transferred to another facility ~~may not be banked for~~  
7 ~~future transfer to another facility~~ must become licensed within twenty-four months  
8 of transfer.
- 9           3. Transfer of existing beds from one municipality to a tribal reservation during the  
10 period August 1, 2001, to July 31, 2003, may occur, only to the extent that the  
11 facility transferring beds reduces the facility's licensed capacity by an amount  
12 equal to twice the number of beds transferred. A tribal facility may seek to  
13 participate, within twenty-four months of any transfer of beds, in the medical  
14 assistance program. Medical assistance payments may only be made to a  
15 medicaid-certified tribal facility that agrees to participate and adhere to all federal  
16 and state requirements of the medical assistance program including participation,  
17 screening, ratesetting, and licensing requirements.
- 18           4. Not more than once in a twelve-month period, a nursing facility may convert  
19 licensed nursing facility bed capacity to basic care bed capacity or may convert  
20 basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to  
21 licensed nursing facility bed capacity. At least ninety days before the conversion,  
22 the facility shall notify the state department of the facility's intent to convert bed  
23 capacity. The converted beds must be located in the same block of rooms within  
24 the facility.