

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 23-09.3-01.1 and subsection 1 of section  
2 23-16-01.1 of the North Dakota Century Code, relating to the moratoria on basic care and  
3 nursing facility bed capacity.

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

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

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

8 1. Basic care beds may not be added to the state's licensed bed capacity during the  
9 period between August 1, ~~2013~~2015, and July 31, ~~2015~~2017, except when:

- 10 a. A nursing facility converts nursing facility beds to basic care;
- 11 b. An entity licenses bed capacity transferred as basic care bed capacity under  
12 section 23-16-01.1;
- 13 c. An entity demonstrates to the state department of health and the department of  
14 human services that basic care services are not readily available within a  
15 designated area of the state or that existing basic care beds within a fifty-mile  
16 [80.47-kilometer] radius have been occupied at ninety percent or more for the  
17 previous twelve months. In determining whether basic care services will be  
18 readily available if an additional license is issued, preference may be given to an  
19 entity that agrees to any participation program established by the department of  
20 human services for individuals eligible for services under the medical assistance  
21 program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or  
22 d. The state department of health and the department of human services grant  
23 approval of new basic care beds to an entity. The approved entity shall license  
24 the beds within forty-eight months from the date of approval.

- 1           2.   Transfers of basic care beds from one basic care facility to another entity is permitted.  
2           Transferred basic care beds must become licensed within forty-eight months of  
3           transfer. The entity receiving the transferred beds or any new facility may seek to  
4           participate in the basic care assistance program. If the entity can demonstrate that  
5           individuals can be cared for at a more independent level and that this service will delay  
6           entry into the nursing facility, the entity may be approved for basic care assistance  
7           funds.
- 8           3.   If an Indian tribe acquires basic care beds, the tribal facility must meet state licensing  
9           requirements for those beds within forty-eight months of acquisition. A tribal facility  
10          may seek to participate in the basic care assistance program. Basic care assistance  
11          payments may only be made to a tribal facility that agrees to participate and adhere to  
12          all federal and state requirements of the basic care assistance program including  
13          participation, screening, ratesetting, and licensing requirements.

14           **SECTION 2. AMENDMENT.** Subsection 1 of section 23-16-01.1 of the North Dakota  
15 Century Code is amended and reenacted as follows:

- 16          1.   Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic  
17          care beds to nursing facility beds or relicenses nursing facility beds delicensed after  
18          July 31, 2011, nursing facility beds may not be added to the state's licensed bed  
19          capacity during the period between August 1, ~~2013~~2015, and July 31, ~~2015~~2017. A  
20          nursing facility may not delicense nursing facility bed capacity, relicense nursing facility  
21          bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert  
22          licensed basic care bed capacity back to nursing facility bed capacity, or otherwise  
23          reconfigure licensed nursing facility bed capacity more than one time in a  
24          twelve-month period.