

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 23-16-01.1 of the North Dakota Century Code,  
2 relating to the moratorium on the expansion of long-term care bed capacity.

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

4 **SECTION 1. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

- 7 1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic  
8 care beds to nursing facility beds or relicenses nursing facility beds delicensed after  
9 July 31, 2011, nursing facility beds may not be added to the state's licensed bed  
10 capacity during the period between August 1, 2019, and July 31, 2021. A nursing  
11 facility may not delicense nursing facility bed capacity, relicense nursing facility bed  
12 capacity, convert licensed nursing bed capacity to basic care bed capacity, revert  
13 licensed basic care bed capacity back to nursing facility bed capacity, or otherwise  
14 reconfigure licensed nursing facility bed capacity more than ~~one time~~two times in a  
15 twelve-month period.
- 16 2. Transfer of licensed nursing facility bed capacity from a nursing facility to another  
17 entity is permitted. The nursing facility may transfer the bed capacity either as nursing  
18 facility bed capacity or basic care bed capacity. Transferred bed capacity must  
19 become licensed by an entity within seventy-two months of transfer. Bed capacity  
20 transferred as basic care bed capacity may not be reverted to nursing facility bed  
21 capacity at any time. A receiving entity may transfer the received bed capacity to  
22 another entity within the seventy-two-month period originally established at the time  
23 the nursing facility first transferred the licensed nursing facility bed capacity. The

- 1 subsequent receiving entity must license the received bed capacity within the  
2 seventy-two-month period originally established at the time of the first transfer.
- 3 3. A nursing facility may convert licensed nursing facility bed capacity to basic care. If the  
4 converted beds remain in the same facility and are not transferred, the beds may  
5 revert to nursing facility status after one year of licensure as basic care beds.
- 6 4. Nursing facility beds that are converted to basic care may be transferred as basic care  
7 beds. However, upon the transfer, the basic care beds may not be relicensed as  
8 nursing facility beds.
- 9 5. If ~~an Indian tribe~~ a federally recognized tribal nation acquires nursing facility beds, the  
10 tribal facility must meet state licensing requirements for those beds within seventy-two  
11 months of acquisition. A tribal facility may seek to participate in the medical assistance  
12 programs. Medical assistance payments may only be made to a Medicaid certified  
13 tribal facility that agrees to participate and adhere to all federal and state requirements  
14 of the medical assistance program, including participation, screening, ratesetting, and  
15 licensing requirements.
- 16 6. A nursing facility, upon prior written notice to the state department of health, may  
17 delicense a maximum of ~~twenty-five~~thirty percent of its licensed nursing facility bed  
18 capacity and have the delicensed nursing facility held for a period of forty-eight  
19 months. The total delicensed nursing facility bed capacity that may be held for a  
20 nursing facility at no time may be greater than fifty percent of the number of currently  
21 licensed beds in the nursing facility. Delicensed nursing facility bed capacity in excess  
22 of fifty percent of the nursing facility's licensed capacity may not be held and is not  
23 eligible for the provisions of subsection 7. Delicensed bed capacity not sold or  
24 relicensed at the conclusion of the forty-eight-month holding period ceases to exist.
- 25 7. During the forty-eight-month holding period established at the time of delicensure,  
26 delicensed nursing facility bed capacity that is being held for the nursing facility may  
27 be:
- 28 a. Relicensed by the nursing facility. Relicensing of nursing facility bed capacity may  
29 not occur for twelve months from the time of delicensure.
- 30 b. Transferred to another entity as nursing facility bed capacity or basic care bed  
31 capacity. The receiving entity must license the transferred bed capacity as the

- 1 type of bed capacity transferred within a seventy-two-month period established at  
2 the time of transfer. Bed capacity transferred as basic care bed capacity may not  
3 be reverted to nursing facility bed capacity at any time. A receiving entity may  
4 transfer the received bed capacity to another entity within the seventy-two-month  
5 period established at the time of transfer. The subsequent receiving entity must  
6 license the received bed capacity within the seventy-two-month period  
7 established at the time of transfer.
- 8 c. Licensed as basic care beds by the same facility. If the licensed basic care beds  
9 remain in the same facility and are not transferred, the beds may be reverted to  
10 licensed nursing facility bed capacity after twelve months.
- 11 8. Notwithstanding any other provision of this section, a nursing facility bed transferred  
12 before July 1, 2019, must be relicensed by the receiving entity within a seventy-two-  
13 month period established at the time of transfer.
- 14 9. Notwithstanding any other provision of this section, a nursing facility bed in the  
15 layaway program before July 1, 2019, may remain in the program for forty-eight  
16 months from the time the bed was first laid away.