

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1190  
(Representatives Devlin, Kreidt, Metcalf)  
(Senators Fischer, J. Lee, Robinson)

AN ACT to amend and reenact section 23-09.3-01.1 of the North Dakota Century Code, relating to a moratorium on the expansion of basic care bed capacity.

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

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

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

1. ~~Except when a nursing facility that converts licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia pilot projects established under section 50-06-14.4 requests licensure of the facility's existing beds as basic care bed capacity, or unless the applicant demonstrates to the department and to the department of human services that a need for additional basic care bed capacity exists, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy one beds, adjusted by any reduction in beds before July 31, 2003; Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, 2003 2005, and July 31, 2007, except when:~~
  - a. A nursing facility converts nursing facility beds to basic care; or
  - b. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile radius have been occupied at ninety percent or more for the previous twelve months.
2. ~~Transfers of existing basic care beds from one municipality basic care facility to another municipality must be approved if the licensing requirements are met, during the period August 1, 2003, to July 31, 2007. Existing licensed entity is permitted. Transferred basic care beds released by a facility and transferred to another facility must become licensed within forty-eight months of transfer. The entity receiving the transferred beds or any new facility may seek to participate in the basic care assistance program. If the entity can demonstrate that individuals can be cared for at a more independent level and that this service will delay entry into the nursing facility, the entity may be approved for basic care assistance funds.~~
3. ~~Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2003, to July 31, 2007, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to the number of beds transferred. If an Indian tribe acquires basic care beds, the tribal facility must meet state licensing requirements for those beds within forty-eight months of acquisition. A tribal facility may seek to participate, within forty-eight months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.~~

4. ~~Not more than once in a twelve month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity.~~

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1190.

House Vote:      Yeas    92      Nays    0      Absent    2

Senate Vote:    Yeas    46      Nays    0      Absent    1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State