

FIRST ENGROSSMENT
with House AmendmentsSixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2109

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 23-16 of the North Dakota
2 Century Code, relating to a moratorium exemption; to amend and reenact subsection 1 of
3 section 23-09.3-01.1 and subsection 1 of section 23-16-01.1 of the North Dakota Century
4 Code, relating to the moratorium on licensing of basic care for medical assistance recipient
5 beds and the moratorium on expansion of long-term care bed capacity; to provide for a
6 legislative council study; and to declare an emergency.

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

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

- 10 1. Basic care beds may not be added to the state's licensed bed capacity during the
11 period between August 1, ~~2005~~ 2007, and July 31, ~~2007~~ 2009, except when:
- 12 a. A nursing facility converts nursing facility beds to basic care; or
- 13 b. An entity demonstrates to ~~the state department of health and~~ the department
14 of 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 radius have been occupied at ninety percent or more for the previous twelve
17 months. In determining whether basic care services will be readily available if
18 an additional license is issued, preference may be given to an entity that
19 agrees to any participation program established by the department of human
20 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.].
- 22 c. If the department of human services grants approval of new basic care beds
23 to an entity, the approved entity shall license the beds within forty-eight
24 months from the date of approval.

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

- 3 1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts
4 basic care beds to nursing facility beds, nursing facility beds may not be added to
5 the state's licensed bed capacity during the period between August 1, ~~2005~~ 2007,
6 and July 31, ~~2007~~ 2009. A nursing facility may not convert licensed nursing bed
7 capacity to basic care bed capacity or convert basic care beds back to nursing
8 facility beds more than one time in a twelve-month period if the beds have been
9 licensed as basic care.

10 **SECTION 3. AMENDMENT.** A new section to chapter 23-16 of the North Dakota
11 Century Code is created and enacted as follows:

12 **Moratorium exemption.** The department of human services shall exempt any entity
13 from the moratorium under section 23-16-01.1 if that entity demonstrates to the department an
14 access critical area in which the skilled nursing bed population is less than sixty beds per one
15 thousand elderly individuals. An exemption granted under this section may not become
16 effective until March 1, 2009.

17 **SECTION 4. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE.** The legislative
18 council shall study the state's long-term care system including geographical boundaries for
19 determining capacity, capacity, access, workforce, reimbursement, and payment incentives.
20 The legislative council shall report its findings and recommendations, together with any
21 legislation required to implement the recommendations, to the sixty-first legislative assembly.

22 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.