

**FIRST ENGROSSMENT
with Conference Committee Amendments
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 amend and reenact subsection 1 of section 23-09.3-01.1 and subsection 1
2 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on
3 licensing of basic care for medical assistance recipient beds and the moratorium on expansion
4 of long-term care bed capacity; to provide for a legislative council study; and to declare an
5 emergency.

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

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

- 9 1. Basic care beds may not be added to the state's licensed bed capacity during the
10 period between August 1, ~~2005~~ 2007, and July 31, ~~2007~~ 2009, except when:
- 11 a. A nursing facility converts nursing facility beds to basic care; or
- 12 b. An entity demonstrates to the state department of health and the department
13 of human services that basic care services are not readily available within a
14 designated area of the state or that existing basic care beds within a fifty-mile
15 radius have been occupied at ninety percent or more for the previous twelve
16 months. In determining whether basic care services will be readily available if
17 an additional license is issued, preference may be given to an entity that
18 agrees to any participation program established by the department of human
19 services for individuals eligible for services under the medical assistance
20 program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].
- 21 c. If the state department of health and the department of human services grant
22 approval of new basic care beds to an entity, the approved entity shall license
23 the beds within forty-eight 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. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE.** During the
11 2007-08 interim, the legislative council shall study the state's long-term care system including
12 capacity, geographical boundaries for determining capacity, the need for home and
13 community-based services, a methodology to identify areas of the state which are in need of
14 additional skilled nursing facility beds, access, workforce, reimbursement, and payment
15 incentives. The legislative council shall report its findings and recommendations, together with
16 any legislation required to implement the recommendations, to the sixty-first legislative
17 assembly.

18 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.