

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

400T0750

## SENATE BILL NO. 196

Introduced by: The Committee on Health and Human Services at the request of the Office of  
the Governor

1 FOR AN ACT ENTITLED, An Act to allow for the redistribution of existing nursing facility  
2 beds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of §§ 34-12-35.4 and 34-12-39.2, the Department of Health  
7 may authorize the increase in the number of beds in an existing nursing facility or may authorize  
8 the construction of a new nursing facility as defined in § 34-12-1.1, so long as the total number  
9 of nursing facility beds statewide does not exceed the total number of beds in existence  
10 statewide on July 1, 2005.

11 Section 2. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The Department of Health, with assistance from the Department of Social Services, may  
14 annually consider the need for additional nursing facility beds or additional new nursing  
15 facilities or both in defined areas of the state. In doing so, the following factors shall be taken



1 into consideration:

- 2 (1) The current number of available nursing facility beds and nursing facilities in the  
3 defined area;
- 4 (2) The current and projected future need for additional nursing facility beds and nursing  
5 facilities in the defined area and the current long-term care needs of the population  
6 to be served;
- 7 (3) The potential impact on existing nursing facilities; and
- 8 (4) Any additional costs to the state that may result.

9 Section 3. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 If a need for additional nursing facility beds or additional new nursing facilities or both in  
12 a defined area is identified by the Department of Health in accordance with section 2 of this Act,  
13 the department shall solicit and evaluate proposals to address the identified need. In doing so  
14 the department shall utilize the process and criteria established in §§ 5-18D-17 to 5-18D-20,  
15 inclusive. Additionally, the Department of Health may promulgate rules pursuant to chapter 1-  
16 26 to establish additional criteria specific to the identified need. The rules may include criteria  
17 pertaining to:

- 18 (1) Minimum nursing facility occupancy rates;
- 19 (2) Unique characteristics of the area and population to be served;
- 20 (3) Proposal viability, including financial business plan information and payor source  
21 information;
- 22 (4) Local community support for the proposed project;
- 23 (5) Benchmarks for quality assurance;
- 24 (6) Additional services to be provided; and

1 (7) Ability to meet workforce needs.

2 Section 4. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Notwithstanding the provisions of § 34-12-35.4, an existing nursing facility as defined in  
5 § 34-12-1.1 may increase its number of beds with prior authorization by the Department of  
6 Health in accordance with this Act. Any existing nursing facility authorized to increase its  
7 number of beds in accordance with this Act shall maintain its current Medicaid occupancy rate  
8 for the facility's existing beds, and shall maintain an annual minimum Medicaid occupancy rate  
9 no less than ten percent below the statewide average at the time rates are established for the  
10 newly authorized beds.

11 Section 5. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Notwithstanding the provisions of § 34-12-39.2, a new nursing facility as defined in § 34-  
14 12-1.1 may be constructed, operated, and maintained with prior authorization by the Department  
15 of Health in accordance with this Act. Any new nursing facility authorized in accordance with  
16 this Act shall maintain an annual minimum Medicaid occupancy rate no less than ten percent  
17 below the statewide average at the time rates are established.