

**SENATE BILL NO. 2090**

Introduced by

Human Services Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact section 50-24.4-10 of the North Dakota Century Code,  
2 relating to the incentive payment for indirect care and operating margin in rates paid to nursing  
3 homes by the medical assistance program; to provide an effective date; and to declare an  
4 emergency.

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

6 **SECTION 1. AMENDMENT.** Section 50-24.4-10 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **50-24.4-10. Operating costs after January 1, 1990.**

- 9 1. For rate years beginning on or after January 1, 1990, the department shall  
10 establish procedures for determining per diem reimbursement for operating costs.
- 11 2. The department shall maintain access to national and state economic change  
12 indices that can be applied to the appropriate cost categories when determining the  
13 operating cost payment rate.
- 14 3. The department shall analyze and evaluate each nursing home's cost report of  
15 allowable operating costs incurred by the nursing home during the reporting year  
16 immediately preceding the rate year for which the payment rate becomes effective.
- 17 4. The department shall establish limits on actual allowable historical operating cost  
18 per diems based on cost reports of allowable operating costs for the reporting year  
19 that begins July 1, 1987, taking into consideration relevant factors including  
20 resident needs, nursing hours necessary to meet resident needs, size of the  
21 nursing home, and the costs that must be incurred for the care of residents in an  
22 efficiently and economically operated nursing home. The limits established by the  
23 department may not be less, in the aggregate, than the sixtieth percentile of total  
24 actual allowable historical operating cost per diems for each group of nursing

- 1 homes established under this chapter based on cost reports of allowable operating  
2 costs in the previous reporting year. The limits established under this subsection  
3 remain in effect until the department establishes a new base period. Until the new  
4 base period is established, the department shall adjust the limits annually using the  
5 appropriate economic change indices established in subsection 5. In determining  
6 allowable historical operating cost per diems for purposes of setting limits and  
7 nursing home payment rates, the department shall divide the allowable historical  
8 operating costs by the actual number of resident days, except that where a nursing  
9 home is occupied at less than ninety percent of licensed capacity days, the  
10 department may establish procedures to adjust the computation of the per diem to  
11 an imputed occupancy level at or below ninety percent. To encourage the  
12 development of home and community-based services as an alternative to nursing  
13 home care, the department may waive the imputed occupancy level requirements  
14 for a nursing home that the department determines to be providing significant  
15 home and community-based services in coordination with home and  
16 community-based service providers to avoid duplicating existing services. ~~The~~  
17 ~~department shall establish efficiency incentives as appropriate. The department~~  
18 ~~may establish efficiency incentives for different operating cost categories. The~~  
19 ~~department shall consider establishing efficiency incentives in care-related cost~~  
20 ~~categories.~~ The department may combine one or more operating cost categories  
21 and may use different methods for calculating payment rates for each operating  
22 cost category or combination of operating cost categories.
- 23 5. The department shall establish a composite index or indices based on the average  
24 of the increase in the Data Resources, Incorporated, nursing home input price  
25 index and the increase in the consumer price index for all urban wage earners and  
26 clerical workers (all items, United States city average) to be applied to specific  
27 operating cost categories or combination of operating cost categories.
- 28 6. Each nursing home shall receive an operating cost payment rate equal to the sum  
29 of the nursing home's operating cost payment rates for each operating cost  
30 category. The operating cost payment rate for an operating cost category must be  
31 the lesser of the nursing home's historical operating cost in the category increased

1 by the appropriate index established in subsection 5 for the operating cost category  
2 ~~plus an efficiency incentive established pursuant to subsection 4~~ or the limit for the  
3 operating cost category increased by the same index. If a nursing home's actual  
4 historic operating costs are greater than the prospective payment rate for that rate  
5 year, there may be no retroactive cost settle-up. In establishing payment rates for  
6 one or more operating cost categories, the department may establish separate  
7 rates for different classes of residents based on their relative care needs.

8 ~~7. Effective July 1, 1991, the efficiency incentives to be established by the department~~  
9 ~~pursuant to subsection 4 for a facility with an actual rate below the limit rate for~~  
10 ~~indirect care costs must include the lesser of two dollars and sixty cents per~~  
11 ~~resident day or the amount determined by multiplying seventy percent times the~~  
12 ~~difference between the actual rate, exclusive of inflation indices, and the limit rate,~~  
13 ~~exclusive of current inflation indices. The efficiency incentive must be included as~~  
14 ~~a part of the indirect care cost rate.~~

15 ~~8. Effective July 1, 1991, each nursing home must receive an operating margin of at~~  
16 ~~least three percent based upon the lesser of the actual direct care and other direct~~  
17 ~~care costs and the limit rate prior to inflation. The operating margin will then be~~  
18 ~~added to the rate for direct care and other direct care cost categories.~~

19 **SECTION 2. EFFECTIVE DATE.** This Act becomes effective on July 1, 2003.

20 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.