

As Passed by the Senate

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 24

Representative Ginter

Cosponsors: Representatives Schaffer, Rogers, Cera, Green, Hambley, Retherford, Ryan, Anielski, Antani, Antonio, Arndt, Ashford, Barnes, Boccieri, Boggs, Boyd, Brown, Butler, Carfagna, Celebrezze, Clyde, Craig, Cupp, Edwards, Faber, Fedor, Galonski, Gavarone, Goodman, Greenspan, Hagan, Henne, Hill, Holmes, Householder, Howse, Huffman, Hughes, Ingram, Johnson, Keller, Kent, Kick, Landis, Lanese, Lang, LaTourette, Leland, Lepore-Hagan, Lipps, Manning, McColley, Miller, O'Brien, Patmon, Patterson, Patton, Pelanda, Perales, Ramos, Reece, Reineke, Rezabek, Riedel, Roegner, Romanchuk, Schuring, Sheehy, Sprague, Stein, Strahorn, Sweeney, Thompson, West, Young

Senators Terhar, Beagle, Hackett, Peterson, Wilson, Bacon, Balderson, Coley, Dolan, Eklund, Gardner, Hoagland, Hottinger, Huffman, Kunze, LaRose, Lehner, Manning, Oelslager, Thomas, Uecker

A BILL

To amend sections 3350.15, 5124.01, 5124.101, 1
5124.15, 5124.151, 5124.152, 5124.17, 5124.19, 2
5124.191, 5124.192, 5124.193, 5124.195, 5124.21, 3
5124.23, 5124.28, 5124.29, 5124.30, 5124.38, 4
5124.39, 5124.40, 5124.41, 5124.46, 5124.68, 5
5705.21, 5709.121, 5709.17, 5735.01, 5735.024, 6
5735.04, and 5747.01; to amend, for the purpose 7
of adopting new section numbers as indicated in 8
parentheses, sections 5124.17 (5124.171), 9
5124.19 (5124.195), 5124.191 (5124.196), 10
5124.192 (5124.197), 5124.193 (5124.198), 11
5124.195 (5124.199), 5124.21 (5124.211), and 12
5124.23 (5124.231); to enact new sections 13
5124.17, 5124.19, 5124.191, 5124.192, 5124.193, 14
5124.194, 5124.21, and 5124.23 and section 15

5124.24; to repeal sections 5124.155 and 16
5124.194 of the Revised Code; to amend Section 17
261.168 of Am. Sub. H.B. 49 of the 132nd General 18
Assembly; and to repeal Section 261.169 of Am. 19
Sub. H.B. 49 of the 132nd General Assembly to 20
modify the existing tax exemption for veterans 21
organizations' property, to make appropriations 22
and otherwise provide authorization and 23
conditions for the operation of state programs, 24
and to declare an emergency. 25

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3350.15, 5124.01, 5124.101, 26
5124.15, 5124.151, 5124.152, 5124.17, 5124.19, 5124.191, 27
5124.192, 5124.193, 5124.195, 5124.21, 5124.23, 5124.28, 28
5124.29, 5124.30, 5124.38, 5124.39, 5124.40, 5124.41, 5124.46, 29
5124.68, 5705.21, 5709.121, 5709.17, 5735.01, 5735.024, 5735.04, 30
and 5747.01 be amended; sections 5124.17 (5124.171), 5124.19 31
(5124.195), 5124.191 (5124.196), 5124.192 (5124.197), 5124.193 32
(5124.198), 5124.195 (5124.199), 5124.21 (5124.211), and 5124.23 33
(5124.231) be amended for the purpose of adopting new section 34
numbers as indicated in parentheses; and new sections 5124.17, 35
5124.19, 5124.191, 5124.192, 5124.193, 5124.194, 5124.21, and 36
5124.23 and section 5124.24 of the Revised Code be enacted to 37
read as follows: 38

Sec. 3350.15. (A) The northeast Ohio medical university 39
may enter into a partnership with Cleveland state university to 40
establish the northeast Ohio medical university academic campus 41
at Cleveland state university, to enable fifty per cent or more 42

of the medical curriculum taught to students enrolled under this 43
partnership to be based in Cleveland at Cleveland state 44
university, local hospitals, and community- and neighborhood- 45
based primary care clinics. Cleveland state university shall not 46
receive state capital appropriations to pay for facilities for 47
the academic campus. 48

(B) The Ohio university heritage college of osteopathic 49
medicine may be a member of the partnership established under 50
division (A) of this section and may admit and enroll a portion 51
of the Cleveland state university students provided for under 52
division (A) of this section. 53

Sec. 5124.01. As used in this chapter: 54

(A) "Addition" means an increase in an ICF/IID's square 55
footage. 56

(B) "Affiliated operator" means an operator affiliated 57
with either of the following: 58

(1) The exiting operator for whom the affiliated operator 59
is to assume liability for the entire amount of the exiting 60
operator's debt under the medicaid program or the portion of the 61
debt that represents the franchise permit fee the exiting 62
operator owes; 63

(2) The entering operator involved in the change of 64
operator with the exiting operator specified in division ~~(A)~~(B) 65
(1) of this section. 66

~~(B)~~(C) "Allowable costs" means an ICF/IID's costs that 67
the department of developmental disabilities determines are 68
reasonable. Fines paid under section 5124.99 of the Revised Code 69
are not allowable costs. 70

~~(C)~~ (D) "Capital costs" means an ICF/IID's costs of ownership and costs of nonextensive renovation. 71
72

~~(D)~~ (E) "Case-mix score" means the measure determined under section 5124.192, 5124.193, or 5124.197 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to an ICF/IID resident. 73
74
75
76

~~(E)~~ (F) "Change of operator" means an entering operator becoming the operator of an ICF/IID in the place of the exiting operator. 77
78
79

(1) Actions that constitute a change of operator include the following: 80
81

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 82
83
84

(b) A transfer of all the exiting operator's ownership interest in the operation of the ICF/IID to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the ICF/IID is also transferred; 85
86
87
88
89

(c) A lease of the ICF/IID to the entering operator or the exiting operator's termination of the exiting operator's lease; 90
91

(d) If the exiting operator is a partnership, dissolution of the partnership; 92
93

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 94
95
96

(i) The change in composition does not cause the partnership's dissolution under state law. 97
98

(ii) The partners agree that the change in composition does not constitute a change in operator.	99 100
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	101 102 103 104 105
(2) The following, alone, do not constitute a change of operator:	106 107
(a) A contract for an entity to manage an ICF/IID as the operator's agent, subject to the operator's approval of daily operating and management decisions;	108 109 110
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with an ICF/IID if an entering operator does not become the operator in place of an exiting operator;	111 112 113 114
(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.	115 116 117 118
(F) <u>(G)</u> "Cost center" means the following:	119
(1) Capital costs;	120
(2) Direct care costs;	121
(3) Indirect care costs;	122
(4) Other protected costs.	123
(G) <u>(H) (1) Except as provided in division (H) (2) of this section, "cost report year" means the calendar year immediately</u>	124 125

preceding the calendar year in which a fiscal year for which a 126
medicaid payment rate determination is made begins. 127

(2) When a cost report the department of developmental 128
disabilities accepts under division (A) or (C)(1)(b) of section 129
5124.101 of the Revised Code is used in determining an ICF/IID's 130
medicaid payment rate, "cost report year" means the period that 131
the cost report covers. 132

(I) "Costs of nonextensive renovations" means the 133
following: 134

(1) For the purpose of determining an ICF/IID's per 135
medicaid day capital component rate under section 5124.17 of the 136
Revised Code, the actual expense incurred by the ICF/IID for 137
depreciation or amortization and interest on renovations 138
approved by the department of developmental disabilities as 139
nonextensive renovations; 140

(2) For the purpose of determining an ICF/IID's per 141
medicaid day payment rate for reasonable capital costs under 142
section 5124.171 of the Revised Code, the actual expense 143
incurred by an the ICF/IID for depreciation or amortization and 144
interest on renovations that are not extensive renovations. 145

~~(H)~~ (J) (1) "Costs of ownership" means the actual expenses 146
incurred by an ICF/IID for all of the following: 147

(a) Subject to division ~~(H)~~ (J) (2) of this section, 148
depreciation and interest on any capital assets that cost five 149
hundred dollars or more per item, including the following: 150

(i) Buildings; 151

(ii) Building improvements that are not approved as 152
nonextensive renovations ~~under~~ for the purpose of section 153

5124.17 <u>or 5124.171</u> of the Revised Code;	154
(iii) Equipment;	155
(iv) Extensive renovations;	156
(v) Transportation equipment;	157
<u>(v) For the purpose of determining an ICF/IID's per</u>	158
<u>medicaid day payment rate for reasonable capital costs under</u>	159
<u>section 5124.171 of the Revised Code, extensive renovations.</u>	160
(b) Amortization and interest on land improvements and leasehold improvements;	161 162
(c) Amortization of financing costs;	163
(d) Except as provided in division (Z) <u>(BB)</u> of this section, lease and rent of land, building, and equipment.	164 165
(2) The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with an ICF/IID provider's practice.	166 167 168
(I) <u>(K)</u> (1) "Date of licensure" means the following:	169
(a) In the case of an ICF/IID that was originally licensed as a nursing home under Chapter 3721. of the Revised Code, the date that it was originally so licensed, regardless that it was subsequently licensed as a residential facility under section 5123.19 of the Revised Code;	170 171 172 173 174
(b) In the case of an ICF/IID that was originally licensed as a residential facility under section 5123.19 of the Revised Code, the date it was originally so licensed;	175 176 177
(c) In the case of an ICF/IID that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it	178 179 180

first was operated as a residential facility, regardless of the 181
date the ICF/IID was first licensed as a nursing home or 182
residential facility. 183

(2) If, after an ICF/IID's original date of licensure, 184
more residential facility beds are added to the ICF/IID or all 185
or part of the ICF/IID undergoes an extensive renovation, the 186
ICF/IID has a different date of licensure for the additional 187
beds or extensively renovated portion of the ICF/IID. This does 188
not apply, however, to additional beds when both of the 189
following apply: 190

(a) The additional beds are located in a part of the 191
ICF/IID that was constructed at the same time as the continuing 192
beds already located in that part of the ICF/IID. 193

(b) The part of the ICF/IID in which the additional beds 194
are located was constructed as part of the ICF/IID at a time 195
when the ICF/IID was not required by law to be licensed as a 196
nursing home or residential facility. 197

(3) The definition of "date of licensure" in this section 198
applies in determinations of ICFs/IID's medicaid payment rates 199
but does not apply in determinations of ICFs/IID's franchise 200
permit fees under sections 5168.60 to 5168.71 of the Revised 201
Code. 202

~~(J)~~ (L) "Desk-reviewed" means that an ICF/IID's costs as 203
reported on a cost report filed under section 5124.10 or 204
5124.101 of the Revised Code have been subjected to a desk 205
review under section 5124.108 of the Revised Code and 206
preliminarily determined to be allowable costs. 207

~~(K)~~ (M) "Developmental center" means a residential 208
facility that is maintained and operated by the department of 209

developmental disabilities.	210
(L) <u>(N)</u> "Direct care costs" means all of the following	211
costs incurred by an ICF/IID:	212
(1) Costs for registered nurses, licensed practical	213
nurses, and nurse aides employed by the ICF/IID;	214
(2) Costs for direct care staff, administrative nursing	215
staff, medical directors, respiratory therapists, physical	216
therapists, physical therapy assistants, occupational	217
therapists, occupational therapy assistants, speech therapists,	218
audiologists, habilitation staff (including habilitation	219
supervisors), qualified intellectual disability professionals,	220
program directors, social services staff, activities staff, off-	221
site day programming, psychologists, psychology assistants,	222
social workers, counselors, and other persons holding degrees	223
qualifying them to provide therapy;	224
(3) Costs of purchased nursing services;	225
(4) Costs of training and staff development, employee	226
benefits, payroll taxes, and workers' compensation premiums or	227
costs for self-insurance claims and related costs as specified	228
in rules adopted under section 5124.03 of the Revised Code, for	229
personnel listed in divisions (L) <u>(N)</u> (1), (2), and (3) of this	230
section;	231
(5) Costs of quality assurance;	232
(6) Costs of consulting and management fees related to	233
direct care;	234
(7) Allocated direct care home office costs;	235
(8) <u>Costs of off-site day programming, including day</u>	236
<u>programming that is provided in an area that is not certified by</u>	237

<u>the director of health as an ICF/IID under Title XIX and</u>	238
<u>regardless of either of the following:</u>	239
<u>(a) Whether or not the area in which the day programming</u>	240
<u>is provided is less than two hundred feet away from the ICF/IID;</u>	241
<u>(b) Whether or not the day programming is provided by an</u>	242
<u>individual or organization that is a related party to the</u>	243
<u>ICF/IID provider.</u>	244
<u>(9) Costs of other direct-care resources that are</u>	245
specified as direct care costs in rules adopted under section	246
5124.03 of the Revised Code.	247
(M) <u>(O)</u> "Downsized ICF/IID" means an ICF/IID that	248
permanently reduced its medicaid-certified capacity pursuant to	249
a plan approved by the department of developmental disabilities	250
under section 5123.042 of the Revised Code.	251
(N) <u>(P)</u> "Effective date of a change of operator" means the	252
day the entering operator becomes the operator of the ICF/IID.	253
(O) <u>(Q)</u> "Effective date of a facility closure" means the	254
last day that the last of the residents of the ICF/IID resides	255
in the ICF/IID.	256
(P) <u>(R)</u> "Effective date of an involuntary termination"	257
means the date the department of medicaid terminates the	258
operator's provider agreement for the ICF/IID or the last day	259
that such a provider agreement is in effect when the department	260
Cancels or refuses to revalidate it.	261
(Q) <u>(S)</u> "Effective date of a voluntary termination" means	262
the day the ICF/IID ceases to accept medicaid recipients.	263
(R) <u>(T)</u> "Entering operator" means the person or government	264
entity that will become the operator of an ICF/IID when a change	265

of operator occurs or following an involuntary termination.	266
(S) <u>(U)</u> "Exiting operator" means any of the following:	267
(1) An operator that will cease to be the operator of an ICF/IID on the effective date of a change of operator;	268 269
(2) An operator that will cease to be the operator of an ICF/IID on the effective date of a facility closure;	270 271
(3) An operator of an ICF/IID that is undergoing or has undergone a voluntary termination;	272 273
(4) An operator of an ICF/IID that is undergoing or has undergone an involuntary termination.	274 275
(T) <u>(V)</u> (1) <u>"Extensive For the purpose of determining an ICF/IID's per medicaid day payment rate for reasonable capital costs under section 5124.171 of the Revised Code, "extensive renovation" means the following:</u>	276 277 278 279
(a) An ICF/IID's betterment, improvement, or restoration to which both of the following apply:	280 281
(i) It was started before July 1, 1993.	282
(ii) It meets the definition of "extensive renovation" established in rules that were adopted by the director of job and family services and in effect on December 22, 1992.	283 284 285
(b) An ICF/IID's betterment, improvement, or restoration to which all of the following apply:	286 287
(i) It was started on or after July 1, 1993.	288
(ii) Except as provided in division (T) <u>(V)</u> (2) of this section, it costs more than sixty-five per cent and not more than eighty-five per cent of the cost of constructing a new bed.	289 290 291

(iii) It extends the useful life of the assets for at least ten years. 292
293

(2) The department of developmental disabilities may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds. 294
295
296
297
298

(3) For the purpose of division ~~(T)~~(V) (1) (b) (ii) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the extensive renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics. 299
300
301
302
303
304
305
306

~~(U)~~(W) (1) Subject to divisions ~~(U)~~(W) (2) and (3) of this section, "facility closure" means either of the following: 307
308

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as an ICF/IID that results in the relocation of all of the facility's residents; 309
310
311

(b) Conversion of the building, or part of the building, that houses an ICF/IID to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use. 312
313
314
315
316

(2) A facility closure occurs regardless of any of the following: 317
318

(a) The operator completely or partially replacing the ICF/IID by constructing a new ICF/IID or transferring the 319
320

ICF/IID's license to another ICF/IID;	321
(b) The ICF/IID's residents relocating to another of the	322
operator's ICFs/IID;	323
(c) Any action the department of health takes regarding	324
the ICF/IID's medicaid certification that may result in the	325
transfer of part of the ICF/IID's survey findings to another of	326
the operator's ICFs/IID;	327
(d) Any action the department of developmental	328
disabilities takes regarding the ICF/IID's license under section	329
5123.19 of the Revised Code.	330
(3) A facility closure does not occur if all of the	331
ICF/IID's residents are relocated due to an emergency evacuation	332
and one or more of the residents return to a medicaid-certified	333
bed in the ICF/IID not later than thirty days after the	334
evacuation occurs.	335
(V) <u>(X)</u> "Fiscal year" means the fiscal year of this state,	336
as specified in section 9.34 of the Revised Code.	337
(W) <u>(Y)</u> "Franchise permit fee" means the fee imposed by	338
sections 5168.60 to 5168.71 of the Revised Code.	339
(X) <u>(Z)</u> "Home and community-based services" has the same	340
meaning as in section 5123.01 of the Revised Code.	341
(Y) <u>(AA)</u> "ICF/IID services" has the same meaning as in 42	342
C.F.R. 440.150.	343
(Z) <u>(BB)</u> (1) "Indirect care costs" means all reasonable	344
costs incurred by an ICF/IID other than capital costs, direct	345
care costs, and other protected costs. "Indirect care costs"	346
includes costs of habilitation supplies, pharmacy consultants,	347
medical and habilitation records, program supplies, incontinence	348

supplies, food, enterals, dietary supplies and personnel, 349
laundry, housekeeping, security, administration, liability 350
insurance, bookkeeping, purchasing department, human resources, 351
communications, travel, dues, license fees, subscriptions, home 352
office costs not otherwise allocated, legal services, accounting 353
services, minor equipment, maintenance and repair expenses, 354
help-wanted advertising, informational advertising, start-up 355
costs, organizational expenses, other interest, property 356
insurance, employee training and staff development, employee 357
benefits, payroll taxes, and workers' compensation premiums or 358
costs for self-insurance claims and related costs, as specified 359
in rules adopted under section 5124.03 of the Revised Code, for 360
personnel listed in this division. Notwithstanding division ~~(H)~~ 361
(J) of this section, "indirect care costs" also means the cost 362
of equipment, including vehicles, acquired by operating lease 363
executed before December 1, 1992, if the costs are reported as 364
administrative and general costs on the ICF/IID's cost report 365
for the cost reporting period ending December 31, 1992. 366

(2) For the purpose of division ~~(Z)~~(BB) (1) of this 367
section, an operating lease shall be construed in accordance 368
with generally accepted accounting principles. 369

~~(AA)~~(CC) "Inpatient days" means both of the following: 370

(1) All days during which a resident, regardless of 371
payment source, occupies a bed in an ICF/IID that is included in 372
the ICF/IID's medicaid-certified capacity; 373

(2) All days for which payment is made under section 374
5124.34 of the Revised Code. 375

~~(BB)~~(DD) "Intermediate care facility for individuals with 376
intellectual disabilities" and "ICF/IID" mean an intermediate 377

care facility for the mentally retarded as defined in the 378
"Social Security Act," section 1905(d), 42 U.S.C. 1396d(d). 379

~~(CC)~~(EE) "Involuntary termination" means the department 380
of medicaid's termination of, cancellation of, or refusal to 381
revalidate the operator's provider agreement for the ICF/IID 382
when such action is not taken at the operator's request. 383

~~(DD)~~(FF) "Maintenance and repair expenses" means, except 384
as provided in division ~~(WW)~~(XX) (2) (b) of this section, 385
expenditures that are necessary and proper to maintain an asset 386
in a normally efficient working condition and that do not extend 387
the useful life of the asset two years or more. "Maintenance and 388
repair expenses" includes the costs of ordinary repairs such as 389
painting and wallpapering. 390

~~(EE)~~(GG) "Medicaid-certified capacity" means the number 391
of an ICF/IID's beds that are certified for participation in 392
medicaid as ICF/IID beds. 393

~~(FF)~~(HH) "Medicaid days" means both of the following: 394

(1) All days during which a resident who is a medicaid 395
recipient eligible for ICF/IID services occupies a bed in an 396
ICF/IID that is included in the ICF/IID's medicaid-certified 397
capacity; 398

(2) All days for which payment is made under section 399
5124.34 of the Revised Code. 400

~~(GG)~~(II) (1) "New ICF/IID" means an ICF/IID for which the 401
provider obtains an initial provider agreement following the 402
director of health's medicaid certification of the ICF/IID, 403
including such an ICF/IID that replaces one or more ICFs/IID for 404
which a provider previously held a provider agreement. 405

(2) "New ICF/IID" does not mean either of the following:	406
(a) An ICF/IID for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code;	407 408 409 410
(b) A downsized ICF/IID or partially converted ICF/IID.	411
(HH) <u>(JJ)</u> "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	412 413
(II) <u>(KK)</u> "Operator" means the person or government entity responsible for the daily operating and management decisions for an ICF/IID.	414 415 416
(JJ) <u>(LL)</u> "Other protected costs" means costs incurred by an ICF/IID for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5124.03 of the Revised Code.	417 418 419 420 421 422 423
(KK) <u>(MM)</u> (1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding an ICF/IID:	424 425 426 427
(a) The land on which the ICF/IID is located;	428
(b) The structure in which the ICF/IID is located;	429
(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the ICF/IID is located;	430 431 432

(d) Any lease or sublease of the land or structure on or 433
in which the ICF/IID is located. 434

(2) "Owner" does not mean a holder of a debenture or bond 435
related to an ICF/IID and purchased at public issue or a 436
regulated lender that has made a loan related to the ICF/IID 437
unless the holder or lender operates the ICF/IID directly or 438
through a subsidiary. 439

~~(LL)~~ (NN) "Partially converted ICF/IID" means an ICF/IID 440
that converted some, but not all, of its beds to providing home 441
and community-based services under the individual options waiver 442
pursuant to section 5124.60 or 5124.61 of the Revised Code. 443

~~(MM)~~ (OO) (1) For the purpose of the total per medicaid day 444
payment rate determined for an ICF/IID under division (B) of 445
section 5124.15 of the Revised Code and the initial total per 446
medicaid day payment rate determined for a new ICF/IID under 447
section 5124.151 of the Revised Code: 448

(a) "Peer group 1-A" means each ICF/IID with a medicaid- 449
certified capacity exceeding sixteen. 450

(b) "Peer group 2-A" means each ICF/IID with a medicaid- 451
certified capacity exceeding eight but not exceeding sixteen. 452

(c) "Peer group 3-A" means each ICF/IID with a medicaid- 453
certified capacity of seven or eight. 454

(d) "Peer group 4-A" means each ICF/IID with a medicaid- 455
certified capacity not exceeding six, other than an ICF/IID that 456
is in peer group 5-A. 457

(e) "Peer group 5-A" means each ICF/IID to which all of 458
the following apply: 459

(i) The ICF/IID is first certified as an ICF/IID after 460

<u>July 1, 2014.</u>	461
<u>(ii) The ICF/IID has a medicaid-certified capacity not exceeding six.</u>	462 463
<u>(iii) The ICF/IID has a contract with the department of developmental disabilities that is for fifteen years and includes a provision for the department to approve all admissions to, and discharges from, the ICF/IID.</u>	464 465 466 467
<u>(iv) The ICF/IID's residents are admitted to the ICF/IID directly from a developmental center or have been determined by the department to be at risk of admission to a developmental center.</u>	468 469 470 471
<u>(2) For the purpose of the total per medicaid day payment rate determined for an ICF/IID under division (C) of section 5124.15 of the Revised Code:</u>	472 473 474
<u>(a) "Peer group 1-B" means each ICF/IID with a medicaid-certified capacity exceeding eight.</u>	475 476
(NN) <u>(b) "Peer group 2-B" means each ICF/IID with a medicaid-certified capacity not exceeding eight, other than an ICF/IID that is in peer group 3.</u>	477 478 479
(OO) <u>(c) "Peer group 3-B" means each ICF/IID to which all of the following apply:</u>	480 481
(1) <u>(i) The ICF/IID is first certified as an ICF/IID after July 1, 2014;</u>	482 483
(2) <u>(ii) The ICF/IID has a medicaid-certified capacity not exceeding six;</u>	484 485
(3) <u>(iii) The ICF/IID has a contract with the department of developmental disabilities that is for fifteen years and</u>	486 487

includes a provision for the department to approve all 488
admissions to, and discharges from, the ICF/IID; 489

~~(4)~~ (iv) The ICF/IID's residents are admitted to the 490
ICF/IID directly from a developmental center or have been 491
determined by the department to be at risk of admission to a 492
developmental center. 493

(PP) (1) Except as provided in divisions (PP) (2) and (3) of 494
this section, "per diem" means an ICF/IID's desk-reviewed, 495
actual, allowable costs in a given cost center in a cost 496
reporting period, divided by the facility's inpatient days for 497
that cost reporting period. 498

(2) When determining capital costs for the purpose of 499
section ~~5124.17~~ 5124.171 of the Revised Code, "per diem" means 500
an ICF/IID's actual, allowable capital costs in a cost reporting 501
period divided by the greater of the facility's inpatient days 502
for that period or the number of inpatient days the ICF/IID 503
would have had during that period if its occupancy rate had been 504
ninety-five per cent. 505

(3) When determining indirect care costs for the purpose 506
of section 5124.21 or 5124.211 of the Revised Code, "per diem" 507
means an ICF/IID's actual, allowable indirect care costs in a 508
cost reporting period divided by the greater of the ICF/IID's 509
inpatient days for that period or the number of inpatient days 510
the ICF/IID would have had during that period if its occupancy 511
rate had been eighty-five per cent. 512

(QQ) "Provider" means an operator with a valid provider 513
agreement. 514

(RR) "Provider agreement" means a provider agreement, as 515
defined in section 5164.01 of the Revised Code, that is between 516

the department of medicaid and the operator of an ICF/IID for 517
the provision of ICF/IID services under the medicaid program. 518

(SS) "Purchased nursing services" means services that are 519
provided in an ICF/IID by registered nurses, licensed practical 520
nurses, or nurse aides who are not employees of the ICF/IID. 521

(TT) "Reasonable" means that a cost is an actual cost that 522
is appropriate and helpful to develop and maintain the operation 523
of resident care facilities and activities, including normal 524
standby costs, and that does not exceed what a prudent buyer 525
pays for a given item or services. Reasonable costs may vary 526
from provider to provider and from time to time for the same 527
provider. 528

(UU) "Related party" means an individual or organization 529
that, to a significant extent, has common ownership with, is 530
associated or affiliated with, has control of, or is controlled 531
by, a provider. 532

(1) An individual who is a relative of an owner is a 533
related party. 534

(2) Common ownership exists when an individual or 535
individuals possess significant ownership or equity in both the 536
provider and the other organization. Significant ownership or 537
equity exists when an individual or individuals possess five per 538
cent ownership or equity in both the provider and a supplier. 539
Significant ownership or equity is presumed to exist when an 540
individual or individuals possess ten per cent ownership or 541
equity in both the provider and another organization from which 542
the provider purchases or leases real property. 543

(3) Control exists when an individual or organization has 544
the power, directly or indirectly, to significantly influence or 545

direct the actions or policies of an organization.	546
(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:	547
	548
	549
(a) The supplier is a separate bona fide organization.	550
(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.	551
	552
	553
	554
	555
(c) The types of goods or services are commonly obtained by other ICFs/IID from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/IID.	556
	557
	558
	559
(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.	560
	561
	562
	563
(VV) "Relative of owner" means an individual who is related to an owner of an ICF/IID by one of the following relationships:	564
	565
	566
(1) Spouse;	567
(2) Natural parent, child, or sibling;	568
(3) Adopted parent, child, or sibling;	569
(4) Stepparent, stepchild, stepbrother, or stepsister;	570
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	571
	572

(6) Grandparent or grandchild;	573
(7) Foster caregiver, foster child, foster brother, or foster sister.	574 575
(WW) <u>For the purpose of determining an ICF/IID's per medicaid day capital component rate under section 5124.17 of the Revised Code, "renovation" means an ICF/IID's betterment, improvement, or restoration, other than an addition, through a capital expenditure.</u>	576 577 578 579 580
(XX) (1) "Renovation" <u>For the purpose of determining an ICF/IID's per medicaid day payment rate for reasonable capital costs under section 5124.171 of the Revised Code, "renovation" means the following:</u>	581 582 583 584
(a) An ICF/IID's betterment, improvement, or restoration to which both of the following apply:	585 586
(i) It was started before July 1, 1993.	587
(ii) It meets the definition of "renovation" established in rules that were adopted by the director of job and family services and in effect on December 22, 1992.	588 589 590
(b) An ICF/IID's betterment, improvement, or restoration to which both of the following apply:	591 592
(i) It was started on or after July 1, 1993.	593
(ii) It betters, improves, or restores the ICF/IID beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed.	594 595 596
(2) A <u>For the purpose of division (XX) (1) of this section, a renovation started on or after July 1, 1993, may include both of the following:</u>	597 598 599

(a) A betterment, improvement, restoration, or replacement 600
of assets that are affixed to a building and have a useful life 601
of at least five years; 602

(b) Costs that otherwise would be considered maintenance 603
and repair expenses if they are an integral part of the 604
structural change that makes up the renovation project. 605

(3) ~~"Renovation"~~ For the purpose of division (XX) (1) of 606
this section, "renovation" does not mean construction of 607
additional space for beds that will be added to an ICF/IID's 608
licensed capacity or medicaid-certified capacity. 609

~~(XX)~~ ~~(YY)~~ "Residential facility" has the same meaning as 610
in section 5123.19 of the Revised Code. 611

~~(YY)~~ ~~(ZZ)~~ "Secondary building" means a building or part of 612
a building, other than an ICF/IID, in which the owner of one or 613
more ICFs/IID has administrative work regarding the ICFs/IID 614
performed or records regarding the ICFs/IID stored. 615

~~(AAA)~~ "Sponsor" means an adult relative, friend, or 616
guardian of an ICF/IID resident who has an interest or 617
responsibility in the resident's welfare. 618

~~(ZZ)~~ ~~(BBB)~~ "Title XIX" means Title XIX of the "Social 619
Security Act," 42 U.S.C. 1396, et seq. 620

~~(AAA)~~ ~~(CCC)~~ "Title XVIII" means Title XVIII of the "Social 621
Security Act," 42 U.S.C. 1395, et seq. 622

~~(BBB)~~ ~~(DDD)~~ "Voluntary termination" means an operator's 623
voluntary election to terminate the participation of an ICF/IID 624
in the medicaid program but to continue to provide service of 625
the type provided by a residential facility as defined in 626
section 5123.19 of the Revised Code. 627

Sec. 5124.101. (A) The provider of an ICF/IID in peer 628
group 1-A, peer group 2-A, peer group 3-A, peer group 4-A, peer 629
group 1-B, or peer group 2-B that becomes a downsized ICF/IID or 630
partially converted ICF/IID on or after July 1, 2013, or becomes 631
a new ICF/IID on or after that date, may file with the 632
department of developmental disabilities a cost report covering 633
the period specified in division (B) of this section if the 634
following applies to the ICF/IID: 635

(1) In the case of an ICF/IID that becomes a downsized 636
ICF/IID or partially converted ICF/IID, the ICF/IID has either 637
of the following on the day it becomes a downsized ICF/IID or 638
partially converted ICF/IID: 639

(a) A medicaid-certified capacity that is at least ten per 640
cent less than its medicaid-certified capacity on the day 641
immediately preceding the day it becomes a downsized ICF/IID or 642
partially converted ICF/IID; 643

(b) At least five fewer beds certified as ICF/IID beds 644
than it has on the day immediately preceding the day it becomes 645
a downsized ICF/IID or partially converted ICF/IID. 646

(2) In the case of a new ICF/IID, the ICF/IID's beds are 647
from a downsized ICF/IID and the downsized ICF/IID has either of 648
the following on the day it becomes a downsized ICF/IID: 649

(a) A medicaid-certified capacity that is at least ten per 650
cent less than its medicaid-certified capacity on the day 651
immediately preceding the day it becomes a downsized ICF/IID; 652

(b) At least five fewer beds certified as ICF/IID beds 653
than it has on the day immediately preceding the day it becomes 654
a downsized ICF/IID. 655

(B) A cost report filed under division (A) of this section 656

shall cover the period that begins and ends as follows: 657

(1) In the case of an ICF/IID that becomes a downsized 658
ICF/IID or partially converted ICF/IID: 659

(a) The period begins with the day that the ICF/IID 660
becomes a downsized ICF/IID or partially converted ICF/IID. 661

(b) The period ends on the last day of the last month of 662
the first three full months of operation as a downsized ICF/IID 663
or partially converted ICF/IID. 664

(2) In the case of a new ICF/IID: 665

(a) The period begins with the day that the provider 666
agreement for the ICF/IID takes effect. 667

(b) The period ends on the last day of the last month of 668
the first three full months that the provider agreement is in 669
effect. 670

(C) (1) If the department accepts a cost report filed under 671
division (A) of this section for an ICF/IID that becomes a 672
downsized ICF/IID or partially converted ICF/IID on or before 673
the first day of October of a calendar year, the provider also 674
shall do both of the following: 675

(a) File with the department a cost report for the ICF/IID 676
in accordance with division (A) of section 5124.10 of the 677
Revised Code; 678

(b) File with the department another cost report for the 679
ICF/IID that covers the portion of the initial calendar year 680
that the ICF/IID operated as a downsized ICF/IID or partially 681
converted ICF/IID. 682

(2) If the department accepts a cost report filed under 683

division (A) of this section for an ICF/IID that becomes a 684
downsized ICF/IID or partially converted ICF/IID after the first 685
day of October of a calendar year, the provider is not required 686
to file a cost report that covers that calendar year in 687
accordance with division (A) of section 5124.10 of the Revised 688
Code. Instead, the provider shall file a cost report for the 689
ICF/IID in accordance with division (A) of section 5124.10 of 690
the Revised Code covering the immediately following calendar 691
year. 692

(3) If the department accepts a cost report filed under 693
division (A) of this section for a new ICF/IID that has a 694
provider agreement that takes effect on or before the first day 695
of October of a calendar year, the provider also shall file a 696
cost report for the ICF/IID in accordance with division (A) of 697
section 5124.10 of the Revised Code covering the portion of that 698
calendar year that the provider agreement was in effect. 699

(4) If the department accepts a cost report filed under 700
division (A) of this section for a new ICF/IID that has a 701
provider agreement that takes effect after the first day of 702
October of a calendar year, the provider is not required to file 703
a cost report that covers that calendar year in accordance with 704
division (A) of section 5124.10 of the Revised Code. The 705
provider shall file a cost report for the ICF/IID in accordance 706
with division (A) of section 5124.10 of the Revised Code 707
covering the immediately following calendar year. 708

(D) The department shall refuse to accept a cost report 709
filed under division (A) or (C) (1) (b) of this section if either 710
of the following apply: 711

(1) Except as provided in division (E) of section 5124.10 712
of the Revised Code, the provider fails to file the cost report 713

with the department not later than ninety days after the last 714
day of the period the cost report covers; 715

(2) The cost report is incomplete or inadequate. 716

(E) If the department accepts a cost report filed under 717
division (A) or (C) (1) (b) of this section, the department shall 718
use that cost report, rather than the cost report that otherwise 719
would be used pursuant to section 5124.17, 5124.171, 5124.19, 720
5124.195, 5124.21, ~~or 5124.211~~, 5124.23, or 5124.231 of the 721
Revised Code, to determine the ICF/IID's medicaid payment rate 722
in accordance with this chapter for ICF/IID services the ICF/IID 723
provides during the period that begins and ends as follows: 724

(1) For a cost report filed under division (A) of this 725
section, the period begins on the following: 726

(a) In the case of an ICF/IID that becomes a downsized 727
ICF/IID or partially converted ICF/IID: 728

(i) The day that the ICF/IID becomes a downsized ICF/IID 729
or partially converted ICF/IID if that day is the first day of a 730
month; 731

(ii) The first day of the month immediately following the 732
month that the ICF/IID becomes a downsized ICF/IID or partially 733
converted ICF/IID if division (E) (1) (a) (i) of this section does 734
not apply. 735

(b) In the case of a new ICF/IID, the day that the 736
ICF/IID's provider agreement takes effect. 737

(2) For a cost report filed under division (A) of this 738
section, the period ends on the following: 739

(a) In the case of an ICF/IID that becomes a downsized 740
ICF/IID or partially converted ICF/IID: 741

(i) The last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID is paid a rate determined using a cost report filed under division (C) (1) (b) of this section if the ICF/IID became a downsized ICF/IID or partially converted ICF/IID on or before the first day of October of a calendar year;

(ii) The last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using a cost report that division (C) (2) of this section requires be filed in accordance with division (A) of section 5124.10 of the Revised Code if the ICF/IID became a downsized ICF/IID or partially converted ICF/IID after the first day of October of a calendar year.

(b) In the case of a new ICF/IID, the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using a cost report that division (C) (3) or (4) of this section requires be filed in accordance with division (A) of section 5124.10 of the Revised Code.

(3) For a cost report filed under division (C) (1) (b) of this section, the period begins on the day immediately following the day specified in division (E) (2) (a) (i) of this section.

(4) For a cost report filed under division (C) (1) (b) of this section, the period ends on the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using the cost report filed with the department in accordance with division (A) of section 5124.10 of the Revised Code that covers the calendar year that immediately follows the initial calendar year that the ICF/IID operated as a downsized ICF/IID or partially converted ICF/IID.

(F) If the department accepts a cost report filed under 772
division (A) or (C) (1) (b) of this section by the provider of a 773
downsized ICF/IID or partially converted ICF/IID, the following 774
modifications shall be made for the purpose of determining the 775
medicaid payment rate for ICF/IID services the ICF/IID provides 776
during the period specified in division (E) of this section: 777

(1) In place of the quarterly case mix score otherwise 778
used in determining the ICF/IID's per medicaid day direct care 779
costs component rate under division (A) of section 5124.19 of 780
the Revised Code, the ICF/IID's case mix score in effect on the 781
last day of the calendar quarter that ends during the period the 782
cost report covers (or, if more than one calendar quarter ends 783
during that period, the last of those calendar quarters) shall 784
be used to determine the ICF/IID's per medicaid day direct care 785
costs component rate. 786

(2) In place of the annual average case mix score 787
otherwise used in determining the ICF/IID's per medicaid day 788
payment rate for direct care costs under division (A) of section 789
~~5124.19~~ 5124.195 of the Revised Code, the ICF/IID's case mix 790
score in effect on the last day of the calendar quarter that 791
ends during the period the cost report covers (or, if more than 792
one calendar quarter ends during that period, the last of those 793
calendar quarters) shall be used to determine the ICF/IID's per 794
medicaid day payment rate for direct care costs. 795

~~(2) If the ICF/IID becomes a downsized ICF/IID or~~ 796
~~partially converted ICF/IID:~~ 797

~~(a)~~ (3) The ICF/IID shall not be subject to the limit on 798
the costs of ownership per diem payment rate specified in 799
divisions (B) and (C) of section ~~5124.17~~ 5124.171 of the Revised 800
Code. 801

~~(b)~~ (4) The ICF/IID shall not be subject to the limit on 802
the payment rate for per diem capitalized costs of nonextensive 803
renovations specified in division (E) (1) of section ~~5124.17~~ 804
5124.171 of the Revised Code. 805

~~(e)~~ (5) The ICF/IID shall be subject to the limit on the 806
total payment rate for costs of ownership, capitalized costs of 807
nonextensive renovations, and the efficiency incentive specified 808
in division (H) of section ~~5124.17~~ 5124.171 of the Revised Code 809
regardless of whether the ICF/IID is in peer group ~~1-B~~ or peer 810
group 2-B. 811

Sec. 5124.15. (A) Except as otherwise provided by section 812
5124.101 of the Revised Code, sections 5124.151 to ~~5124.155~~ 813
5124.154 of the Revised Code, and divisions ~~(B)~~ (D) and ~~(C)~~ (E) 814
of this section, the total per medicaid day payment rate that 815
the department of developmental disabilities shall pay to an 816
ICF/IID provider for ICF/IID services the provider's ICF/IID 817
provides during a fiscal year shall equal the following: 818

(1) Until July 1, 2021, the greater of the total per 819
medicaid day payment rates determined under divisions (B) and 820
(C) of this section; 821

(2) Beginning July 1, 2021, the total per medicaid day 822
payment rate determined under division (B) of this section. 823

(B) The total per medicaid day payment rate determined 824
under this division is the sum of all of the following: 825

(1) The per medicaid day capital component rate determined 826
for the ICF/IID under section 5124.17 of the Revised Code; 827

(2) The per medicaid day direct care costs component rate 828
determined for the ICF/IID under section 5124.19 of the Revised 829
Code; 830

(3) The per medicaid day indirect care costs component 831
rate determined for the ICF/IID under section 5124.21 of the 832
Revised Code; 833

(4) The per medicaid day other protected costs component 834
rate determined for the ICF/IID under section 5124.23 of the 835
Revised Code; 836

(5) Until July 1, 2020, a direct support personnel payment 837
equal to three and four-hundredths per cent of the ICF/IID's 838
desk-reviewed, actual, allowable, per medicaid day direct care 839
costs from the applicable cost report year; 840

(6) Beginning July 1, 2020, the per medicaid day quality 841
incentive payment determined for the ICF/IID under section 842
5124.24 of the Revised Code. 843

(C) The total per medicaid day payment rate determined 844
under this division is the sum of all of the following: 845

(1) The per medicaid day payment rate for capital costs 846
determined for the ICF/IID under section ~~5124.17~~ 5124.171 of the 847
Revised Code; 848

(2) The per medicaid day payment rate for direct care 849
costs determined for the ICF/IID under section ~~5124.19~~ 5124.195 850
of the Revised Code; 851

(3) The per medicaid day payment rate for indirect care 852
costs determined for the ICF/IID under section ~~5124.21~~ 5124.211 853
of the Revised Code; 854

(4) The per medicaid day payment rate for other protected 855
costs determined for the ICF/IID under section ~~5124.23~~ 5124.231 856
of the Revised Code; 857

(5) A direct support personnel payment equal to three and 858

four-hundredths per cent of the ICF/IID's desk-reviewed, actual, 859
allowable, per medicaid day direct care costs from the 860
applicable cost report year. 861

~~(B)~~ (D) The total per medicaid day payment rate for ~~an~~ 862
~~ICF/IID in peer group 3~~ the following shall not exceed the 863
average total per medicaid day payment rate in effect on July 1, 864
2013, for developmental centers: 865

(1) An ICF/IID that is in peer group 5-A for the purpose 866
of the total per medicaid day payment rate determined under 867
division (B) of this section; 868

(2) An ICF/IID that is in peer group 3-B for the purpose 869
of the total per medicaid day payment rate determined under 870
division (C) of this section. 871

~~(C)~~ (E) The department shall adjust the total per medicaid 872
day payment rate otherwise determined for an ICF/IID under 873
~~division (A)~~ divisions (B) and (C) of this section as directed 874
by the general assembly through the enactment of law governing 875
medicaid payments to ICF/IID providers. 876

~~(D)~~ (F) In addition to paying an ICF/IID provider the 877
total per medicaid day payment rate determined for the 878
provider's ICF/IID under divisions ~~(A),~~ (B), ~~and (C),~~ (D), and 879
(E) of this section for a fiscal year, the department, in 880
accordance with section 5124.25 of the Revised Code, may pay the 881
provider a rate add-on for ventilator-dependent outlier ICF/IID 882
services if the rate add-on is to be paid under that section and 883
the department approves the provider's application for the rate 884
add-on. The rate add-on is not to be part of the ICF/IID's total 885
per medicaid day payment rate. 886

Sec. 5124.151. (A) The total per medicaid day payment rate 887

determined under section 5124.15 of the Revised Code shall not 888
be the initial rate for ICF/IID services provided by a new 889
ICF/IID. Instead, the initial total per medicaid day payment 890
rate for ICF/IID services provided by a new ICF/IID shall be 891
determined in accordance with this section. 892

(B) The initial total per medicaid day payment rate for 893
ICF/IID services provided by a new ICF/IID, other than an 894
ICF/IID in peer group ~~1 or peer group 2-5-A,~~ shall be determined 895
in the following manner: 896

(1) The initial ~~rate for per medicaid day capital costs-~~ 897
~~component rate~~ shall be ~~determined under section 5124.17 of the~~ 898
~~Revised Code using the greater of the new ICF/IID's actual-~~ 899
~~inpatient days or an imputed occupancy rate of eighty per cent-~~ 900
the median per medicaid day capital component rate for the 901
ICF/IID's peer group for the fiscal year. 902

(2) The initial ~~rate for per medicaid day direct care~~ 903
~~costs~~ component rate shall be determined as follows: 904

(a) If there are no cost or resident assessment data for 905
the new ICF/IID as necessary to determine a rate under section 906
5124.19 of the Revised Code, the rate shall be determined as 907
follows: 908

(i) Determine the median cost per case-mix unit under 909
division (B) of section 5124.19 of the Revised Code for the new 910
ICF/IID's peer group for the ~~calendar~~ applicable cost report 911
~~year immediately preceding the fiscal year in which the rate~~
~~will be paid;~~ 913

(ii) Multiply the amount determined under division (B) (2) 914
(a) (i) of this section by the median annual average case-mix 915
score for the new ICF/IID's peer group for that period; 916

(iii) Adjust the product determined under division (B) (2) 917
(a) (ii) of this section by the rate of inflation estimated under 918
division (D) of section 5124.19 of the Revised Code. 919

(b) If the new ICF/IID is a replacement ICF/IID and the 920
ICF/IID or ICFs/IID that are being replaced are in operation 921
immediately before the new ICF/IID opens, the rate shall be the 922
same as the rate for the replaced ICF/IID or ICFs/IID, 923
proportionate to the number of ICF/IID beds in each replaced 924
ICF/IID. 925

(c) If the new ICF/IID is a replacement ICF/IID and the 926
ICF/IID or ICFs/IID that are being replaced are not in operation 927
immediately before the new ICF/IID opens, the rate shall be 928
determined under division (B) (2) (a) of this section. 929

(3) The initial ~~rate for per medicaid day~~ indirect care 930
costs component rate shall be the maximum rate for the new 931
ICF/IID's peer group as determined for the fiscal year in 932
accordance with division (C) of section 5124.21 of the Revised 933
Code. 934

(4) The initial ~~rate for per medicaid day~~ other protected 935
costs component rate shall be one hundred fifteen per cent of 936
the median rate for ICFs/IID determined for the fiscal year 937
under section 5124.23 of the Revised Code. 938

(C) The initial total medicaid day payment rate for 939
ICF/IID services provided by a new ICF/IID in peer group ~~3-5-A~~ 940
shall be determined in the following manner: 941

(1) The initial ~~rate for per medicaid day~~ capital ~~costs-~~ 942
component rate shall be \$29.61. 943

(2) The initial ~~rate for per medicaid day~~ direct care 944
costs component rate shall be \$264.89. 945

(3) The initial ~~rate for per medicaid day~~ indirect care 946
costs component rate shall be \$59.85. 947

(4) The initial ~~rate for per medicaid day~~ other protected 948
costs component rate shall be \$25.99. 949

(D) (1) Except as provided in division (D) (2) of this 950
section, the department of developmental disabilities shall 951
adjust a new ICF/IID's initial total per medicaid day payment 952
rate determined under this section effective the first day of 953
July, to reflect new rate determinations for all ICFs/IID under 954
this chapter. 955

(2) If the department accepts, under division (A) of 956
section 5124.101 of the Revised Code, a cost report filed by the 957
provider of a new ICF/IID, the department shall adjust the 958
ICF/IID's initial total per medicaid day payment rate in 959
accordance with divisions (E) and (F) of that section rather 960
than division (D) (1) of this section. 961

Sec. 5124.152. (A) The total per medicaid day payment rate 962
determined under section 5124.15 of the Revised Code shall not 963
be paid for ICF/IID services provided by an ICF/IID, or discrete 964
unit of an ICF/IID, designated by the department of 965
developmental disabilities as an outlier ICF/IID or unit. 966
Instead, the provider of a designated outlier ICF/IID or unit 967
shall be paid each fiscal year a total per medicaid day payment 968
rate that the department shall prospectively determine in 969
accordance with a methodology established in rules authorized by 970
this section. 971

(B) The department may designate an ICF/IID, or discrete 972
unit of an ICF/IID, as an outlier ICF/IID or unit if the ICF/IID 973
or unit serves residents who have either of the following: 974

(1) Diagnoses or special care needs that require direct care resources that are not measured adequately by the resident assessment instrument specified in rules authorized by ~~section~~ sections 5124.191 and 5124.196 of the Revised Code;

(2) Diagnoses or special care needs that are specified in rules authorized by this section as otherwise qualifying for consideration under this section.

(C) Notwithstanding any other provision of this chapter, the costs incurred by a designated outlier ICF/IID or unit shall not be considered in establishing medicaid payment rates for other ICFs/IID or units.

(D) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section.

(1) (a) The rules shall do both of the following:

(i) Specify the criteria and procedures the department will apply when designating an ICF/IID, or discrete unit of an ICF/IID, as an outlier ICF/IID or unit;

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for ICF/IID services provided by a designated outlier ICF/IID or unit.

(b) The rules adopted under division (D) (1) (a) (i) of this section regarding the criteria for designating outlier ICFs/IID and units shall do both of the following:

(i) Provide for consideration of whether all of the allowable costs of an ICF/IID, or discrete unit of an ICF/IID, would be paid by the rate determined under section 5124.15 of

the Revised Code; 1003

(ii) Specify the minimum number of ICF/IID beds that an ICF/IID, or discrete unit of an ICF/IID, must have to be designated an outlier ICF/IID or unit. 1004
1005
1006

(c) The rules authorized by division (D) (1) (a) (i) of this section regarding the criteria for designating outlier ICFs/IID and units shall not limit the designation to ICFs/IID, or discrete units of ICFs/IID, located in large cities. 1007
1008
1009
1010

(d) The rules authorized by division (D) (1) (a) (ii) of this section regarding the methodology for prospectively determining the rates of designated outlier ICFs/IID and units shall provide for the methodology to consider the historical costs of providing ICF/IID services to the residents of designated outlier ICFs/IID and units. 1011
1012
1013
1014
1015
1016

(2) (a) The rules may do both of the following: 1017

(i) Include for designation as an outlier ICF/IID or unit, an ICF/IID, or discrete unit of an ICF/IID, that serves residents who have complex medical conditions or severe behavioral problems; 1018
1019
1020
1021

(ii) Require that a designated outlier ICF/IID or unit receive authorization from the department before admitting or retaining a resident. 1022
1023
1024

(b) If the director adopts rules authorized by division (D) (2) (a) (ii) of this section regarding the authorization of a designated outlier ICF/IID or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting the authorization. 1025
1026
1027
1028
1029

Sec. 5124.17. (A) For each fiscal year, the department of 1030

developmental disabilities shall determine each ICF/IID's per 1031
medicaid day capital component rate. An ICF/IID's rate for a 1032
fiscal year shall equal the sum of the following: 1033

(1) The lesser of the following: 1034

(a) The sum of all of the following: 1035

(i) The ICF/IID's per diem fair rental value rate for the 1036
fiscal year as determined under division (B) of this section; 1037

(ii) The ICF/IID's per diem equipment rate for the fiscal 1038
year as determined under division (D) of this section; 1039

(iii) The ICF/IID's per diem secondary building rate for 1040
the fiscal year as determined under division (E) of this 1041
section. 1042

(b) The sum determined for the fiscal year under division 1043
(G) of this section. 1044

(2) The ICF/IID's per diem nonextensive renovation rate 1045
for the fiscal year as determined under division (H) of this 1046
section. 1047

(B) An ICF/IID's per diem fair rental value rate for a 1048
fiscal year is the quotient of the following: 1049

(1) The ICF/IID's fair rental value as determined under 1050
division (C) of this section; 1051

(2) The greater of the following: 1052

(a) The number of the ICF/IID's inpatient days for the 1053
applicable cost report year; 1054

(b) The number of inpatient days the ICF/IID would have 1055
had during the applicable cost report year if its occupancy rate 1056
had been ninety-two per cent that year. 1057

<u>(C) (1) An ICF/IID's fair rental value is the product of</u>	1058
<u>the following:</u>	1059
<u>(a) The sum of the following:</u>	1060
<u>(i) The ICF/IID's depreciated current asset value as</u>	1061
<u>determined under division (C) (2) of this section;</u>	1062
<u>(ii) The ICF/IID's land value as determined under division</u>	1063
<u>(C) (10) of this section.</u>	1064
<u>(b) Eleven per cent.</u>	1065
<u>(2) An ICF/IID's depreciated current asset value is its</u>	1066
<u>current asset value, as determined under division (C) (3) of this</u>	1067
<u>section, depreciated by the product of the following:</u>	1068
<u>(a) The ICF/IID's effective age as determined under</u>	1069
<u>division (C) (5) of this section;</u>	1070
<u>(b) One and six-tenths per cent.</u>	1071
<u>(3) An ICF/IID's current asset value is the product of the</u>	1072
<u>following:</u>	1073
<u>(a) The ICF/IID's value per square foot as determined</u>	1074
<u>under division (C) (4) of this section;</u>	1075
<u>(b) The lesser of the ICF/IID's square footage and the</u>	1076
<u>following:</u>	1077
<u>(i) If the ICF/IID is in peer group 1-A and is a downsized</u>	1078
<u>ICF/IID, its medicaid-certified capacity on the last day of the</u>	1079
<u>applicable cost report year multiplied by one thousand;</u>	1080
<u>(ii) If the ICF/IID is in peer group 1-A and is not a</u>	1081
<u>downsized ICF/IID, its medicaid-certified capacity on the last</u>	1082
<u>day of the applicable cost report year multiplied by five</u>	1083
<u>hundred fifty;</u>	1084

(iii) If the ICF/IID is in peer group 2-A and is a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by one thousand; 1085
1086
1087
1088

(iv) If the ICF/IID is in peer group 2-A and is not a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by seven hundred fifty; 1089
1090
1091
1092

(v) If the ICF/IID is in peer group 3-A, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by eight hundred fifty; 1093
1094
1095

(vi) If the ICF/IID is in peer group 4-A or peer group 5-A, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by nine hundred. 1096
1097
1098

(4) (a) An ICF/IID's value per square foot shall be determined by using the version of the following RS means data that was most recently published at the time the determination is made: 1099
1100
1101
1102

(i) If the ICF/IID is in peer group 1-A or peer group 2-A, the RS means data for assisted-senior living facility construction costs; 1103
1104
1105

(ii) If the ICF/IID is in peer group 3-A, peer group 4-A, or peer group 5-A, the RS means data for nursing home construction costs. 1106
1107
1108

(b) Except as provided in division (C) (4) (c) of this section, in determining an ICF/IID's value per square foot, the following modifier shall be used: 1109
1110
1111

(i) If the ICF/IID is located in Summit county, the 1112

<u>modifier specified in the applicable RS means data for Akron;</u>	1113
(ii) <u>If the ICF/IID is located in Athens county, the</u>	1114
<u>modifier specified in the applicable RS means data for Athens;</u>	1115
(iii) <u>If the ICF/IID is located in Ashtabula, Geauga,</u>	1116
<u>Lake, Medina, Portage, Stark, Trumbull, or Wayne county, the</u>	1117
<u>modifier specified in the applicable RS means data for Canton;</u>	1118
(iv) <u>If the ICF/IID is located in Ross county, the</u>	1119
<u>modifier specified in the applicable RS means data for</u>	1120
<u>Chillicothe;</u>	1121
(v) <u>If the ICF/IID is located in Hamilton county, the</u>	1122
<u>modifier specified in the applicable RS means data for</u>	1123
<u>Cincinnati;</u>	1124
(vi) <u>If the ICF/IID is located in Cuyahoga county, the</u>	1125
<u>modifier specified in the applicable RS means data for</u>	1126
<u>Cleveland;</u>	1127
(vii) <u>If the ICF/IID is located in Franklin county, the</u>	1128
<u>modifier specified in the applicable RS means data for Columbus;</u>	1129
(viii) <u>If the ICF/IID is located in Montgomery county, the</u>	1130
<u>modifier specified in the applicable RS means data for Dayton;</u>	1131
(ix) <u>If the ICF/IID is located in Brown, Butler, Clermont,</u>	1132
<u>Clinton, Champaign, Darke, Greene, Logan, Miami, Preble, Shelby,</u>	1133
<u>or Warren county, the modifier specified in the applicable RS</u>	1134
<u>means data for Hamilton;</u>	1135
(x) <u>If the ICF/IID is located in Allen, Auglaize,</u>	1136
<u>Defiance, Erie, Fulton, Hancock, Henry, Huron, Mercer, Paulding,</u>	1137
<u>Putnam, Ottawa, Sandusky, Seneca, Van Wert, Williams, or Wood</u>	1138
<u>county, the modifier specified in the applicable RS means data</u>	1139
<u>for Lima;</u>	1140

- (xi) If the ICF/IID is located in Lorain county, the 1141
modifier specified in the applicable RS means data for Lorain; 1142
- (xii) If the ICF/IID is located in Ashland, Crawford, 1143
Delaware, Fairfield, Fayette, Hardin, Knox, Licking, Madison, 1144
Morrow, Pickaway, Richland, Union, or Wyandot county, the 1145
modifier specified in the applicable RS means data for 1146
Mansfield; 1147
- (xiii) If the ICF/IID is located in Marion county, the 1148
modifier specified in the applicable RS means data for Marion; 1149
- (xiv) If the ICF/IID is located in Clark county, the 1150
modifier specified in the applicable RS means data for 1151
Springfield; 1152
- (xv) If the ICF/IID is located in Jefferson county, the 1153
modifier specified in the applicable RS means data for 1154
Steubenville; 1155
- (xvi) If the ICF/IID is located in Lucas county, the 1156
modifier specified in the applicable RS means data for Toledo; 1157
- (xvii) If the ICF/IID is located in Mahoning county, the 1158
modifier specified in the applicable RS means data for 1159
Youngstown; 1160
- (xviii) If the ICF/IID is located in Adams, Belmont, 1161
Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, 1162
Highland, Hocking, Holmes, Jackson, Lawrence, Meigs, Monroe, 1163
Morgan, Muskingum, Noble, Perry, Pike, Scioto, Tuscarawas, 1164
Vinton, or Washington county, the modifier specified in the 1165
applicable RS means data for Zanesville. 1166
- (c) If a modifier ceases to be specified in the applicable 1167
RS means data for a city listed in division (C) (4) (b) of this 1168

section, the director of developmental disabilities shall 1169
specify in rules adopted under section 5124.03 of the Revised 1170
Code a different modifier for the counties that are affected by 1171
the change. 1172

(5) An ICF/IID's effective age shall be determined as 1173
follows: 1174

(a) Determine the sum of the numbers of the ICF/IID's new 1175
bed equivalents for renovations for the applicable cost report 1176
year and the immediately preceding thirty-nine calendar years as 1177
determined for each of those years under division (C) (7) (a) of 1178
this section; 1179

(b) Determine the sum of the numbers of the ICF/IID's new 1180
bed equivalents for additions that do not increase the ICF/IID's 1181
medicaid-certified capacity for the applicable cost report year 1182
and the immediately preceding thirty-nine calendar years as 1183
determined for each of those years under division (C) (8) (a) of 1184
this section; 1185

(c) Determine the sum of the numbers of the ICF/IID's new 1186
beds resulting from additions that increase the ICF/IID's 1187
medicaid-certified capacity for the applicable cost report year 1188
and the immediately preceding thirty-nine calendar years as 1189
determined for each of those years under division (C) (9) (a) of 1190
this section; 1191

(d) Determine the sum of the sums determined under 1192
divisions (C) (5) (a), (b), and (c) of this section; 1193

(e) Determine the difference of the following: 1194

(i) The ICF/IID's medicaid-certified capacity on the last 1195
day of the applicable cost report year; 1196

<u>(ii) The lesser of the amount specified in division (C) (5)</u>	1197
<u>(e) (i) of this section and the sum determined under division (C)</u>	1198
<u>(5) (d) of this section.</u>	1199
<u>(f) For the purpose of determining the weighted age of the</u>	1200
<u>ICF/IID's original beds, determine the product of the following:</u>	1201
<u>(i) The difference determined under division (C) (5) (e) of</u>	1202
<u>this section;</u>	1203
<u>(ii) The ICF/IID's age as determined under division (C) (6)</u>	1204
<u>of this section.</u>	1205
<u>(g) Determine the sum of the weighted ages of the</u>	1206
<u>ICF/IID's new bed equivalents for renovations for the applicable</u>	1207
<u>cost report year and the immediately preceding thirty-nine</u>	1208
<u>calendar years as determined for each of those years under</u>	1209
<u>division (C) (7) (c) of this section;</u>	1210
<u>(h) Determine the sum of the weighted ages of the</u>	1211
<u>ICF/IID's new bed equivalents for additions that do not increase</u>	1212
<u>its medicaid-certified capacity for the applicable cost report</u>	1213
<u>year and the immediately preceding thirty-nine calendar years as</u>	1214
<u>determined for each of those years under division (C) (8) (d) of</u>	1215
<u>this section;</u>	1216
<u>(i) Determine the sum of the weighted ages of the</u>	1217
<u>ICF/IID's new beds resulting from additions that increase its</u>	1218
<u>medicaid-certified capacity for the applicable cost report year</u>	1219
<u>and the immediately preceding thirty-nine calendar years as</u>	1220
<u>determined for that period and each of those years under</u>	1221
<u>division (C) (9) (b) of this section;</u>	1222
<u>(j) Determine the sum of the following:</u>	1223
<u>(i) The product determined under division (C) (5) (f) of</u>	1224

<u>this section;</u>	1225
(ii) <u>The sum of the sums determined under divisions (C) (5)</u>	1226
<u>(g), (h), and (i) of this section.</u>	1227
(k) <u>Determine the quotient of the following:</u>	1228
(i) <u>The sum determined under division (C) (5) (j) of this</u>	1229
<u>section;</u>	1230
(ii) <u>The ICF/IID's medicaid-certified capacity on the last</u>	1231
<u>day of the applicable cost report year.</u>	1232
(6) <u>An ICF/IID's age is the lesser of the following:</u>	1233
(a) <u>The difference between the following:</u>	1234
(i) <u>The calendar year in which occurs the last day of the</u>	1235
<u>period covered by the cost report being used to determine the</u>	1236
<u>ICF/IID's rate under this section;</u>	1237
(ii) <u>The calendar year in which the ICF/IID was initially</u>	1238
<u>constructed.</u>	1239
(b) <u>Forty.</u>	1240
(7) (a) <u>The number, for a year, of an ICF/IID's new bed</u>	1241
<u>equivalents for renovations is the quotient of the following:</u>	1242
(i) <u>The ICF/IID's desk-reviewed, actual, allowable</u>	1243
<u>renovation costs for the year;</u>	1244
(ii) <u>Seventy thousand dollars.</u>	1245
(b) <u>The age of an ICF/IID's new bed equivalents for</u>	1246
<u>renovations is the difference of the following:</u>	1247
(i) <u>The calendar year in which occurs the last day of the</u>	1248
<u>period covered by the cost report being used to determine the</u>	1249
<u>ICF/IID's rate under this section;</u>	1250

<u>(ii) The calendar year the renovations were completed.</u>	1251
<u>(c) The weighted age, for a year, of an ICF/IID's new bed equivalents for renovations is the product of the following:</u>	1252
	1253
<u>(i) The number, for that year, of the ICF/IID's new bed equivalents for renovations as determined under division (C) (7)</u>	1254
<u>(a) of this section;</u>	1255
	1256
<u>(ii) The age of those new bed equivalents as determined under division (C) (7) (b) of this section.</u>	1257
	1258
<u>(8) (a) The number, for a year, of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the quotient of the following:</u>	1259
	1260
	1261
<u>(i) The value of such additions made to the ICF/IID that year as determined under division (C) (8) (b) of this section;</u>	1262
	1263
<u>(ii) Seventy thousand dollars.</u>	1264
<u>(b) The value of additions that do not increase an ICF/IID's medicaid-certified capacity is the product of the following:</u>	1265
	1266
	1267
<u>(i) The total square footage of the additions;</u>	1268
<u>(ii) The ICF/IID's value per square foot as determined under division (C) (4) of this section.</u>	1269
	1270
<u>(c) The age of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the difference of the following:</u>	1271
	1272
	1273
<u>(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;</u>	1274
	1275
	1276
<u>(ii) The calendar year the additions were completed.</u>	1277

<u>(d) The weighted age, for a year, of an ICF/IID's new bed</u>	1278
<u>equivalents for additions that do not increase its medicaid-</u>	1279
<u>certified capacity is the product of the following:</u>	1280
<u>(i) The number, for that year, of the ICF/IID's new bed</u>	1281
<u>equivalents for such additions as determined under division (C)</u>	1282
<u>(8) (a) of this section;</u>	1283
<u>(ii) The age of those new bed equivalents as determined</u>	1284
<u>under division (C) (8) (c) of this section.</u>	1285
<u>(9) (a) The number, for a year, of new beds resulting from</u>	1286
<u>additions that increase an ICF/IID's medicaid-certified capacity</u>	1287
<u>is the number by which the new beds increased the ICF/IID's</u>	1288
<u>medicaid-certified capacity that year.</u>	1289
<u>(b) The weighted age, for a year, of new beds resulting</u>	1290
<u>from additions that increase an ICF/IID's medicaid-certified</u>	1291
<u>capacity is the product of the following:</u>	1292
<u>(i) The number by which those new beds increased the</u>	1293
<u>ICF/IID's medicaid-certified capacity that year;</u>	1294
<u>(ii) The difference of the calendar year in which occurs</u>	1295
<u>the last day of the period covered by the cost report being used</u>	1296
<u>to determine the ICF/IID's rate under this section and the</u>	1297
<u>calendar year the ICF/IID's medicaid-certified capacity was so</u>	1298
<u>increased.</u>	1299
<u>(10) An ICF/IID's land value is the product of the</u>	1300
<u>following:</u>	1301
<u>(a) The ICF/IID's current asset value as determined under</u>	1302
<u>division (C) (3) of this section;</u>	1303
<u>(b) Ten per cent.</u>	1304

<u>(D) An ICF/IID's per diem equipment rate for a fiscal year</u>	1305
<u>shall be the lesser of the following:</u>	1306
<u>(1) The quotient of the following:</u>	1307
<u>(a) The ICF/IID's costs for capital equipment for the</u>	1308
<u>applicable cost report year;</u>	1309
<u>(b) The greater of the following:</u>	1310
<u>(i) The number of the ICF/IID's inpatient days for the</u>	1311
<u>applicable cost report year;</u>	1312
<u>(ii) The number of inpatient days the ICF/IID would have</u>	1313
<u>had during the applicable cost report year if its occupancy rate</u>	1314
<u>had been ninety-two per cent that year.</u>	1315
<u>(2) The following amount:</u>	1316
<u>(a) If the ICF/IID is in peer group 1-A, five dollars;</u>	1317
<u>(b) If the ICF/IID is in peer group 2-A, six dollars and</u>	1318
<u>fifty cents;</u>	1319
<u>(c) If the ICF/IID is in peer group 3-A, eight dollars;</u>	1320
<u>(d) If the ICF/IID is in peer group 4-A or peer group 5-A,</u>	1321
<u>nine dollars.</u>	1322
<u>(E) An ICF/IID's per diem secondary building rate for a</u>	1323
<u>fiscal year is the quotient of the following:</u>	1324
<u>(1) The ICF/IID's secondary building value as determined</u>	1325
<u>under division (F) of this section;</u>	1326
<u>(2) The greater of the following:</u>	1327
<u>(a) The number of the ICF/IID's inpatient days for the</u>	1328
<u>applicable cost report year;</u>	1329

(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year. 1330
1331
1332

(F) (1) An ICF/IID's secondary building value is the product of the following: 1333
1334

(a) The sum of the following: 1335

(i) The sum of the depreciated current asset values of the ICF/IID's secondary buildings as determined under division (F) (2) of this section; 1336
1337
1338

(ii) The sum of the land values of the ICF/IID's secondary buildings as determined under division (F) (6) of this section. 1339
1340

(b) A rental rate of eleven per cent. 1341

(2) The depreciated current asset value of an ICF/IID's secondary building is the current asset value of the secondary building, as determined under division (F) (3) of this section, depreciated by the product of the following: 1342
1343
1344
1345

(a) The age of the secondary building as determined under division (F) (5) of this section; 1346
1347

(b) One and six-tenths per cent. 1348

(3) The current asset value of an ICF/IID's secondary building is the product of the following: 1349
1350

(a) The part of the secondary building's square footage that is allocated to the ICF/IID; 1351
1352

(b) The secondary building's value per square foot as determined under division (F) (4) of this section. 1353
1354

(4) The value per square foot of an ICF/IID's secondary building shall be determined by using the following: 1355
1356

(a) Except as provided in division (F) (4) (b) of this section, the most recent national average commercial cost estimate for office/warehouse buildings according to information available at buildingjournal.com on the last day of the applicable cost report year; 1357
1358
1359
1360
1361

(b) If the national average commercial cost estimate for office/warehouse buildings ceases to be available at buildingjournal.com, the most recent comparable cost estimate as specified in rules the director of developmental disabilities shall adopt under section 5124.03 of the Revised Code. 1362
1363
1364
1365
1366

(5) The age of an ICF/IID's secondary building is the lesser of the following: 1367
1368

(a) The difference of the following: 1369

(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section; 1370
1371
1372

(ii) The calendar year the secondary building was initially constructed. 1373
1374

(b) Forty. 1375

(6) The land value of an ICF/IID's secondary building is the product of the following: 1376
1377

(a) The current asset value of the ICF/IID's secondary building as determined under division (F) (3) of this section; 1378
1379

(b) Ten per cent. 1380

(G) For the purposes of divisions (A) (1) (b) and (H) (1) (b) (ii) of this section, the department shall determine the sum of the following for each ICF/IID for each fiscal year: 1381
1382
1383

<u>(1) The quotient of the following:</u>	1384
<u>(a) The ICF/IID's desk-reviewed, actual, allowable capital costs for the applicable cost report year;</u>	1385
	1386
<u>(b) The greater of the following:</u>	1387
<u>(i) The number of the ICF/IID's inpatient days for the applicable cost report year;</u>	1388
	1389
<u>(ii) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.</u>	1390
	1391
	1392
<u>(2) The following amount:</u>	1393
<u>(a) If the ICF/IID is in peer group 1-A or peer group 2-A, three dollars;</u>	1394
	1395
<u>(b) If the ICF/IID is in peer group 3-A, peer group 4-A, or peer group 5-A, five dollars.</u>	1396
	1397
<u>(3) The greater of the following:</u>	1398
<u>(a) Ten per cent of the difference of the following:</u>	1399
<u>(i) The sum of the quotient determined for the fiscal year under division (G) (1) of this section and the applicable amount specified in division (G) (2) of this section;</u>	1400
	1401
	1402
<u>(ii) The sum determined for the fiscal year under division (A) (1) (a) of this section.</u>	1403
	1404
<u>(b) Zero.</u>	1405
<u>(H) An ICF/IID's per diem nonextensive renovation rate for a fiscal year is the following:</u>	1406
	1407
<u>(1) If the sum of the ICF/IID's per diem costs of nonextensive renovations for the applicable cost report year as</u>	1408
	1409

determined under division (I) of this section and the ICF/IID's 1410
per diem costs of ownership for the applicable cost report year 1411
as determined under division (J) of this section is greater than 1412
the sum determined for the ICF/IID for the fiscal year under 1413
division (G) of this section, the lesser of the following: 1414

(a) The ICF/IID's per diem costs of nonextensive 1415
renovations for the applicable cost report year as determined 1416
under division (I) of this section; 1417

(b) The difference of the following: 1418

(i) The sum of the ICF/IID's per diem costs of 1419
nonextensive renovation for the applicable cost report year as 1420
determined under division (I) of this section and the ICF/IID's 1421
per diem costs of ownership for the applicable cost report year 1422
as determined under division (J) of this section; 1423

(ii) The sum determined for the ICF/IID for the fiscal 1424
year under division (G) of this section. 1425

(2) If the sum of the ICF/IID's per diem costs of 1426
nonextensive renovation for the applicable cost report year as 1427
determined under division (I) of this section and the ICF/IID's 1428
per diem costs of ownership for the applicable cost report year 1429
as determined under division (J) of this section is less than or 1430
equal to the sum determined for the ICF/IID for the fiscal year 1431
under division (G) of this section, zero. 1432

(I) An ICF/IID's per diem costs of nonextensive 1433
renovations for an applicable cost report year are the quotient 1434
of the following: 1435

(1) The ICF/IID's desk-reviewed, actual, allowable costs 1436
of nonextensive renovations for the applicable cost report year; 1437

<u>(2) The greater of the following:</u>	1438
<u>(a) The number of the ICF/IID's inpatient days for the</u>	1439
<u>applicable cost report year;</u>	1440
<u>(b) The number of inpatient days the ICF/IID would have</u>	1441
<u>had during the applicable cost report year if its occupancy rate</u>	1442
<u>had been ninety-two per cent that year.</u>	1443
<u>(J) An ICF/IID's per diem costs of ownership for an</u>	1444
<u>applicable cost report year are the quotient of the following:</u>	1445
<u>(1) The ICF/IID's desk-reviewed, actual, allowable costs</u>	1446
<u>of ownership for the applicable cost report year;</u>	1447
<u>(2) The greater of the following:</u>	1448
<u>(a) The number of the ICF/IID's inpatient days for the</u>	1449
<u>applicable cost report year;</u>	1450
<u>(b) The number of inpatient days the ICF/IID would have</u>	1451
<u>had during the applicable cost report year if its occupancy rate</u>	1452
<u>had been ninety-two per cent that year.</u>	1453
Sec. 5124.17 5124.171. (A) For each fiscal year <u>until</u>	1454
<u>fiscal year 2022 and for the purpose of division (C) of section</u>	1455
<u>5124.15 of the Revised Code, the department of developmental</u>	1456
<u>disabilities shall determine each ICF/IID's per medicaid day</u>	1457
<u>payment rate for reasonable capital costs. Except as otherwise</u>	1458
<u>provided in this chapter, an ICF/IID's rate shall be determined</u>	1459
<u>prospectively and based on the ICF/IID's capital costs for the</u>	1460
<u>calendar year preceding the fiscal year in for which the rate</u>	1461
<u>will be paid determined. Subject to section 5124.28 of the</u>	1462
<u>Revised Code, an ICF/IID's rate shall equal the sum of the</u>	1463
<u>following:</u>	1464
<u>(1) The ICF/IID's desk-reviewed, actual, allowable, per</u>	1465

diem costs of ownership for the immediately preceding cost 1466
reporting period, limited as provided in divisions (B), (C), and 1467
(D) of this section; 1468

(2) The ICF/IID's per medicaid day payment for the 1469
ICF/IID's per diem capitalized costs of nonextensive renovations 1470
determined under division (E) (1) of this section if the ICF/IID 1471
qualifies for a payment for such costs as specified in division 1472
(E) (2) of this section; 1473

(3) The ICF/IID's per medicaid day efficiency incentive 1474
determined under division (F) of this section. 1475

(B) The costs of ownership per diem payment rates for 1476
ICFs/IID in peer group 1-B shall not exceed the following limits 1477
as adjusted for inflation in accordance with division (G) of 1478
this section: 1479

(1) For ICFs/IID with dates of licensure prior to January 1480
1, 1958, not exceeding two dollars and fifty cents; 1481

(2) For ICFs/IID with dates of licensure after December 1482
31, 1957, but prior to January 1, 1968, not exceeding: 1483

(a) Three dollars and fifty cents if the cost of 1484
construction was three thousand five hundred dollars or more per 1485
bed; 1486

(b) Two dollars and fifty cents if the cost of 1487
construction was less than three thousand five hundred dollars 1488
per bed. 1489

(3) For ICFs/IID with dates of licensure after December 1490
31, 1967, but prior to January 1, 1976, not exceeding: 1491

(a) Four dollars and fifty cents if the cost of 1492
construction was five thousand one hundred fifty dollars or more 1493

per bed;	1494
(b) Three dollars and fifty cents if the cost of	1495
construction was less than five thousand one hundred fifty	1496
dollars per bed, but exceeds three thousand five hundred dollars	1497
per bed;	1498
(c) Two dollars and fifty cents if the cost of	1499
construction was three thousand five hundred dollars or less per	1500
bed.	1501
(4) For ICFs/IID with dates of licensure after December	1502
31, 1975, but prior to January 1, 1979, not exceeding:	1503
(a) Five dollars and fifty cents if the cost of	1504
construction was six thousand eight hundred dollars or more per	1505
bed;	1506
(b) Four dollars and fifty cents if the cost of	1507
construction was less than six thousand eight hundred dollars	1508
per bed but exceeds five thousand one hundred fifty dollars per	1509
bed;	1510
(c) Three dollars and fifty cents if the cost of	1511
construction was five thousand one hundred fifty dollars or less	1512
per bed, but exceeds three thousand five hundred dollars per	1513
bed;	1514
(d) Two dollars and fifty cents if the cost of	1515
construction was three thousand five hundred dollars or less per	1516
bed.	1517
(5) For ICFs/IID with dates of licensure after December	1518
31, 1978, but prior to January 1, 1980, not exceeding:	1519
(a) Six dollars if the cost of construction was seven	1520
thousand six hundred twenty-five dollars or more per bed;	1521

(b) Five dollars and fifty cents if the cost of 1522
construction was less than seven thousand six hundred twenty- 1523
five dollars per bed but exceeds six thousand eight hundred 1524
dollars per bed; 1525

(c) Four dollars and fifty cents if the cost of 1526
construction was six thousand eight hundred dollars or less per 1527
bed but exceeds five thousand one hundred fifty dollars per bed; 1528

(d) Three dollars and fifty cents if the cost of 1529
construction was five thousand one hundred fifty dollars or less 1530
but exceeds three thousand five hundred dollars per bed; 1531

(e) Two dollars and fifty cents if the cost of 1532
construction was three thousand five hundred dollars or less per 1533
bed. 1534

(6) For ICFs/IID with dates of licensure after December 1535
31, 1979, but prior to January 1, 1981, not exceeding: 1536

(a) Twelve dollars if the beds were originally licensed as 1537
residential facility beds by the department of developmental 1538
disabilities; 1539

(b) Six dollars if the beds were originally licensed as 1540
nursing home beds by the department of health. 1541

(7) For ICFs/IID with dates of licensure after December 1542
31, 1980, but prior to January 1, 1982, not exceeding: 1543

(a) Twelve dollars if the beds were originally licensed as 1544
residential facility beds by the department of developmental 1545
disabilities; 1546

(b) Six dollars and forty-five cents if the beds were 1547
originally licensed as nursing home beds by the department of 1548
health. 1549

(8) For ICFs/IID with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	1550
	1551
(a) Twelve dollars if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	1552
	1553
	1554
(b) Six dollars and seventy-nine cents if the beds were originally licensed as nursing home beds by the department of health.	1555
	1556
	1557
(9) For ICFs/IID with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	1558
	1559
(a) Twelve dollars if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	1560
	1561
	1562
(b) Seven dollars and nine cents if the beds were originally licensed as nursing home beds by the department of health.	1563
	1564
	1565
(10) For ICFs/IID with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	1566
	1567
(a) Twelve dollars and twenty-four cents if the beds were originally licensed as residential facility beds by the department of developmental disabilities;	1568
	1569
	1570
(b) Seven dollars and twenty-three cents if the beds were originally licensed as nursing home beds by the department of health.	1571
	1572
	1573
(11) For ICFs/IID with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	1574
	1575
(a) Twelve dollars and fifty-three cents if the beds were	1576

originally licensed as residential facility beds by the	1577
department of developmental disabilities;	1578
(b) Seven dollars and forty cents if the beds were	1579
originally licensed as nursing home beds by the department of	1580
health.	1581
(12) For ICFs/IID with dates of licensure after December	1582
31, 1985, but prior to January 1, 1987, not exceeding:	1583
(a) Twelve dollars and seventy cents if the beds were	1584
originally licensed as residential facility beds by the	1585
department of developmental disabilities;	1586
(b) Seven dollars and fifty cents if the beds were	1587
originally licensed as nursing home beds by the department of	1588
health.	1589
(13) For ICFs/IID with dates of licensure after December	1590
31, 1986, but prior to January 1, 1988, not exceeding:	1591
(a) Twelve dollars and ninety-nine cents if the beds were	1592
originally licensed as residential facility beds by the	1593
department of developmental disabilities;	1594
(b) Seven dollars and sixty-seven cents if the beds were	1595
originally licensed as nursing home beds by the department of	1596
health.	1597
(14) For ICFs/IID with dates of licensure after December	1598
31, 1987, but prior to January 1, 1989, not exceeding thirteen	1599
dollars and twenty-six cents;	1600
(15) For ICFs/IID with dates of licensure after December	1601
31, 1988, but prior to January 1, 1990, not exceeding thirteen	1602
dollars and forty-six cents;	1603

(16) For ICFs/IID with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents;

(17) For ICFs/IID with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents;

(18) For ICFs/IID with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents;

(19) For ICFs/IID with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents.

(C) (1) The costs of ownership per diem payment rate for an ICF/IID in peer group 2-B shall not exceed the following limits:

(a) Eighteen dollars and thirty cents as adjusted for inflation pursuant to division (C) (2) of this section if any of the following apply to the ICF/IID:

(i) The ICF/IID has a date of licensure, or was granted project authorization by the department of developmental disabilities, before July 1, 1993.

(ii) The ICF/IID has a date of licensure, or was granted project authorization by the department, on or after July 1, 1993, and the provider demonstrates that the provider made substantial commitments of funds for the ICF/IID before that date.

(iii) The ICF/IID has a date of licensure, or was granted project authorization by the department, on or after July 1, 1993, the provider made no substantial commitment of funds for the ICF/IID before that date, and the department of job and

family services or department of developmental disabilities gave 1632
prior approval for the ICF/IID's construction. 1633

(b) If division (C) (1) (a) of this section does not apply 1634
to the ICF/IID, the amount that would apply to the ICF/IID under 1635
division (B) of this section if it were in peer group 1-B. 1636

(2) The eighteen-dollar and thirty-cent payment rate 1637
specified in division (C) (1) (a) of this section shall be 1638
increased as follows: 1639

(a) For the period beginning June 30, 1990, and ending 1640
July 1, 1993, by the change in the "Dodge building cost indexes, 1641
northeastern and north central states," published by Marshall 1642
and Swift; 1643

(b) For each fiscal year thereafter, in accordance with 1644
division (G) of this section. 1645

(D) The costs of ownership per diem payment rate for an 1646
ICF/IID in peer group 3-B shall not exceed the amount that is 1647
used for the purpose of division (C) (1) (a) of this section and 1648
is in effect on July 1, 2014. That rate shall be increased each 1649
fiscal year that begins after ~~the effective date of this section~~ 1650
September 15, 2014, and ends not later than July 1, 2021, in 1651
accordance with division (G) of this section. 1652

(E) (1) Beginning January 1, 1981, regardless of the 1653
original date of licensure, the payment rate for the per diem 1654
capitalized costs of nonextensive renovations made after January 1655
1, 1981, to a qualifying ICF/IID, shall not exceed six dollars 1656
per medicaid day using 1980 as the base year and adjusting the 1657
amount annually until June 30, 1993, for fluctuations in 1658
construction costs calculated by the department using the "Dodge 1659
building cost indexes, northeastern and north central states," 1660

published by Marshall and Swift. The payment rate shall be 1661
further adjusted in accordance with division (G) of this 1662
section. The payment provided for in this division is the only 1663
payment that shall be made for an ICF/IID's capitalized costs of 1664
nonextensive renovations. Costs of nonextensive renovations 1665
shall not be included in costs of ownership and shall not affect 1666
the date of licensure for purposes of division (B) or (C) of 1667
this section. This division applies to nonextensive renovations 1668
regardless of whether they are made by an owner or a lessee. If 1669
the tenancy of a lessee that has made nonextensive renovations 1670
ends before the depreciation expense for the costs of 1671
nonextensive renovations has been fully reported, the former 1672
lessee shall not report the undepreciated balance as an expense. 1673

(2) An ICF/IID qualifies for a payment for costs of 1674
nonextensive renovations if all of the following apply: 1675

(a) Either of the following applies: 1676

(i) The ICF/IID is in peer group 1-B and either the 1677
department approved the nonextensive renovation before July 1, 1678
2013, or the nonextensive renovation is part of a project that 1679
results in the ICF/IID becoming a downsized ICF/IID or partially 1680
converted ICF/IID. 1681

(ii) The ICF/IID is in peer group 2-B or peer group 3-B. 1682

(b) At least five years have elapsed since the ICF/IID's 1683
date of licensure or date of an extensive renovation of the 1684
portion of the ICF/IID that is proposed to be nonextensively 1685
renovated, unless the nonextensive renovation is necessary to 1686
meet the requirements of federal, state, or local statutes, 1687
ordinances, rules, or policies. 1688

(c) The provider of the ICF/IID does both of the 1689

following: 1690

(i) Submits to the department a plan that describes in 1691
detail the changes in capital assets to be accomplished by means 1692
of the nonextensive renovation and the timetable for completing 1693
the project, which shall be not more than eighteen months after 1694
the nonextensive renovation begins; 1695

(ii) Obtains prior approval from the department for the 1696
nonextensive renovation. 1697

(3) The director of developmental disabilities shall adopt 1698
rules under section 5124.03 of the Revised Code that specify 1699
criteria and procedures for prior approval of nonextensive 1700
renovation and extensive renovation projects. No provider shall 1701
separate a project with the intent to evade the characterization 1702
of the project as a nonextensive renovation or as an extensive 1703
renovation. No provider shall increase the scope of a project 1704
after it is approved by the department unless the increase in 1705
scope is approved by the department. 1706

(F) (1) Subject to division (F) (2) of this section, an 1707
ICF/IID's per medicaid day efficiency incentive payment rate 1708
shall equal the following percentage of the difference between 1709
the ICF/IID's desk-reviewed, actual, allowable per diem costs of 1710
ownership and the applicable limit on costs of ownership payment 1711
rates established by division (B) of this section: 1712

(a) In the case of an ICF/IID in peer group 1-B, the 1713
following percentage: 1714

(i) Fifty per cent if the provider of the ICF/IID obtains 1715
the department's approval to become a downsized ICF/IID and the 1716
approval is conditioned on the downsizing being completed not 1717
later than July 1, 2018; 1718

(ii) Twenty-five per cent if division (F) (1) (a) (i) of this section does not apply; 1719
1720

(b) In the case of an ICF/IID in peer group 2-B or peer group 3-B, fifty per cent. 1721
1722

(2) The efficiency incentive payment rate for an ICF/IID in peer group 2-B or peer group 3-B shall not exceed three dollars per medicaid day, adjusted annually in accordance with division (G) of this section. For the purpose of determining an ICF/IID's efficiency incentive payment rate, both of the following apply: 1723
1724
1725
1726
1727
1728

(a) Depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership; 1729
1730

(b) The applicable limit under division (B) of this section shall apply to all ICFs/IID regardless of which peer group they are in. 1731
1732
1733

(G) The amounts specified in divisions (B), (C), (D), (E), and (F) of this section shall be adjusted beginning on the first day of each fiscal year until fiscal year 2022 for the estimated inflation rate for the twelve-month period beginning on the first day of July of the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which rate ~~will be paid~~ is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the midwest region, as published by the United States bureau of labor statistics. 1734
1735
1736
1737
1738
1739
1740
1741
1742
1743
1744

(H) Notwithstanding divisions (C) and (E) of this section, the total payment rate for costs of ownership, capitalized costs of nonextensive renovations, and the efficiency incentive for an 1745
1746
1747

ICF/IID in peer group 2-B shall not exceed the sum of the 1748
limitations specified in divisions (C) and (E) of this section. 1749
Notwithstanding divisions (D) and (E) of this section, the total 1750
payment rate for costs of ownership, capitalized costs of 1751
nonextensive renovations, and the efficiency incentive for an 1752
ICF/IID in peer group 3-B shall not exceed the sum of the 1753
limitations specified in divisions (D) and (E) of this section. 1754

(I) (1) For the purpose of determining ICFs/IID's medicaid 1755
payment rates for capital costs under this section: 1756

(a) Buildings shall be depreciated using the straight line 1757
method over forty years or over a different period approved by 1758
the department. 1759

(b) Components and equipment shall be depreciated using 1760
the straight line method over a period designated by the 1761
director of developmental disabilities in rules adopted under 1762
section 5124.03 of the Revised Code, consistent with the 1763
guidelines of the American hospital association, or over a 1764
different period approved by the department. 1765

(2) Any rules authorized by division (I) (1) of this 1766
section that specify useful lives of buildings, components, or 1767
equipment apply only to assets acquired on or after July 1, 1768
1993. Depreciation for costs paid or reimbursed by any 1769
government agency shall not be included in costs of ownership or 1770
costs of nonextensive renovations unless that part of the 1771
payment under this chapter is used to reimburse the government 1772
agency. 1773

(J) (1) Except as provided in division (J) (2) of this 1774
section, if a provider leases or transfers an interest in an 1775
ICF/IID to another provider who is a related party, the related 1776

party's allowable costs of ownership shall include the lesser of 1777
the following: 1778

(a) The annual lease expense or actual cost of ownership, 1779
whichever is applicable; 1780

(b) The reasonable cost to the lessor or provider making 1781
the transfer. 1782

(2) If a provider leases or transfers an interest in an 1783
ICF/IID to another provider who is a related party, regardless 1784
of the date of the lease or transfer, the related party's 1785
allowable cost of ownership shall include the annual lease 1786
expense or actual cost of ownership, whichever is applicable, 1787
subject to the limitations specified in divisions (B) to (I) of 1788
this section, if all of the following conditions are met: 1789

(a) The related party is a relative of owner; 1790

(b) In the case of a lease, if the lessor retains any 1791
ownership interest, it is, except as provided in division (J) (2) 1792
(d) (ii) of this section, in only the real property and any 1793
improvements on the real property; 1794

(c) In the case of a transfer, the provider making the 1795
transfer retains, except as provided in division (J) (2) (d) (iv) 1796
of this section, no ownership interest in the ICF/IID; 1797

(d) The department determines that the lease or transfer 1798
is an arm's length transaction pursuant to rules adopted under 1799
section 5124.03 of the Revised Code. The rules shall provide 1800
that a lease or transfer is an arm's length transaction if all 1801
of the following, as applicable, apply: 1802

(i) In the case of a lease, once the lease goes into 1803
effect, the lessor has no direct or indirect interest in the 1804

lessee or, except as provided in division (J) (2) (b) of this 1805
section, the ICF/IID itself, including interest as an owner, 1806
officer, director, employee, independent contractor, or 1807
consultant, but excluding interest as a lessor. 1808

(ii) In the case of a lease, the lessor does not reacquire 1809
an interest in the ICF/IID except through the exercise of a 1810
lessor's rights in the event of a default. If the lessor 1811
reacquires an interest in the ICF/IID in this manner, the 1812
department shall treat the ICF/IID as if the lease never 1813
occurred when the department determines its payment rate for 1814
capital costs. 1815

(iii) In the case of a transfer, once the transfer goes 1816
into effect, the provider that made the transfer has no direct 1817
or indirect interest in the provider that acquires the ICF/IID 1818
or the ICF/IID itself, including interest as an owner, officer, 1819
director, employee, independent contractor, or consultant, but 1820
excluding interest as a creditor. 1821

(iv) In the case of a transfer, the provider that made the 1822
transfer does not reacquire an interest in the ICF/IID except 1823
through the exercise of a creditor's rights in the event of a 1824
default. If the provider reacquires an interest in the ICF/IID 1825
in this manner, the department shall treat the ICF/IID as if the 1826
transfer never occurred when the department determines its 1827
payment rate for capital costs. 1828

(v) The lease or transfer satisfies any other criteria 1829
specified in the rules. 1830

(e) Except in the case of hardship caused by a 1831
catastrophic event, as determined by the department, or in the 1832
case of a lessor or provider making the transfer who is at least 1833

sixty-five years of age, not less than twenty years have elapsed 1834
since, for the same ICF/IID, allowable cost of ownership was 1835
determined most recently under this division. 1836

(K) This section is obsolete beginning July 1, 2021. 1837

Sec. 5124.19. (A) For each fiscal year, the department of 1838
developmental disabilities shall determine each ICF/IID's per 1839
medicaid day direct care costs component rate. An ICF/IID's rate 1840
shall be determined as follows: 1841

(1) Determine the product of the following: 1842

(a) The ICF/IID's quarterly case-mix score determined or 1843
assigned under section 5124.193 of the Revised Code for the 1844
following calendar quarter: 1845

(i) For the rate determined for fiscal year 2019, the 1846
calendar quarter ending December 31, 2017; 1847

(ii) For the rate determined for each subsequent fiscal 1848
year, the calendar quarter ending on the last day of March of 1849
the calendar year in which the fiscal year begins. 1850

(b) The lesser of the following: 1851

(i) The ICF/IID's cost per case-mix unit for the 1852
applicable cost report year as determined under division (B) of 1853
this section; 1854

(ii) The maximum cost per case-mix unit for the ICF/IID's 1855
peer group for the fiscal year for which the rate is determined 1856
as determined under division (C) of this section. 1857

(2) Adjust the product determined under division (A) (1) of 1858
this section by the inflation rate estimated under division (D) 1859
of this section. 1860

(B) To determine an ICF/IID's cost per case-mix unit for a cost report year, the department shall determine the quotient of the following: 1861
1862
1863

(1) The ICF/IID's desk-reviewed, actual, allowable, per diem direct care costs for the cost report year; 1864
1865

(2) The ICF/IID's annual average case-mix score as determined under section 5124.193 of the Revised Code for the fiscal year for which the rate is determined. 1866
1867
1868

(C) (1) The maximum cost per case-mix unit for a peer group for a fiscal year, other than peer group 5-A, is the following percentage above the peer group's median cost per case-mix unit for that fiscal year: 1869
1870
1871
1872

(a) For peer group 1-A, sixteen per cent; 1873

(b) For peer group 2-A, fourteen per cent; 1874

(c) For peer group 3-A, eighteen per cent; 1875

(d) For peer group 4-A, twenty-two per cent. 1876

(2) The maximum cost per case-mix unit for peer group 5-A for a fiscal year is the ninety-fifth percentile of all ICFs/IID in peer group 5-A for the applicable cost report year. 1877
1878
1879

(3) In determining the maximum cost per case-mix unit for a peer group under division (C) (1) of this section, the department shall exclude from its determination the cost per case-mix unit of any ICF/IID in the peer group that participated in the medicaid program under the same provider for less than twelve months during the applicable cost report year. 1880
1881
1882
1883
1884
1885

(4) In determining the maximum cost per case-mix unit for a peer group under division (C) (1) or (2) of this section, the 1886
1887

department shall exclude from its determination the cost per 1888
case-mix unit of any ICF/IID in the peer group that has a case- 1889
mix score that was assigned by the department to the ICF/IID 1890
under division (B) of section 5124.193 of the Revised Code. 1891

(5) The department shall not reset a peer group's maximum 1892
cost per case-mix unit for a fiscal year under division (C) (1) 1893
or (2) of this section based on additional information that the 1894
department receives after it sets the maximum for that fiscal 1895
year. The department shall reset a peer group's maximum cost per 1896
case-mix unit for a fiscal year only if it made an error in 1897
setting the maximum for that fiscal year based on information 1898
available to the department at the time it originally sets the 1899
maximum for that fiscal year. 1900

(D) The department shall estimate the rate of inflation 1901
for the eighteen-month period beginning on the first day of July 1902
of the applicable cost report year and ending on the last day of 1903
December of the fiscal year for which the rate is determined, 1904
using the following: 1905

(1) Subject to division (D) (2) of this section, the 1906
employment cost index for total compensation, health care and 1907
social assistance component, published by the United States 1908
bureau of labor statistics; 1909

(2) If the United States bureau of labor statistics ceases 1910
to publish the index specified in division (D) (1) of this 1911
section, the index that is subsequently published by the bureau 1912
and covers the staff costs of ICFs/IID. 1913

Sec. 5124.191. (A) As used in sections 5124.191 to 1914
5124.193 of the Revised Code, "ICF/IID resident" includes an 1915
individual who is on hospital or therapeutic leave from an 1916

ICF/IID. 1917

(B) In accordance with rules adopted under section 5124.03 1918
of the Revised Code, the department of developmental 1919
disabilities shall assess each ICF/IID resident regardless of 1920
payment source and compile complete assessment data on the 1921
residents. The department shall perform the initial assessment 1922
of an ICF/IID resident. The department may perform a subsequent 1923
assessment of an ICF/IID resident under any of the following 1924
circumstances: 1925

(1) The provider of the ICF/IID in which the resident 1926
resides or from which the resident is on hospital or therapeutic 1927
leave has submitted to the department under division (D) of this 1928
section revised assessment data for the resident or an 1929
attestation of no changes in the resident's assessment data and 1930
the department has reason to believe that the revised assessment 1931
data or attestation is inaccurate; 1932

(2) The department has reason to believe that the 1933
resident's most recent assessment no longer accurately reflects 1934
the resident's condition; 1935

(3) The department determines that the resident's most 1936
recent assessment should be updated because of the passage of 1937
time since that assessment was performed. 1938

(C) If an ICF/IID provider disagrees with the results of 1939
an assessment performed by the department under this section, 1940
the provider may request that the department reconsider the 1941
results in accordance with rules adopted under section 5124.03 1942
of the Revised Code. 1943

(D) After the department assesses an ICF/IID resident 1944
under this section, the provider of the ICF/IID in which the 1945

resident resides or from which the resident is on hospital or 1946
therapeutic leave shall submit to the department, not later than 1947
fifteen days after the end of each subsequent calendar quarter 1948
and through the medium or media specified in rules adopted under 1949
section 5124.03 of the Revised Code, either of the following: 1950

(1) Revised assessment data for the resident if there are 1951
changes in the resident's assessment data; 1952

(2) An attestation that there are no changes in the 1953
resident's assessment data. 1954

(E) A resident assessment instrument specified in rules 1955
adopted under section 5124.03 of the Revised Code shall be used 1956
to compile or revise assessment data of ICF/IID residents under 1957
this section. The resident assessment instrument used for the 1958
purpose of this section may be different from the resident 1959
assessment instrument used for the purpose of section 5124.196 1960
of the Revised Code. 1961

Sec. 5124.192. (A) The department of developmental 1962
disabilities shall establish six acuity groups for the purpose 1963
of assigning case-mix scores to ICF/IID residents. An ICF/IID 1964
resident's case-mix score shall be the score of the resident's 1965
acuity group as specified in rules authorized by this section. 1966

(B) The department shall place each ICF/IID resident into 1967
one of the acuity groups. In determining which acuity group an 1968
ICF/IID resident is to be placed into, the department shall do 1969
all of the following: 1970

(1) In accordance with rules authorized by this section 1971
and using the most recent resident assessment data for the 1972
ICF/IID resident available to the department, calculate for the 1973
resident an assessment score for each of the medical, 1974

behavioral, and adaptive skills domains on the resident 1975
assessment instrument used to compile or revise assessment data 1976
for ICF/IID residents under section 5124.191 of the Revised 1977
Code; 1978

(2) For each of the ICF/IID resident's domain assessment 1979
scores and using values specified in rules authorized by this 1980
section, assign the following points: 1981

(a) If the resident's assessment score for the domain is 1982
more than one standard deviation above the mean assessment score 1983
for the domain for all ICF/IID residents as of December 31, 1984
2017, one point; 1985

(b) If the resident's assessment score for the domain is 1986
more than one-half standard deviation above the mean assessment 1987
score for the domain for all ICF/IID residents as of December 1988
31, 2017, and not more than one standard deviation above that 1989
mean, two points; 1990

(c) If the resident's assessment score for the domain is 1991
more than the mean assessment score for the domain for all 1992
ICF/IID residents as of December 31, 2017, and not more than 1993
one-half standard deviation above that mean, three points; 1994

(d) If the resident's assessment score for the domain is 1995
not more than the mean assessment score for the domain for all 1996
ICF/IID residents as of December 31, 2017, and not more than 1997
one-half standard deviation below that mean, four points; 1998

(e) If the resident's assessment score for the domain is 1999
more than one-half standard deviation below the mean assessment 2000
score for the domain for all ICF/IID residents as of December 2001
31, 2017, and not more than one standard deviation below that 2002
mean, five points; 2003

<u>(f) If the resident's assessment score for the domain is</u>	2004
<u>more than one standard deviation below the mean assessment score</u>	2005
<u>for the domain for all ICF/IID residents as of December 31,</u>	2006
<u>2017, six points.</u>	2007
<u>(3) Using the following weights, determine the weighted</u>	2008
<u>sum of the points assigned under division (B) (2) of this section</u>	2009
<u>to each of the ICF/IID resident's domain assessment scores and</u>	2010
<u>round the weighted sum to the nearest whole number:</u>	2011
<u>(a) Points assigned to the resident's assessment score for</u>	2012
<u>the medical domain shall be weighted at thirty-five per cent.</u>	2013
<u>(b) Points assigned to the resident's assessment score for</u>	2014
<u>the behavioral domain shall be weighted at thirty per cent.</u>	2015
<u>(c) Points assigned to the resident's assessment score for</u>	2016
<u>the adaptive skills domain shall be weighted at thirty-five per</u>	2017
<u>cent.</u>	2018
<u>(4) Place the ICF/IID resident into the following acuity</u>	2019
<u>group:</u>	2020
<u>(a) If the resident's weighted sum of points is five or</u>	2021
<u>lower, group one;</u>	2022
<u>(b) If the resident's weighted sum of points is at least</u>	2023
<u>six and not more than eight, group two;</u>	2024
<u>(c) If the resident's weighted sum of points is nine or</u>	2025
<u>ten, group three;</u>	2026
<u>(d) If the resident's weighted sum of points is eleven or</u>	2027
<u>twelve, group four;</u>	2028
<u>(e) If the resident's weighted sum of points is at least</u>	2029
<u>thirteen and not more than fifteen, group five;</u>	2030

(f) If the resident's weighted sum of points is sixteen or higher, group six. 2031
2032

(C) (1) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section, including rules that do all of the following: 2033
2034
2035
2036

(a) Subject to division (C) (2) of this section, specify case-mix scores for each acuity group established under this section; 2037
2038
2039

(b) Prescribe a methodology for calculating assessment scores for the medical, behavioral, and adaptive skills domains on the resident assessment instrument used to compile or revise assessment data of ICF/IID residents under section 5124.191 of the Revised Code; 2040
2041
2042
2043
2044

(c) Specify values to be used in assigning points to domain assessment scores. 2045
2046

(2) The case-mix score specified for an acuity group shall be based on relative resource use by ICF/IID residents who are placed in the group and were included in a time study of ICF/IID residents performed by the department. 2047
2048
2049
2050

Sec. 5124.193. (A) Except as provided in division (B) of this section, the department of developmental disabilities shall do both of the following: 2051
2052
2053

(1) For each calendar quarter, determine a case-mix score for each ICF/IID using both of the following: 2054
2055

(a) The most recent (as of the date the determination is made) resident assessment data compiled and revised for the ICF/IID's residents under section 5124.191 of the Revised Code; 2056
2057
2058

(b) The case-mix scores of the ICF/IID's residents as 2059
determined under section 5124.192 of the Revised Code. 2060

(2) After the end of each calendar year, determine an 2061
annual average case-mix score for each ICF/IID using the 2062
ICF/IID's quarterly case-mix scores for that calendar year. 2063

(B) (1) Subject to divisions (B) (2) and (3) of this 2064
section, the department, for one or more months of a calendar 2065
quarter, may assign to an ICF/IID a case-mix score that is five 2066
per cent less than the ICF/IID's case-mix score as of the day 2067
immediately preceding the day on which the reduction takes 2068
effect if the provider does not timely comply with division (D) 2069
of section 5124.191 of the Revised Code. 2070

(2) Subject to division (B) (3) of this section, before 2071
assigning a case-mix score to an ICF/IID under division (B) (1) 2072
of this section, the department shall permit the provider to 2073
come into compliance with division (D) of section 5124.191 of 2074
the Revised Code. The department may assign the case-mix score 2075
if the provider fails to comply not later than forty-five days 2076
after the end of the calendar quarter to which the noncompliance 2077
pertains or a later date specified in rules authorized by this 2078
section. 2079

(3) The department shall take action under division (B) (1) 2080
or (2) of this section only in accordance with rules authorized 2081
by this section. The department shall not take an action that 2082
affects medicaid payment rates for prior payment periods except 2083
in accordance with sections 5124.41 and 5124.42 of the Revised 2084
Code. 2085

(C) The director of developmental disabilities shall adopt 2086
rules under section 5124.03 of the Revised Code as necessary to 2087

implement this section. 2088

Sec. 5124.194. (A) No change that the department of 2089
developmental disabilities makes to either of the following is 2090
valid unless the change is applied prospectively and the 2091
department complies with division (B) of this section: 2092

(1) The department's instructions or guidelines for the 2093
resident assessment instrument used to compile or revise 2094
assessment data of ICF/IID residents under section 5124.191 of 2095
the Revised Code; 2096

(2) The methodology prescribed in rules authorized by 2097
division (C) (1) (b) of section 5124.192 of the Revised Code for 2098
calculating assessment scores for the medical, behavioral, and 2099
adaptive skills domains on the resident assessment instrument. 2100

(B) Before making a change described in division (A) of 2101
this section, the department shall do all of the following: 2102

(1) Notify all ICF/IID providers of the proposed change; 2103

(2) Provide representatives of ICF/IID providers an 2104
opportunity to provide the department their concerns about, and 2105
suggestions to revise, the proposed change; 2106

(3) In the case of a proposed change described in division 2107
(A) (2) of this section, determine that the proposed change is 2108
consistent with the documentation of ICF/IID staff time that was 2109
used to validate the methodology. 2110

Sec. ~~5124.19~~ 5124.195. (A) (1) For each fiscal year until 2111
fiscal year 2022 and for the purpose of division (C) of section 2112
5124.15 of the Revised Code, the department of developmental 2113
disabilities shall determine each ICF/IID's per medicaid day 2114
payment rate for direct care costs as follows: 2115

(a) Multiply the lesser of the following by the ICF/IID's
annual average case-mix score determined or assigned under
section ~~5124.192~~5124.197 of the Revised Code for the calendar
year immediately preceding the fiscal year for which the rate
~~will be paid~~is determined:

(i) The ICF/IID's cost per case-mix unit for the calendar
year immediately preceding the fiscal year for which the rate
~~will be paid~~is determined, as determined under division (B) of
this section;

(ii) The maximum cost per case-mix unit for the ICF/IID's
peer group for the fiscal year for which the rate ~~will be paid~~
is determined, as set under division (C) of this section;

(b) Adjust the product determined under division (A) (1) (a)
of this section by the inflation rate estimated under division
(D) (1) of this section and modified under division (D) (2) of
this section.

(2) Except as otherwise directed by law enacted by the
general assembly, the department shall determine each ICF/IID's
rate for direct care costs prospectively.

(B) To determine an ICF/IID's cost per case-mix unit for
the calendar year immediately preceding the fiscal year ~~in~~for
which the rate ~~will be paid~~is determined, the department shall
divide the ICF/IID's desk-reviewed, actual, allowable, per diem
direct care costs for that calendar year by its annual average
case-mix score determined under section ~~5124.192~~5124.197 of the
Revised Code for the same calendar year.

(C) (1) For each fiscal year for which a rate ~~will be paid~~
is determined under this section, the department shall set the
maximum cost per case-mix unit for ICFs/IID in peer group ~~1~~B at

a percentage above the cost per case-mix unit determined under 2145
division (B) of this section for the ICF/IID in peer group 1-B 2146
that has the peer group's median number of medicaid days for the 2147
calendar year immediately preceding the fiscal year ~~in for~~ which 2148
the rate ~~will be paid~~ is determined. The percentage shall be no 2149
less than twenty-two and forty-six hundredths per cent. 2150

(2) For each fiscal year for which a rate ~~will be paid~~ is 2151
determined under this section, the department shall set the 2152
maximum cost per case-mix unit for ICFs/IID in peer group 2-B at 2153
a percentage above the cost per case-mix unit determined under 2154
division (B) of this section for the ICF/IID in peer group 2-B 2155
that has the peer group's median number of medicaid days for the 2156
calendar year immediately preceding the fiscal year ~~in for~~ which 2157
the rate ~~will be paid~~ is determined. The percentage shall be no 2158
less than eighteen and eight-tenths per cent. 2159

(3) For each fiscal year for which a rate ~~will be paid~~ is 2160
determined under this section, the department shall set the 2161
maximum cost per case-mix unit for ICFs/IID in peer group 3-B at 2162
the ninety-fifth percentile of all ICFs/IID in peer group 3-B 2163
for the calendar year immediately preceding the fiscal year ~~in~~ 2164
~~for~~ which the rate ~~will be paid~~ is determined. 2165

(4) In determining the maximum cost per case-mix unit 2166
under divisions (C) (1) and (2) of this section for peer group 1- 2167
B and peer group 2-B, the department shall exclude from its 2168
determinations the cost per case-mix unit of any ICF/IID in peer 2169
group 1-B or peer group 2-B that participated in the medicaid 2170
program under the same provider for less than twelve months 2171
during the calendar year immediately preceding the fiscal year 2172
~~in for~~ which the rate ~~will be paid~~ is determined. 2173

(5) The department shall not reset a peer group's maximum 2174

cost per case-mix unit for a fiscal year under division (C) (1), 2175
(2), or (3) of this section based on additional information that 2176
it receives after it sets the maximum for that fiscal year. The 2177
department shall reset a peer group's maximum cost per case-mix 2178
unit for a fiscal year only if it made an error in setting the 2179
maximum for that fiscal year based on information available to 2180
the department at the time it originally sets the maximum for 2181
that fiscal year. 2182

(D) (1) The department shall estimate the rate of inflation 2183
for the eighteen-month period beginning on the first day of July 2184
of the calendar year preceding the fiscal year ~~in for~~ which a 2185
rate ~~will be paid~~ is determined under this section and ending on 2186
the thirty-first day of December of the fiscal year ~~in for~~ which 2187
the rate ~~will be paid~~ is determined, using the following: 2188

(a) Subject to division (D) (1) (b) of this section, the 2189
employment cost index for total compensation, health care and 2190
social assistance component, published by the United States 2191
bureau of labor statistics; 2192

(b) If the United States bureau of labor statistics ceases 2193
to publish the index specified in division (D) (1) (a) of this 2194
section, the index that is subsequently published by the bureau 2195
and covers the staff costs of ICFs/IID. 2196

(2) If the estimated inflation rate for the eighteen-month 2197
period specified in division (D) (1) of this section is different 2198
from the actual inflation rate for that period, as measured 2199
using the same index, the difference shall be added to or 2200
subtracted from the inflation rate estimated under division (D) 2201
(1) of this section for the following fiscal year. 2202

(E) This section is obsolete beginning July 1, 2021. 2203

Sec. ~~5124.191~~ 5124.196. Each calendar quarter until the 2204
calendar quarter beginning July 1, 2021, each ICF/IID provider 2205
shall compile complete assessment data for each resident of each 2206
of the provider's ICFs/IID, regardless of payment source, who is 2207
in the ICF/IID, or on hospital or therapeutic leave from the 2208
ICF/IID, on the last day of the quarter. A resident assessment 2209
instrument specified in rules adopted under section 5124.03 of 2210
the Revised Code shall be used to compile the resident 2211
assessment data. The resident assessment instrument used for the 2212
purpose of this section may be different from the resident 2213
assessment instrument used for the purpose of section 5124.191 2214
of the Revised Code. Each provider shall submit the resident 2215
assessment data to the department of developmental disabilities 2216
not later than fifteen days after the end of the calendar 2217
quarter for which the data is compiled. The resident assessment 2218
data shall be submitted to the department through the medium or 2219
media specified in rules adopted under section 5124.03 of the 2220
Revised Code. 2221

This section is obsolete beginning July 1, 2021. 2222

Sec. ~~5124.192~~ 5124.197. (A) Except as provided in division 2223
(B) of this section, the department of developmental 2224
disabilities shall do both of the following until July 1, 2021: 2225

(1) For each calendar quarter, determine a case-mix score 2226
for each ICF/IID using the resident assessment data submitted to 2227
the department under section ~~5124.191~~ ~~5124.196~~ of the Revised 2228
Code and the grouper methodology prescribed in rules authorized 2229
by this section; 2230

(2) After the end of each calendar year and in accordance 2231
with rules authorized by this section, determine an annual 2232
average case-mix score for each ICF/IID using the ICF/IID's 2233

quarterly case-mix scores for that calendar year. 2234

(B) (1) Subject to division (B) (2) of this section and 2235
until July 1, 2021, the department, for one or more months of a 2236
calendar quarter, may assign to an ICF/IID a case-mix score that 2237
is five per cent less than the ICF/IID's case-mix score for the 2238
immediately preceding calendar quarter if any of the following 2239
apply: 2240

(a) The provider does not timely submit complete and 2241
accurate resident assessment data necessary to determine the 2242
ICF/IID's case-mix score for the calendar quarter; 2243

(b) The ICF/IID was subject to an exception review under 2244
section ~~5124.193~~ 5124.198 of the Revised Code for the 2245
immediately preceding calendar quarter; 2246

(c) The ICF/IID was assigned a case-mix score for the 2247
immediately preceding calendar quarter. 2248

(2) Before assigning a case-mix score to an ICF/IID due to 2249
the submission of incorrect resident assessment data, the 2250
department shall permit the provider to correct the data. The 2251
department may assign the case-mix score if the provider fails 2252
to submit the corrected resident assessment data not later than 2253
forty-five days after the end of the calendar quarter to which 2254
the data pertains or later due date specified in rules 2255
authorized by this section. 2256

(3) If, for more than six months during a calendar year, a 2257
provider is paid a rate determined for an ICF/IID using a case- 2258
mix score assigned to the ICF/IID under division (B) (1) of this 2259
section, the department may assign the ICF/IID a cost per case- 2260
mix unit that is five per cent less than the ICF/IID's actual or 2261
assigned cost per case-mix unit for the immediately preceding 2262

calendar year. The department may use the assigned cost per 2263
case-mix unit, instead of determining the ICF/IID's actual cost 2264
per case-mix unit in accordance with section ~~5124.19~~ 5124.195 of 2265
the Revised Code, to establish the ICF/IID's rate for direct 2266
care costs for the fiscal year immediately following the 2267
calendar year for which the cost per case-mix unit is assigned. 2268

(4) The department shall take action under division (B) 2269
(1), (2), or (3) of this section only in accordance with rules 2270
authorized by this section. The department shall not take an 2271
action that affects medicaid payment rates for prior payment 2272
periods except in accordance with sections 5124.41 and 5124.42 2273
of the Revised Code. 2274

(C) The director of developmental disabilities shall adopt 2275
rules under section 5124.03 of the Revised Code as necessary to 2276
implement this section. 2277

(1) The rules shall do all of the following: 2278

(a) Prescribe a grouper methodology to be used when 2279
determining the case-mix scores for ICFs/IID; 2280

(b) Specify the process for determining the annual average 2281
case-mix scores for ICFs/IID; 2282

(c) Establish procedures under which resident assessment 2283
data is to be reviewed for accuracy and providers are to be 2284
notified of any data that requires correction; 2285

(d) Establish procedures for providers to correct resident 2286
assessment data and, if necessary, specify a due date for 2287
corrections that is later than the due date specified in 2288
division (B) (2) of this section. 2289

(e) Specify when and how the department will assign a 2290

case-mix score or cost per case-mix unit to an ICF/IID under 2291
division (B) of this section if information necessary to 2292
calculate the ICF/IID's case-mix score is not provided or 2293
corrected in accordance with the procedures established by the 2294
rules. 2295

(2) Notwithstanding any other provision of this chapter 2296
except division (D) of this section, the rules may provide for 2297
excluding case-mix scores assigned to an ICF/IID under division 2298
(B) of this section from the determination of the ICF/IID's 2299
annual average case-mix score and the maximum cost per case-mix 2300
unit for the ICF/IID's peer group. 2301

(D) This section is obsolete beginning July 1, 2021. 2302

Sec. ~~5124.193~~ 5124.198. (A) ~~The~~ Until July 1, 2021, the 2303
department of developmental disabilities may, pursuant to rules 2304
authorized by this section, conduct an exception review of 2305
resident assessment data submitted by an ICF/IID provider under 2306
section ~~5124.191-5124.196~~ 5124.196 of the Revised Code. The department 2307
may conduct an exception review based on the findings of a 2308
medicaid certification survey conducted by the department of 2309
health, a risk analysis, or prior performance of the provider. 2310

Exception reviews shall be conducted at the ICF/IID by 2311
appropriate health professionals under contract with or employed 2312
by the department. The professionals may review resident 2313
assessment forms and supporting documentation, conduct 2314
interviews, and observe residents to identify any patterns or 2315
trends of inaccurate resident assessments and resulting 2316
inaccurate case-mix scores. 2317

(B) (1) If an exception review is conducted before the 2318
effective date of an ICF/IID's rate for direct care costs that 2319

is based on the resident assessment data being reviewed and the 2320
review results in findings that exceed tolerance levels 2321
specified in the rules authorized by this section, the 2322
department, in accordance with the rules authorized by this 2323
section, may use the findings to redetermine individual resident 2324
case-mix scores, the ICF/IID's case-mix score for the quarter, 2325
and the ICF/IID's annual average case-mix score. ~~The Except as~~ 2326
provided in division (B)(2) of this section, the department may 2327
use the ICF/IID's redetermined quarterly and annual average 2328
case-mix scores to determine the ICF/IID's rate for direct care 2329
costs for the appropriate calendar quarter or quarters. 2330

(2) If an ICF/IID provider disagrees with a 2331
redetermination of the ICF/IID's quarterly or annual average 2332
case-mix score made under division (B)(1) of this section, the 2333
provider may request that the department reconsider the 2334
redetermination in accordance with rules authorized by this 2335
section. If the department reconsiders the redetermination and 2336
revises the ICF/IID's quarterly or annual average case-mix 2337
score, the department shall use the revised case-mix score to 2338
determine the ICF/IID's rate for direct care costs for the 2339
appropriate calendar quarter or quarters. 2340

(C) The department shall prepare a written summary of any 2341
exception review finding that is made after the effective date 2342
of an ICF/IID's rate for direct care costs that is based on the 2343
resident assessment data that was reviewed. Where the provider 2344
is pursuing judicial or administrative remedies in good faith 2345
regarding the finding, the department shall not withhold from 2346
the provider's current payments any amounts the department 2347
claims to be due from the provider pursuant to section 5124.41 2348
of the Revised Code. 2349

(D) (1) The director of developmental disabilities shall 2350
adopt rules under section 5124.03 of the Revised Code as 2351
necessary to implement this section. The rules shall establish 2352
an exception review program that does all of the following: 2353

(a) Requires each exception review to comply with Title 2354
XIX; 2355

(b) Requires a written summary for each exception review 2356
that states whether resident assessment forms have been 2357
completed accurately; 2358

(c) Prohibits each health professional who conducts an 2359
exception review from doing either of the following: 2360

(i) During the period of the professional's contract or 2361
employment with the department, having or being committed to 2362
acquire any direct or indirect financial interest in the 2363
ownership, financing, or operation of ICFs/IID in this state; 2364

(ii) Reviewing any provider that has been a client of the 2365
professional. 2366

(2) For the purposes of division (D) (1) (c) (i) of this 2367
section, employment of a member of a health professional's 2368
family by an ICF/IID that the professional does not review does 2369
not constitute a direct or indirect financial interest in the 2370
ownership, financing, or operation of the ICF/IID. 2371

(E) This section is obsolete beginning July 1, 2021. 2372

Sec. ~~5124.195~~ 5124.199. (A) No change that the department 2373
of developmental disabilities makes to either of the following 2374
is valid unless the change is applied prospectively and the 2375
department complies with division (B) of this section: 2376

(1) The department's instructions or guidelines for the 2377

resident assessment forms that are used for the purpose of 2378
section ~~5124.191~~5124.196 of the Revised Code; 2379

(2) The manner in which the grouper methodology prescribed 2380
in rules authorized by section ~~5124.192~~5124.197 of the Revised 2381
Code is applied in determining case-mix scores under that 2382
section. 2383

(B) Before making a change described in division (A) of 2384
this section, the department shall do all of the following: 2385

(1) Notify all ICF/IID providers of the proposed change; 2386

(2) Provide representatives of ICF/IID providers an 2387
opportunity to provide the department their concerns about, and 2388
suggestions to revise, the proposed change; 2389

(3) In the case of a proposed change described in division 2390
(A) (2) of this section, determine that the proposed change is 2391
consistent with the documentation of ICF/IID staff time that was 2392
used to create the grouper methodology. 2393

(C) This section is obsolete beginning July 1, 2021. 2394

Sec. 5124.21. (A) For each fiscal year, the department of 2395
developmental disabilities shall determine each ICF/IID's per 2396
medicaid day indirect care costs component rate. An ICF/IID's 2397
rate shall be the lesser of the individual rate determined under 2398
division (B) of this section and the maximum rate determined for 2399
the ICF/IID's peer group under division (C) of this section. 2400

(B) An ICF/IID's individual rate is the sum of the 2401
following: 2402

(1) The ICF/IID's desk-reviewed, actual, allowable, per 2403
diem indirect care costs for the applicable cost report year, 2404
adjusted for the inflation rate estimated under division (E) of 2405

this section; 2406

(2) Subject to division (D) of this section, an efficiency incentive equal to the difference between the amount of the per diem indirect care costs for the applicable cost report year determined for the ICF/IID under division (B) (1) of this section and the maximum rate established for the ICF/IID's peer group under division (C) of this section for that year. 2407
2408
2409
2410
2411
2412

(C) (1) The maximum rate for an ICF/IID's peer group shall be the following percentage above the peer group's median per diem indirect care costs for the applicable cost report year: 2413
2414
2415

(a) For ICFs/IID in peer group 1-A, eight per cent; 2416

(b) For ICFs/IID in peer group 2-A or peer group 3-A, ten per cent; 2417
2418

(c) For ICFs/IID in peer group 4-A or peer group 5-A, twelve per cent. 2419
2420

(2) The department shall not redetermine a peer group's maximum rate under division (C) (1) of this section based on additional information that it receives after the maximum rate is set. The department shall redetermine a peer group's maximum rate only if the department made an error in computing the maximum rate based on the information available to the department at the time of the original calculation. 2421
2422
2423
2424
2425
2426
2427

(D) The efficiency incentive for an ICF/IID shall not exceed the following: 2428
2429

(1) If the ICF/IID is in peer group 1-A, five per cent of the peer group's maximum rate established under division (C) (1) (a) of this section; 2430
2431
2432

(2) If the ICF/IID is in peer group 2-A, peer group 3-A, 2433

peer group 4-A, or peer group 5-A, six per cent of the peer 2434
group's maximum rate established under division (C) (1) (b) or (c) 2435
of this section. 2436

(E) When adjusting rates for inflation under division (B) 2437
(1) of this section, the department shall estimate the rate of 2438
inflation for the eighteen-month period beginning on the first 2439
day of July of the applicable cost report year and ending on the 2440
thirty-first day of December of the fiscal year for which the 2441
rate is determined. To estimate the rate of inflation, the 2442
department shall use the following: 2443

(1) Subject to division (E) (2) of this section, the 2444
consumer price index for all items for all urban consumers for 2445
the midwest region, published by the United States bureau of 2446
labor statistics; 2447

(2) If the United States bureau of labor statistics ceases 2448
to publish the index specified in division (E) (1) of this 2449
section, a comparable index that the bureau publishes and the 2450
department determines is appropriate. 2451

Sec. ~~5124.21~~ 5124.211. (A) For each fiscal year until 2452
fiscal year 2022 and for the purpose of division (C) of section 2453
5124.15 of the Revised Code, the department of developmental 2454
disabilities shall determine each ICF/IID's per medicaid day 2455
payment rate for indirect care costs. Except as otherwise 2456
provided in this chapter, an ICF/IID's rate shall be determined 2457
prospectively. Subject to section 5124.28 of the Revised Code, 2458
an ICF/IID's rate shall be the lesser of the individual rate 2459
determined under division (B) of this section and the maximum 2460
rate determined for the ICF/IID's peer group under division (C) 2461
of this section. 2462

(B) An ICF/IID's individual rate is the sum of the 2463
following: 2464

(1) The ICF/IID's desk-reviewed, actual, allowable, per 2465
diem indirect care costs from the calendar year immediately 2466
preceding the fiscal year ~~in-for~~ which the rate ~~will be paid~~ is 2467
determined, adjusted for the inflation rate estimated under 2468
division (E) (1) of this section; 2469

(2) Subject to division (D) of this section, an efficiency 2470
incentive equal to the difference between the amount of the per 2471
diem indirect care costs determined for the ICF/IID under 2472
division (B) (1) of this section for the fiscal year ~~in-for~~ which 2473
the rate ~~will be paid~~ is determined and the maximum rate 2474
established for the ICF/IID's peer group under division (C) of 2475
this section for that fiscal year. 2476

(C) (1) The maximum rate for indirect care costs for each 2477
ICF/IID in peer group 1-B shall be determined as follows: 2478

(a) For each fiscal year ending in an even-numbered 2479
calendar year, the maximum rate for ICFs/IID in peer group 1-B 2480
shall be the rate that is no less than twelve and four-tenths 2481
per cent above the median desk-reviewed, actual, allowable, per 2482
diem indirect care cost for all ICFs/IID in peer group 1-B 2483
(excluding ICFs/IID in peer group 1-B whose indirect care costs 2484
for that period are more than three standard deviations from the 2485
mean desk-reviewed, actual, allowable, per diem indirect care 2486
cost for all ICFs/IID in peer group 1-B) for the calendar year 2487
immediately preceding the fiscal year ~~in-for~~ which the rate ~~will~~ 2488
~~be paid~~ is determined, adjusted by the inflation rate estimated 2489
under division (E) (1) of this section. 2490

(b) For each fiscal year ending in an odd-numbered 2491

calendar year, the maximum rate for ICFs/IID in peer group 1-B 2492
is the maximum rate for ICFs/IID in peer group 1-B for the 2493
previous fiscal year, adjusted for the inflation rate estimated 2494
under division (E) (2) of this section. 2495

(2) The maximum rate for indirect care costs for ICFs/IID 2496
in peer group 2-B or peer group 3-B shall be determined as 2497
follows: 2498

(a) For each fiscal year ending in an even-numbered 2499
calendar year, the maximum rate for ICFs/IID in peer group 2-B 2500
or peer group 3-B shall be the rate that is no less than ten and 2501
three-tenths per cent above the median desk-reviewed, actual, 2502
allowable, per diem indirect care cost for all ICFs/IID in peer 2503
group 2-B or peer group 3-B (excluding ICFs/IID in peer group 2- 2504
B or peer group 3-B whose indirect care costs are more than 2505
three standard deviations from the mean desk-reviewed, actual, 2506
allowable, per diem indirect care cost for all ICFs/IID in peer 2507
group 2-B or peer group 3-B) for the calendar year immediately 2508
preceding the fiscal year ~~in for~~ which the rate ~~will be paid~~ is 2509
determined, adjusted by the inflation rate estimated under 2510
division (E) (1) of this section. 2511

(b) For each fiscal year ending in an odd-numbered 2512
calendar year, the maximum rate for ICFs/IID in peer group 2-B 2513
or peer group 3-B is the maximum rate for ICFs/IID in peer group 2514
2-B or peer group 3-B for the previous fiscal year, adjusted for 2515
the inflation rate estimated under division (E) (2) of this 2516
section. 2517

(3) The department shall not redetermine a maximum rate 2518
for indirect care costs under division (C) (1) or (2) of this 2519
section based on additional information that it receives after 2520
the maximum rate is set. The department shall redetermine the 2521

maximum rate for indirect care costs only if it made an error in 2522
computing the maximum rate based on the information available to 2523
the department at the time of the original calculation. 2524

(D) (1) The efficiency incentive for an ICF/IID in peer 2525
group 1-B shall not exceed the following: 2526

~~(a) For fiscal year 2014, seven and one-tenth per cent of 2527
the maximum rate established for ICFs/IID in peer group 1 under 2528
division (C) of this section; 2529~~

~~(b) For fiscal year 2015, the following amount: 2530~~

~~(i) The amount calculated for fiscal year 2014 under 2531
division (D) (1) (a) of this section if the provider of the 2532
ICF/IID obtains the department's approval to become a downsized 2533
ICF/IID and the approval is conditioned on the downsizing being 2534
completed not later than July 1, 2018; 2535~~

~~(ii) One-half of the amount calculated for fiscal year 2536
2014 under division (D) (1) (a) of this section if division (D) (1) 2537~~

~~(b) (i) of this section does not apply to the ICF/IID. 2538~~

~~(c) For fiscal year 2016 and each fiscal year thereafter 2539
ending in an even-numbered calendar year, the following 2540
percentages of the maximum rate established for ICFs/IID in peer 2541
group 1-B under division (C) of this section: 2542~~

(i) Seven and one-tenth per cent if the provider of the 2543
ICF/IID obtains the department's approval to become a downsized 2544
ICF/IID and the approval is conditioned on the downsizing being 2545
completed not later than July 1, 2018; 2546

(ii) Three and fifty-five hundredths per cent if division 2547
(D) (1) ~~(c)~~ (a) (i) of this section does not apply to the ICF/IID. 2548

~~(d) (b) For fiscal year 2017 and each fiscal year 2549~~

~~thereafter~~ ending in an odd-numbered calendar year, the amount 2550
calculated for the immediately preceding fiscal year under 2551
division (D) (1) ~~(e)~~ (a) of this section. 2552

(2) The efficiency incentive for an ICF/IID in peer group 2553
2-B or peer group 3-B shall not exceed the following: 2554

(a) For each fiscal year ending in an even-numbered 2555
calendar year, seven per cent of the maximum rate established 2556
for ICFs/IID in peer group 2-B or peer group 3-B under division 2557
(C) of this section; 2558

(b) For each fiscal year ending in an odd-numbered 2559
calendar year, the amount calculated for the immediately 2560
preceding fiscal year under division (D) (2) (a) of this section. 2561

(E) (1) When adjusting rates for inflation under divisions 2562
(B) (1), (C) (1) (a), and (C) (2) (a) of this section, the department 2563
shall estimate the rate of inflation for the eighteen-month 2564
period beginning on the first day of July of the calendar year 2565
immediately preceding the fiscal year ~~in for~~ which the rate ~~will~~ 2566
~~be paid~~ is determined and ending on the thirty-first day of 2567
December of the fiscal year ~~in for~~ which the rate ~~will be paid~~ 2568
is determined. To estimate the rate of inflation, the department 2569
shall use the following: 2570

(a) Subject to division (E) (1) (b) of this section, the 2571
consumer price index for all items for all urban consumers for 2572
the midwest region, published by the United States bureau of 2573
labor statistics; 2574

(b) If the United States bureau of labor statistics ceases 2575
to publish the index specified in division (E) (1) (a) of this 2576
section, a comparable index that the bureau publishes and the 2577
department determines is appropriate. 2578

(2) When adjusting rates for inflation under divisions (C) 2579
(1) (b) and (C) (2) (b) of this section, the department shall 2580
estimate the rate of inflation for the twelve-month period 2581
beginning on the first day of January of the fiscal year 2582
immediately preceding the fiscal year ~~in for~~ which the rate ~~will~~ 2583
~~be paid is determined~~ and ending on the thirty-first day of 2584
December of the fiscal year ~~in for~~ which the rate ~~will be paid~~ 2585
~~is determined~~. To estimate the rate of inflation, the department 2586
shall use the following: 2587

(a) Subject to division (E) (2) (b) of this section, the 2588
consumer price index for all items for all urban consumers for 2589
the midwest region, published by the United States bureau of 2590
labor statistics; 2591

(b) If the United States bureau of labor statistics ceases 2592
to publish the index specified in division (E) (2) (a) of this 2593
section, a comparable index that the bureau publishes and the 2594
department determines is appropriate. 2595

(3) If an inflation rate estimated under division (E) (1) 2596
or (2) of this section is different from the actual inflation 2597
rate for the relevant time period, as measured using the same 2598
index, the difference shall be added to or subtracted from the 2599
inflation rate estimated pursuant to this division for the 2600
following fiscal year. 2601

(F) This section is obsolete beginning July 1, 2021. 2602

Sec. 5124.23. For each fiscal year, the department of 2603
developmental disabilities shall determine each ICF/IID's per 2604
medicaid day other protected costs component rate. An ICF/IID's 2605
rate shall be the ICF/IID's desk-reviewed, actual, allowable, 2606
per diem other protected costs from the applicable cost report 2607

year, adjusted for inflation using the following: 2608

(A) Subject to division (B) of this section, the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics; 2609
2610
2611
2612

(B) If the United States bureau of labor statistics ceases to publish the index specified in division (B)(1) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies. 2613
2614
2615
2616

Sec. ~~5124.23~~ 5124.231. (A) For each fiscal year until fiscal year 2022 and for the purpose of division (C) of section 5124.15 of the Revised Code, the department of developmental disabilities shall determine each ICF/IID's per medicaid day payment rate for other protected costs. Except as otherwise provided in this chapter, an ICF/IID's rate shall be determined prospectively. An ICF/IID's rate shall be the ICF/IID's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year immediately preceding the fiscal year ~~in for~~ which the rate will be paid is determined, all adjusted for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year immediately preceding the fiscal year ~~in for~~ which the rate will be paid is determined and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the index specified in division (B) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year. 2617
2618
2619
2620
2621
2622
2623
2624
2625
2626
2627
2628
2629
2630
2631
2632
2633
2634
2635
2636

(B) The department shall use the following index for the 2637

purpose of division (A) of this section: 2638

(1) Subject to division (B) (2) of this section, the 2639
consumer price index for all urban consumers for nonprescription 2640
drugs and medical supplies, as published by the United States 2641
bureau of labor statistics; 2642

(2) If the United States bureau of labor statistics ceases 2643
to publish the index specified in division (B) (1) of this 2644
section, the index that is subsequently published by the bureau 2645
and covers nonprescription drugs and medical supplies. 2646

(C) This section is obsolete beginning July 1, 2021. 2647

Sec. 5124.24. (A) For fiscal year 2021 and each fiscal 2648
year thereafter, the department of developmental disabilities 2649
shall determine in accordance with division (C) of this section 2650
a per medicaid day quality incentive payment for each ICF/IID 2651
that earns for the fiscal year at least one point under division 2652
(B) of this section. 2653

(B) Each fiscal year beginning with fiscal year 2021, the 2654
department, in accordance with rules authorized by this section, 2655
shall award to an ICF/IID points for the following quality 2656
indicators the ICF/IID meets for the fiscal year: 2657

(1) The ICF/IID created and promoted diverse opportunities 2658
for its residents to participate in the broader community in the 2659
applicable cost report year. 2660

(2) The ICF/IID offers its residents multiple 2661
opportunities for off-site day programming activities, including 2662
resident-specific activities. 2663

(3) All of the ICF/IID's residents who are least eighteen 2664
years of age and interested in employment have an identified 2665

place on the path to community employment specified in rules 2666
adopted under section 5123.022 of the Revised Code. 2667

(4) The ICF/IID has an active advocacy group that is 2668
driven by its residents or fosters its residents' participation 2669
in a community-wide group. 2670

(5) The ICF/IID meets both of the following standards: 2671

(a) The ICF/IID's bedrooms are designed and arranged to 2672
enhance privacy, promote personalization, and meet its 2673
residents' needs. 2674

(b) The ICF/IID encourages residents to bring to the 2675
ICF/IID their own home and room decor. 2676

(6) The ICF/IID has and follows a policy specifying how it 2677
seeks direction from its residents. 2678

(7) The ICF/IID has a policy for doing both of the 2679
following: 2680

(a) Evaluating each hospital emergency department visit by 2681
its residents to identify precipitating factors that led to the 2682
visit; 2683

(b) Developing a plan to mitigate any identified 2684
precipitating factors. 2685

(8) The ICF/IID has adopted the recommendations for 2686
resident health screenings that the department publishes on its 2687
web site. 2688

(9) Each month, the ICF/IID offers at least the number of 2689
wellness and fitness activities specified for this purpose in 2690
rules authorized by this section. 2691

(10) The number of the ICF/IID's staff who were trained in 2692

positive behavior support strategies, trauma-informed care, and 2693
similar topics in the applicable cost report year is at least 2694
the number specified for this purpose in rules authorized by 2695
this section. 2696

(11) Members of the ICF/IID's staff are involved in 2697
orienting and mentoring new staff. 2698

(12) The ICF/IID's ratio of direct care staff to residents 2699
is at least the ratio specified for this purpose in rules 2700
authorized by this section. 2701

(13) The ICF/IID's direct care staff retention percentage 2702
is at least the percentage specified for this purpose in rules 2703
authorized by this section. 2704

(C) An ICF/IID's per medicaid day quality incentive 2705
payment for a fiscal year shall be the product of the following: 2706

(1) The relative weight point value for the fiscal year as 2707
determined under division (D) of this section; 2708

(2) The number of points the ICF/IID was awarded under 2709
division (C) of this section for the fiscal year. 2710

(D) The relative weight point value for a fiscal year 2711
shall be determined as follows: 2712

(1) For each ICF/IID, determine the product of the 2713
following: 2714

(a) The number of inpatient days the ICF/IID had for the 2715
applicable cost report year; 2716

(b) The number of points the ICF/IID was awarded under 2717
division (C) of this section for the fiscal year. 2718

(2) Determine the sum of all of the products determined 2719

under division (D) (1) of this section for the fiscal year; 2720

(3) Determine the amount equal to three and four 2721
hundredths per cent of the total desk-reviewed, actual, 2722
allowable direct care costs of all ICFs/IID for the applicable 2723
cost report year; 2724

(4) Divide the amount determined under division (D) (3) of 2725
this section by the sum determined under division (D) (2) of this 2726
section. 2727

(E) The director of developmental disabilities shall adopt 2728
rules under section 5124.03 of the Revised Code as necessary to 2729
implement this section, including rules that specify or 2730
establish all of the following: 2731

(1) The data needed for the department to determine 2732
whether an ICF/IID meets the quality indicators specified in 2733
division (B) of this section, the medium through which a report 2734
of the data is to be submitted to the department, and the date 2735
by which the report of the data must be submitted to the 2736
department; 2737

(2) Satisfactory evidence needed to determine that an 2738
ICF/IID has met the quality indicators; 2739

(3) The method by which ICFs/IID are to be awarded points 2740
under division (B) of this section and the number of points that 2741
each quality indicator is worth based on the quality indicator's 2742
relative importance compared to the other quality indicators. 2743

Sec. 5124.28. Notwithstanding any provision of section 2744
5124.17-5124.171 or 5124.21-5124.211 of the Revised Code, the 2745
director of developmental disabilities may adopt rules under 2746
section 5124.03 of the Revised Code that provide for the 2747
determination of a combined maximum payment limit for indirect 2748

care costs and costs of ownership for ICFs/IID in peer group 2_ 2749
B. 2750

This section is obsolete beginning July 1, 2021. 2751

Sec. 5124.29. Except as otherwise provided in section 2752
5124.30 of the Revised Code, the department of developmental 2753
disabilities, in determining whether an ICF/IID's direct care 2754
costs and indirect care costs are allowable, shall place no 2755
limit on specific categories of reasonable costs other than 2756
compensation of owners, compensation of relatives of owners, and 2757
compensation of administrators. 2758

Compensation cost limits for owners and relatives of 2759
owners shall be based on compensation costs for individuals who 2760
hold comparable positions but who are not owners or relatives of 2761
owners, as reported on ICFs/IID's cost reports. As used in this 2762
section, "comparable position" means the position that is held 2763
by the owner or the owner's relative, if that position is listed 2764
separately on the cost report form, or if the position is not 2765
listed separately, the group of positions that is listed on the 2766
cost report form and that includes the position held by the 2767
owner or the owner's relative. In the case of an owner or 2768
owner's relative who serves the ICFs/IID in a capacity such as 2769
corporate officer, proprietor, or partner for which no 2770
comparable position or group of positions is listed on the cost 2771
report form, the compensation cost limit shall be based on civil 2772
service equivalents and shall be specified in rules adopted 2773
under section 5124.03 of the Revised Code. 2774

Compensation cost limits for administrators shall be based 2775
on compensation costs for administrators who are not owners or 2776
relatives of owners, as reported on ICFs/IID's cost reports. 2777
~~Compensation~~ For the purpose of determining an ICF/IID's total 2778

per medicaid day payment rate under division (C) of section 2779
5124.15 of the Revised Code, compensation cost limits for 2780
administrators of four or more ICFs/IID shall be the same as the 2781
limits for administrators of ICFs/IID with one hundred fifty or 2782
more beds. 2783

Sec. 5124.30. Except as provided in ~~section~~sections 2784
5124.17 and 5124.171 of the Revised Code, the costs of goods, 2785
services, and facilities, furnished to an ICF/IID provider by a 2786
related party are includable in the allowable costs of the 2787
provider at the reasonable cost to the related party. 2788

Sec. 5124.38. (A) The director of developmental 2789
disabilities shall establish a process under which an ICF/IID 2790
provider, or a group or association of ICF/IID providers, may 2791
seek reconsideration of medicaid payment rates established under 2792
this chapter, including a rate for direct care costs 2793
redetermined before the effective date of the rate as a result 2794
of an exception review conducted under section ~~5124.193~~5124.198 2795
of the Revised Code. Except as provided in divisions (B) to ~~(D)~~ 2796
(E) of this section, the only issue that a provider, group, or 2797
association may raise in the rate reconsideration is whether the 2798
rate was calculated in accordance with this chapter and the 2799
rules adopted under section 5124.03 of the Revised Code. The 2800
provider, group, or association may submit written arguments or 2801
other materials that support its position. The provider, group, 2802
or association and department shall take actions regarding the 2803
rate reconsideration within time frames specified in rules 2804
authorized by this section. 2805

If the department determines, as a result of the rate 2806
reconsideration, that the rate established for one or more 2807
ICFs/IID is less than the rate to which the ICF/IID is entitled, 2808

the department shall increase the rate. If the department has 2809
paid the incorrect rate for a period of time, the department 2810
shall pay the provider of the ICF/IID the difference between the 2811
amount the provider was paid for that period for the ICF/IID and 2812
the amount the provider should have been paid for the ICF/IID. 2813

(B) (1) The department, through the rate reconsideration 2814
process, may increase during a fiscal year the medicaid payment 2815
rate determined for an ICF/IID under this chapter if the 2816
provider demonstrates that the ICF/IID's actual, allowable costs 2817
have increased because of any of the following extreme 2818
circumstances: 2819

(a) A natural disaster; 2820

(b) A nonextensive renovation approved under division (E) 2821
of section ~~5124.17~~ 5124.171 of the Revised Code; 2822

(c) If the ICF/IID has an appropriate claims management 2823
program, an increase in the ICF/IID's workers' compensation 2824
experience rating of greater than five per cent; 2825

(d) If the ICF/IID is an inner-city ICF/IID, increased 2826
security costs; 2827

(e) A change of ownership that results from bankruptcy, 2828
foreclosure, or findings by the department of health of 2829
violations of medicaid certification requirements; 2830

(f) Other extreme circumstances specified in rules 2831
authorized by this section. 2832

(2) An ICF/IID may qualify for a rate increase under this 2833
division only if its per diem, actual, allowable costs have 2834
increased to a level that exceeds its total rate. An increase 2835
under this division is subject to any rate limitations or 2836

maximum rates established by this chapter for specific cost 2837
centers. Any rate increase granted under this division shall 2838
take effect on the first day of the first month after the 2839
department receives the request. 2840

(C) The department, through the rate reconsideration 2841
process, may increase an ICF/IID's rate as determined under this 2842
chapter if the department, in the department's sole discretion, 2843
determines that the rate as determined under those sections 2844
works an extreme hardship on the ICF/IID. 2845

(D) (1) When beds certified for the medicaid program are 2846
added to an existing ICF/IID or replaced at the same site, the 2847
department, through the rate reconsideration process, may 2848
~~increase the ICF/IID's rate for capital costs proportionately,~~ 2849
~~as limited by any applicable limitation under section 5124.17 of~~ 2850
~~the Revised Code, do either of the following to account for the~~ 2851
costs of the beds that are added or replaced: 2852

(a) Subject to any applicable limitation under section 2853
5124.17 of the Revised Code, proportionately increase the 2854
ICF/IID's per medicaid day capital component rate determined 2855
under that section; 2856

(b) Subject to any applicable limitation under section 2857
5124.171 of the Revised Code, proportionately increase the 2858
ICF/IID's per medicaid day payment rate for reasonable capital 2859
costs determined under that section. If- 2860

(2) If the department ~~makes this grants~~ an increase under 2861
division (D) (1) (a) or (b) of this section, ~~it~~ the increase shall 2862
make the increase go into effect one month after the first day 2863
of the month after the department receives sufficient 2864
documentation of the costs needed to determine the amount of the 2865

increase. ~~Any~~ 2866

(3) Any rate increase of an ICF/IID's per medicaid day 2867
payment rate for reasonable capital costs determined under 2868
section 5124.171 of the Revised Code that is granted under this 2869
division (D) (1) (b) of this section after June 30, 1993, shall 2870
remain in effect until the earlier of the following: 2871

(a) The effective date of a per medicaid day payment rate 2872
for reasonable capital costs determined under section 5124.17 2873
5124.171 of the Revised Code that includes costs incurred for a 2874
full calendar year for the bed addition or bed replacement; 2875

(b) The date the provider of the ICF/IID begins to be paid 2876
a rate determined under division (B) of section 5124.15 of the 2877
Revised Code. ~~The~~ 2878

(4) The provider of an ICF/IID that has its per medicaid 2879
day payment rate for reasonable capital costs increased under 2880
division (D) (1) (b) of this section shall report double 2881
accumulated depreciation in an amount equal to the depreciation 2882
included in the rate adjustment on its cost report for the first 2883
year of operation. During the term of any loan used to finance a 2884
project for which ~~a the rate adjustment increase~~ is granted 2885
~~under this division, if the ICF/IID is operated by the same~~ 2886
provider, the provider, if the ICF/IID is operated by the same 2887
provider, shall subtract from the interest costs it reports on 2888
~~its the ICF/IID's cost~~ report an amount equal to the difference 2889
between the following: 2890

~~(1)~~ (a) The actual, allowable interest costs for the loan 2891
during the calendar year for which the costs are being reported; 2892

~~(2)~~ (b) The actual, allowable interest costs attributable 2893
to the loan that were used to calculate the rates paid to the 2894

provider for the ICF/IID during the same calendar year. 2895

(E) If the provider of an ICF/IID submits to the 2896
department revised assessment data for a resident of the ICF/IID 2897
under division (D) of section 5124.191 of the Revised Code and 2898
the revised assessment data results in at least a fifteen per 2899
cent increase in the ICF/IID's case-mix score determined under 2900
section 5124.193 of the Revised Code, the provider may request 2901
that the department, through the rate reconsideration process, 2902
increase the ICF/IID's per medicaid day direct care costs 2903
component rate determined under section 5124.19 of the Revised 2904
Code to account for the increase in the ICF/IID's case-mix 2905
score. If the department determines that the revised assessment 2906
data so increases the ICF/IID's case-mix score, the department 2907
shall grant the rate increase. The increase shall go into effect 2908
one month after the first day of the month after the department 2909
receives sufficient documentation needed to determine the amount 2910
of the increase. 2911

(F) The department's decision at the conclusion of the a 2912
rate reconsideration process is not subject to any 2913
administrative proceedings under Chapter 119. or any other 2914
provision of the Revised Code. 2915

~~(F)~~ (G) The director of developmental disabilities shall 2916
adopt rules under section 5124.03 of the Revised Code as 2917
necessary to implement this section. 2918

Sec. 5124.39. (A) Except as provided in divisions (B) and 2919
(C) of this section, if the provider of an ICF/IID in peer group 2920
1-B obtained approval from the department of developmental 2921
disabilities to become a downsized ICF/IID not later than July 2922
1, 2018, and the ICF/IID does not become a downsized ICF/IID by 2923
that date, the department shall recoup from the provider an 2924

amount equal to the sum of the following: 2925

(1) The difference between the amount of the efficiency 2926
incentive payments the ICF/IID earned under sections ~~5124.17-~~ 2927
~~5124.171~~ and ~~5124.21-5124.211~~ of the Revised Code because the 2928
provider obtained such approval and the amount of the efficiency 2929
incentive payments the ICF/IID would have earned under those 2930
sections had the provider not obtained such approval; 2931

(2) An amount of interest on the difference determined 2932
under division (A) (1) of this section. 2933

(B) The department shall exempt an ICF/IID provider from a 2934
recoupment otherwise required by this section if the provider 2935
voluntarily repays the department the difference determined 2936
under division (A) (1) of this section. No interest shall be 2937
charged on the amount voluntarily repaid. 2938

(C) The department may exempt an ICF/IID provider from a 2939
recoupment otherwise required by this section if both of the 2940
following apply: 2941

(1) The provider, on or before July 1, 2018, demonstrates 2942
to the department's satisfaction that the provider made a good 2943
faith effort to complete the downsizing by July 1, 2018, but the 2944
ICF/IID did not become a downsized ICF/IID by that date for 2945
reasons beyond the provider's control; 2946

(2) The ICF/IID becomes a downsized ICF/IID within a 2947
period of time after July 1, 2018, that the department 2948
determines is reasonable. 2949

(D) An ICF/IID provider subject to a recoupment under 2950
division (A) of this section or voluntarily making a repayment 2951
under division (B) of this section shall choose one of the 2952
following methods by which the recoupment or voluntary repayment 2953

shall be made: 2954

(1) In a lump sum payment; 2955

(2) Subject to the department's approval, in installment 2956
payments; 2957

(3) In a single deduction from the next available medicaid 2958
payment made to the provider if that payment at least equals the 2959
total amount of the recoupment or voluntary repayment; 2960

(4) Subject to the department's approval, in installment 2961
deductions from medicaid payments made to the provider. 2962

(E) An ICF/IID provider may request that the director of 2963
developmental disabilities reconsider either or both of the 2964
following: 2965

(1) A decision that the provider is subject to a 2966
recoupment under this section; 2967

(2) A determination under this section of the amount to be 2968
recouped from the provider. 2969

(F) The director shall adopt rules under section 5124.03 2970
of the Revised Code as necessary to implement this section, 2971
including rules specifying how the amount of interest charged 2972
under division (A) (2) of this section is to be determined. 2973

Sec. 5124.40. If an ICF/IID provider properly amends a 2974
cost report for an ICF/IID under section 5124.107 of the Revised 2975
Code and the amended report shows that the provider received a 2976
lower medicaid payment rate under the original cost report than 2977
the provider was entitled to receive, the department of 2978
developmental disabilities shall adjust the provider's rate for 2979
the ICF/IID prospectively to reflect the corrected information. 2980
The department shall pay the adjusted rate beginning two months 2981

after the first day of the month after the provider files the 2982
amended cost report. 2983

If the department finds, from an exception review of 2984
resident assessment data conducted pursuant to section ~~5124.193-~~ 2985
5124.198 of the Revised Code after the effective date of an 2986
ICF/IID's rate for direct care costs that is based on the 2987
resident assessment data, that inaccurate resident assessment 2988
data resulted in the provider receiving a lower rate for the 2989
ICF/IID than the provider was entitled to receive, the 2990
department prospectively shall adjust the provider's rate for 2991
the ICF/IID accordingly. The department shall make payments to 2992
the provider using the adjusted rate for the remainder of the 2993
calendar quarter for which the resident assessment data is used 2994
to determine the rate, beginning one month after the first day 2995
of the month after the exception review is completed. 2996

Sec. 5124.41. (A) The department of developmental 2997
disabilities shall redetermine a provider's medicaid payment 2998
rate for an ICF/IID using revised information if any of the 2999
following results in a determination that the provider received 3000
a higher medicaid payment rate for the ICF/IID than the provider 3001
was entitled to receive: 3002

(1) The provider properly amends a cost report for the 3003
ICF/IID under section 5124.107 of the Revised Code; 3004

(2) The department makes a finding based on an audit under 3005
section 5124.109 of the Revised Code; 3006

(3) The department makes a finding based on an exception 3007
review of resident assessment data conducted under section 3008
~~5124.193-~~5124.198 of the Revised Code after the effective date 3009
of the ICF/IID's rate for direct care costs that is based on the 3010

resident assessment data. 3011

(B) The department shall apply the redetermined rate to 3012
the periods when the provider received the incorrect rate to 3013
determine the amount of the overpayment. The provider shall 3014
refund the amount of the overpayment. The department may charge 3015
the provider the following amount of interest from the time the 3016
overpayment was made: 3017

(1) If the overpayment resulted from costs reported for 3018
calendar year 1993, the interest shall be not greater than one 3019
and one-half times the current average bank prime rate. 3020

(2) If the overpayment resulted from costs reported for a 3021
subsequent calendar year: 3022

(a) The interest shall be not greater than two times the 3023
current average bank prime rate if the overpayment was not more 3024
than one per cent of the total medicaid payments to the provider 3025
for the fiscal year for which the incorrect information was used 3026
to determine a rate. 3027

(b) The interest shall be not greater than two and one- 3028
half times the current average bank prime rate if the 3029
overpayment was more than one per cent of the total medicaid 3030
payments to the provider for the fiscal year for which the 3031
incorrect information was used to determine a rate. 3032

Sec. 5124.46. All of the following are subject to an 3033
adjudication conducted in accordance with Chapter 119. of the 3034
Revised Code: 3035

(A) Any audit disallowance that the department of 3036
developmental disabilities makes as the result of an audit under 3037
section 5124.109 of the Revised Code; 3038

(B) Any adverse finding that results from an exception 3039
review of resident assessment data conducted for an ICF/IID 3040
under section ~~5124.193~~ 5124.198 of the Revised Code after the 3041
effective date of the ICF/IID's medicaid payment rate for direct 3042
care costs that is based on the resident assessment data; 3043

(C) Any medicaid payment deemed an overpayment under 3044
section 5124.523 of the Revised Code; 3045

(D) Any penalty the department imposes under section 3046
5124.42 of the Revised Code or section 5124.523 of the Revised 3047
Code. 3048

Sec. 5124.68. (A) (1) Except as provided in division (D) of 3049
this section, an ICF/IID ~~in peer group 1 with a medicaid-~~ 3050
certified capacity exceeding eight shall not admit an individual 3051
as a resident unless all of the following apply: 3052

(a) The provider of the ICF/IID provides written notice 3053
about the individual's potential admission, and all information 3054
about the individual in the provider's possession, to the county 3055
board of developmental disabilities serving the county in which 3056
the individual resides at the time the notice is provided. 3057

(b) The county board has provided to the individual and 3058
department of developmental disabilities a copy of the findings 3059
the county board makes pursuant to division (B) of this section; 3060

(c) Not later than seven business days after the provider 3061
provides the county board the notice required by division (A) (1) 3062
(a) of this section, the department determines that the 3063
individual chooses to receive ICF/IID services from the ICF/IID 3064
after being fully informed of all available alternatives. 3065

(2) For the purpose of division (A) (1) (a) of this section, 3066
the provider of an ICF/IID ~~in peer group 1 with a medicaid-~~ 3067

certified capacity exceeding eight may provide a county board 3068
written notices about multiple individuals' potential admissions 3069
to the ICF/IID at the same time. 3070

(B) Not later than five business days after a county board 3071
receives notice from the provider of an ICF/IID ~~in peer group 1~~ 3072
with a medicaid-certified capacity exceeding eight about an 3073
individual seeking admission to the ICF/IID, the county board 3074
shall do both of the following: 3075

(1) Using the information included in the notification and 3076
the additional information, if any, the department specifies 3077
pursuant to division (C) of this section, evaluate the 3078
individual and counsel the individual about both of the 3079
following: 3080

(a) The nature, extent, and timing of the services that 3081
the individual needs; 3082

(b) The least restrictive environment in which the 3083
individual could receive the needed services. 3084

(2) Using the form prescribed under division (C) of this 3085
section, make findings about the individual based on the 3086
evaluation and counseling and provide a copy of the findings to 3087
the individual and the department. 3088

(C) The department shall prescribe the form to be used for 3089
the purpose of making findings pursuant to division (B) (2) of 3090
this section. The department may specify additional information 3091
that a county board is to use when evaluating and counseling 3092
individuals under division (B) (1) of this section. 3093

(D) Division (A) of this section does not apply to an 3094
individual seeking admission to an ICF/IID ~~in peer group 1~~ with 3095
a medicaid-certified capacity exceeding eight if any of the 3096

following is the case: 3097

(1) The individual is a medicaid recipient receiving 3098
ICF/IID services on the date immediately preceding the date the 3099
individual is admitted to the ICF/IID. 3100

(2) The individual is a medicaid recipient returning to 3101
the ICF/IID following a temporary absence for which the ICF/IID 3102
is paid to reserve a bed for the individual pursuant to section 3103
5124.34 of the Revised Code or during which the individual 3104
received rehabilitation services in another health care setting. 3105

(3) The requirements of divisions (A) (1) (a) and (b) of 3106
this section are satisfied but the department fails to make the 3107
determination required by division (A) (1) (c) of this section 3108
before the deadline specified in that division. 3109

Sec. 5705.21. (A) At any time, the board of education of 3110
any city, local, exempted village, cooperative education, or 3111
joint vocational school district, by a vote of two-thirds of all 3112
its members, may declare by resolution that the amount of taxes 3113
that may be raised within the ten-mill limitation by levies on 3114
the current tax duplicate will be insufficient to provide an 3115
adequate amount for the necessary requirements of the school 3116
district, that it is necessary to levy a tax in excess of such 3117
limitation for one of the purposes specified in division (A), 3118
(D), (F), (H), or (DD) of section 5705.19 of the Revised Code, 3119
for general permanent improvements, for the purpose of operating 3120
a cultural center, for the purpose of providing for school 3121
safety and security, or for the purpose of providing education 3122
technology, and that the question of such additional tax levy 3123
shall be submitted to the electors of the school district at a 3124
special election on a day to be specified in the resolution. In 3125
the case of a qualifying library levy for the support of a 3126

library association or private corporation, the question shall 3127
be submitted to the electors of the association library 3128
district. If the resolution states that the levy is for the 3129
purpose of operating a cultural center, the ballot shall state 3130
that the levy is "for the purpose of operating the..... 3131
(name of cultural center)." 3132

As used in this division, "cultural center" means a 3133
freestanding building, separate from a public school building, 3134
that is open to the public for educational, musical, artistic, 3135
and cultural purposes; "education technology" means, but is not 3136
limited to, computer hardware, equipment, materials, and 3137
accessories, equipment used for two-way audio or video, and 3138
software; ~~and~~ "general permanent improvements" means permanent 3139
improvements without regard to the limitation of division (F) of 3140
section 5705.19 of the Revised Code that the improvements be a 3141
specific improvement or a class of improvements that may be 3142
included in a single bond issue; and "providing for school 3143
safety and security" includes but is not limited to providing 3144
for permanent improvements to provide or enhance security, 3145
employment of or contracting for the services of safety 3146
personnel, providing mental health services and counseling, or 3147
providing training in safety and security practices and 3148
responses. 3149

A resolution adopted under this division shall be confined 3150
to a single purpose and shall specify the amount of the increase 3151
in rate that it is necessary to levy, the purpose of the levy, 3152
and the number of years during which the increase in rate shall 3153
be in effect. The number of years may be any number not 3154
exceeding five or, if the levy is for current expenses of the 3155
district or for general permanent improvements, for a continuing 3156
period of time. 3157

(B) (1) The board of education of a qualifying school 3158
district, by resolution, may declare that it is necessary to 3159
levy a tax in excess of the ten-mill limitation for the purpose 3160
of paying the current expenses of partnering community schools 3161
and, if any of the levy proceeds are so allocated, of the 3162
district. A qualifying school district that is not a municipal 3163
school district may allocate all of the levy proceeds to 3164
partnering community schools. A municipal school district shall 3165
allocate a portion of the levy proceeds to the current expenses 3166
of the district. The resolution shall declare that the question 3167
of the additional tax levy shall be submitted to the electors of 3168
the school district at a special election on a day to be 3169
specified in the resolution. The resolution shall state the 3170
purpose of the levy, the rate of the tax expressed in mills per 3171
dollar of taxable value, the number of such mills to be levied 3172
for the current expenses of the partnering community schools and 3173
the number of such mills, if any, to be levied for the current 3174
expenses of the school district, the number of years the tax 3175
will be levied, and the first year the tax will be levied. The 3176
number of years the tax may be levied may be any number not 3177
exceeding ten years, or for a continuing period of time. 3178

The levy of a tax for the current expenses of a partnering 3179
community school under this section and the distribution of 3180
proceeds from the tax by a qualifying school district to 3181
partnering community schools is hereby determined to be a proper 3182
public purpose. 3183

(2) (a) If any portion of the levy proceeds are to be 3184
allocated to the current expenses of the qualifying school 3185
district, the form of the ballot at an election held pursuant to 3186
division (B) of this section shall be as follows: 3187

"Shall a levy be imposed by the..... (insert the name of the qualifying school district) for the purpose of current expenses of the school district and of partnering community schools at a rate not exceeding..... (insert the number of mills) mills for each one dollar of valuation, of which..... (insert the number of mills to be allocated to partnering community schools) mills is to be allocated to partnering community schools), which amounts to..... (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for..... (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), beginning..... (insert first year the tax is to be levied), which will first be payable in calendar year..... (insert the first calendar year in which the tax would be payable)?

FOR THE TAX LEVY
AGAINST THE TAX LEVY

"

(b) If all of the levy proceeds are to be allocated to the current expenses of partnering community schools, the form of the ballot shall be as follows:

"Shall a levy be imposed by the..... (insert the name of the qualifying school district) for the purpose of current expenses of partnering community schools at a rate not exceeding..... (insert the number of mills) mills for each one dollar of valuation which amounts to..... (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for..... (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of

time), beginning..... (insert first year the tax is to be 3218
levied), which will first be payable in calendar year..... 3219
(insert the first calendar year in which the tax would be 3220
payable)? 3221

FOR THE TAX LEVY
AGAINST THE TAX LEVY

3222
3223
3224

"

3225

(3) Upon each receipt of a tax distribution by the 3226
qualifying school district, the board of education shall credit 3227
the portion allocated to partnering community schools to the 3228
partnering community schools fund. All income from the 3229
investment of money in the partnering community schools fund 3230
shall be credited to that fund. 3231

(a) If the qualifying school district is a municipal 3232
school district, the board of education shall distribute the 3233
partnering community schools amount among the then qualifying 3234
community schools not more than forty-five days after the school 3235
district receives and deposits each tax distribution. From each 3236
tax distribution, each such partnering community school shall 3237
receive a portion of the partnering community schools amount in 3238
the proportion that the number of its resident students bears to 3239
the aggregate number of resident students of all such partnering 3240
community schools as of the date of receipt and deposit of the 3241
tax distribution. 3242

(b) If the qualifying school district is not a municipal 3243
school district, the board of education may distribute all or a 3244
portion of the amount in the partnering community schools fund 3245
during a fiscal year to partnering community schools on or 3246

before the first day of June of the preceding fiscal year. Each 3247
such partnering community school shall receive a portion of the 3248
amount distributed by the board from the partnering community 3249
schools fund during the fiscal year in the proportion that the 3250
number of its resident students bears to the aggregate number of 3251
resident students of all such partnering community schools as of 3252
the date the school district received and deposited the most 3253
recent tax distribution. On or before the fifteenth day of June 3254
of each fiscal year, the board of education shall announce an 3255
estimated allocation to partnering community schools for the 3256
ensuing fiscal year. The board is not required to allocate to 3257
partnering community schools the entire partnering community 3258
schools amount in the fiscal year in which a tax distribution is 3259
received and deposited in the partnering community schools fund. 3260
The estimated allocation shall be published on the web site of 3261
the school district and expressed as a dollar amount per 3262
resident student. The actual allocation to community schools in 3263
a fiscal year need not conform to the estimate published by the 3264
school district so long if the estimate was made in good faith. 3265

Distributions by a school district under division (B) (3) 3266
(b) of this section shall be made in accordance with 3267
distribution agreements entered into by the board of education 3268
and each partnering community school eligible for distributions 3269
under this division. The distribution agreements shall be 3270
certified to the department of education each fiscal year before 3271
the thirtieth day of July. Each agreement shall provide for at 3272
least three distributions by the school district to the 3273
partnering community school during the fiscal year and shall 3274
require the initial distribution be made on or before the 3275
thirtieth day of July. 3276

(c) For the purposes of division (B) of this section, the 3277

number of resident students shall be the number of such students 3278
reported under section 3317.03 of the Revised Code and 3279
established by the department of education as of the date of 3280
receipt and deposit of the tax distribution. 3281

(4) To the extent an agreement whereby the qualifying 3282
school district and a community school endorse each other's 3283
programs is necessary for the community school to qualify as a 3284
partnering community school under division (B)(6)(b) of this 3285
section, the board of education of the school district shall 3286
certify to the department of education the agreement along with 3287
the determination that such agreement satisfies the requirements 3288
of that division. The board's determination is conclusive. 3289

(5) For the purposes of Chapter 3317. of the Revised Code 3290
or other laws referring to the "taxes charged and payable" for a 3291
school district, the taxes charged and payable for a qualifying 3292
school district that levies a tax under division (B) of this 3293
section includes only the taxes charged and payable under that 3294
levy for the current expenses of the school district, and does 3295
not include the taxes charged and payable for the current 3296
expenses of partnering community schools. The taxes charged and 3297
payable for the current expenses of partnering community schools 3298
shall not affect the calculation of "state education aid" as 3299
defined in section 5751.20 of the Revised Code. 3300

(6) As used in division (B) of this section: 3301

(a) "Qualifying school district" means a municipal school 3302
district, as defined in section 3311.71 of the Revised Code or a 3303
school district that contains within its territory a partnering 3304
community school. 3305

(b) "Partnering community school" means a community school 3306

established under Chapter 3314. of the Revised Code that is 3307
located within the territory of the qualifying school district 3308
and meets one of the following criteria: 3309

(i) If the qualifying school district is a municipal 3310
school district, the community school is sponsored by the 3311
district or is a party to an agreement with the district whereby 3312
the district and the community school endorse each other's 3313
programs; 3314

(ii) If the qualifying school district is not a municipal 3315
school district, the community school is sponsored by a sponsor 3316
that was rated as "exemplary" in the ratings most recently 3317
published under section 3314.016 of the Revised Code before the 3318
resolution proposing the levy is certified to the board of 3319
elections. 3320

(c) "Partnering community schools amount" means the 3321
product obtained, as of the receipt and deposit of the tax 3322
distribution, by multiplying the amount of a tax distribution by 3323
a fraction, the numerator of which is the number of mills per 3324
dollar of taxable value of the property tax to be allocated to 3325
partnering community schools, and the denominator of which is 3326
the total number of mills per dollar of taxable value authorized 3327
by the electors in the election held under division (B) of this 3328
section, each as set forth in the resolution levying the tax. If 3329
the resolution allocates all of the levy proceeds to partnering 3330
community schools, the "partnering schools amount" equals the 3331
amount of the tax distribution. 3332

(d) "Partnering community schools fund" means a separate 3333
fund established by the board of education of a qualifying 3334
school district for the deposit of partnering community school 3335
amounts under this section. 3336

(e) "Resident student" means a student enrolled in a 3337
partnering community school who is entitled to attend school in 3338
the qualifying school district under section 3313.64 or 3313.65 3339
of the Revised Code. 3340

(f) "Tax distribution" means a distribution of proceeds of 3341
the tax authorized by division (B) of this section under section 3342
321.24 of the Revised Code and distributions that are 3343
attributable to that tax under sections 323.156 and 4503.068 of 3344
the Revised Code or other applicable law. 3345

(C) A resolution adopted under this section shall specify 3346
the date of holding the election, which shall not be earlier 3347
than ninety days after the adoption and certification of the 3348
resolution and which shall be consistent with the requirements 3349
of section 3501.01 of the Revised Code. 3350

A resolution adopted under this section may propose to 3351
renew one or more existing levies imposed under division (A) or 3352
(B) of this section or to increase or decrease a single levy 3353
imposed under either such division. 3354

If the board of education imposes one or more existing 3355
levies for the purpose specified in division (F) of section 3356
5705.19 of the Revised Code, the resolution may propose to renew 3357
one or more of those existing levies, or to increase or decrease 3358
a single such existing levy, for the purpose of general 3359
permanent improvements. 3360

If the resolution proposes to renew two or more existing 3361
levies, the levies shall be levied for the same purpose. The 3362
resolution shall identify those levies and the rates at which 3363
they are levied. The resolution also shall specify that the 3364
existing levies shall not be extended on the tax lists after the 3365

year preceding the year in which the renewal levy is first 3366
imposed, regardless of the years for which those levies 3367
originally were authorized to be levied. 3368

If the resolution proposes to renew an existing levy 3369
imposed under division (B) of this section, the rates allocated 3370
to the qualifying school district and to partnering community 3371
schools each may be increased or decreased or remain the same, 3372
and the total rate may be increased, decreased, or remain the 3373
same. The resolution and notice of election shall specify the 3374
number of the mills to be levied for the current expenses of the 3375
partnering community schools and the number of the mills, if 3376
any, to be levied for the current expenses of the qualifying 3377
school district. 3378

A resolution adopted under this section shall go into 3379
immediate effect upon its passage, and no publication of the 3380
resolution shall be necessary other than that provided for in 3381
the notice of election. A copy of the resolution shall 3382
immediately after its passing be certified to the board of 3383
elections of the proper county in the manner provided by section 3384
5705.25 of the Revised Code. That section shall govern the 3385
arrangements for the submission of such question and other 3386
matters concerning the election to which that section refers, 3387
including publication of notice of the election, except that the 3388
election shall be held on the date specified in the resolution. 3389
In the case of a resolution adopted under division (B) of this 3390
section, the publication of notice of that election shall state 3391
the number of the mills, if any, to be levied for the current 3392
expenses of partnering community schools and the number of the 3393
mills to be levied for the current expenses of the qualifying 3394
school district. If a majority of the electors voting on the 3395
question so submitted in an election vote in favor of the levy, 3396

the board of education may make the necessary levy within the 3397
school district or, in the case of a qualifying library levy for 3398
the support of a library association or private corporation, 3399
within the association library district, at the additional rate, 3400
or at any lesser rate in excess of the ten-mill limitation on 3401
the tax list, for the purpose stated in the resolution. A levy 3402
for a continuing period of time may be reduced pursuant to 3403
section 5705.261 of the Revised Code. The tax levy shall be 3404
included in the next tax budget that is certified to the county 3405
budget commission. 3406

(D) (1) After the approval of a levy on the current tax 3407
list and duplicate for current expenses, for recreational 3408
purposes, for community centers provided for in section 755.16 3409
of the Revised Code, or for a public library of the district 3410
under division (A) of this section, and prior to the time when 3411
the first tax collection from the levy can be made, the board of 3412
education may anticipate a fraction of the proceeds of the levy 3413
and issue anticipation notes in a principal amount not exceeding 3414
fifty per cent of the total estimated proceeds of the levy to be 3415
collected during the first year of the levy. 3416

(2) After the approval of a levy for general permanent 3417
improvements for a specified number of years or for permanent 3418
improvements having the purpose specified in division (F) of 3419
section 5705.19 of the Revised Code, the board of education may 3420
anticipate a fraction of the proceeds of the levy and issue 3421
anticipation notes in a principal amount not exceeding fifty per 3422
cent of the total estimated proceeds of the levy remaining to be 3423
collected in each year over a period of five years after the 3424
issuance of the notes. 3425

The notes shall be issued as provided in section 133.24 of 3426

the Revised Code, shall have principal payments during each year 3427
after the year of their issuance over a period not to exceed 3428
five years, and may have a principal payment in the year of 3429
their issuance. 3430

(3) After approval of a levy for general permanent 3431
improvements for a continuing period of time, the board of 3432
education may anticipate a fraction of the proceeds of the levy 3433
and issue anticipation notes in a principal amount not exceeding 3434
fifty per cent of the total estimated proceeds of the levy to be 3435
collected in each year over a specified period of years, not 3436
exceeding ten, after the issuance of the notes. 3437

The notes shall be issued as provided in section 133.24 of 3438
the Revised Code, shall have principal payments during each year 3439
after the year of their issuance over a period not to exceed ten 3440
years, and may have a principal payment in the year of their 3441
issuance. 3442

(4) After the approval of a levy on the current tax list 3443
and duplicate under division (B) of this section, and prior to 3444
the time when the first tax collection from the levy can be 3445
made, the board of education may anticipate a fraction of the 3446
proceeds of the levy for the current expenses of the school 3447
district and issue anticipation notes in a principal amount not 3448
exceeding fifty per cent of the estimated proceeds of the levy 3449
to be collected during the first year of the levy and allocated 3450
to the school district. The portion of the levy proceeds to be 3451
allocated to partnering community schools under that division 3452
shall not be included in the estimated proceeds anticipated 3453
under this division and shall not be used to pay debt charges on 3454
any anticipation notes. 3455

The notes shall be issued as provided in section 133.24 of 3456

the Revised Code, shall have principal payments during each year 3457
after the year of their issuance over a period not to exceed 3458
five years, and may have a principal payment in the year of 3459
their issuance. 3460

(E) The submission of questions to the electors under this 3461
section is subject to the limitation on the number of election 3462
dates established by section 5705.214 of the Revised Code. 3463

(F) The board of education of any school district that 3464
levies a tax under this section for the purpose of providing for 3465
school safety and security may report to the department of 3466
education how the district is using revenue from that tax. 3467

Sec. 5709.121. (A) Real property and tangible personal 3468
property belonging to a charitable or educational institution or 3469
to the state or a political subdivision, shall be considered as 3470
used exclusively for charitable or public purposes by such 3471
institution, the state, or political subdivision, if it meets 3472
one of the following requirements: 3473

(1) It is used by such institution, the state, or 3474
political subdivision, or by one or more other such 3475
institutions, the state, or political subdivisions under a 3476
lease, sublease, or other contractual arrangement: 3477

(a) As a community or area center in which presentations 3478
in music, dramatics, the arts, and related fields are made in 3479
order to foster public interest and education therein; 3480

(b) As a children's, science, history, or natural history 3481
museum that is open to the general public; 3482

(c) For other charitable, educational, or public purposes. 3483

(2) It is made available under the direction or control of 3484

such institution, the state, or political subdivision for use in 3485
furtherance of or incidental to its charitable, educational, or 3486
public purposes and not with the view to profit. 3487

(3) It is used by an organization described in division 3488
(D) of section 5709.12 of the Revised Code. If the organization 3489
is a corporation that receives a grant under the Thomas Alva 3490
Edison grant program authorized by division (C) of section 3491
122.33 of the Revised Code at any time during the tax year, 3492
"used," for the purposes of this division, includes holding 3493
property for lease or resale to others. 3494

(B) (1) Property described in division (A) (1) (a) or (b) of 3495
this section shall continue to be considered as used exclusively 3496
for charitable or public purposes even if the property is 3497
conveyed through one conveyance or a series of conveyances to an 3498
entity that is not a charitable or educational institution and 3499
is not the state or a political subdivision, provided that all 3500
of the following conditions apply with respect to that property: 3501

(a) The property was listed as exempt on the county 3502
auditor's tax list and duplicate for the county in which it is 3503
located for the tax year immediately preceding the year in which 3504
the property is conveyed through one conveyance or a series of 3505
conveyances; 3506

(b) The property is conveyed through one conveyance or a 3507
series of conveyances to an entity that does any of the 3508
following: 3509

(i) Leases at least forty-five per cent of the property, 3510
through one lease or a series of leases, to the entity that 3511
owned or occupied the property for the tax year immediately 3512
preceding the year in which the property is conveyed or to an 3513

affiliate of that entity; 3514

(ii) Contracts, directly or indirectly to have renovations 3515
performed as described in division (B) (1) (d) of this section and 3516
is at least partially owned by a nonprofit organization 3517
described in section 501(c) (3) of the Internal Revenue Code that 3518
is exempt from taxation under section 501(a) of that code. 3519

(c) The property includes improvements that are at least 3520
fifty years old; 3521

(d) The property is being renovated in connection with a 3522
claim for historic preservation tax credits available under 3523
federal law; 3524

(e) All or a portion of the property continues to be used 3525
for the purposes described in division (A) (1) (a) or (b) of this 3526
section after its conveyance; and 3527

(f) The property is certified by the United States 3528
secretary of the interior as a "certified historic structure" or 3529
certified as part of a certified historic structure. 3530

(2) Notwithstanding section 5715.27 of the Revised Code, 3531
an application for exemption from taxation of property described 3532
in division (B) (1) of this section may be filed by either the 3533
owner of the property or an occupant. 3534

(C) For purposes of this section, an institution that 3535
meets all of the following requirements is conclusively presumed 3536
to be a charitable institution: 3537

(1) The institution is a nonprofit corporation or 3538
association, no part of the net earnings of which inures to the 3539
benefit of any private shareholder or individual; 3540

(2) The institution is exempt from federal income taxation 3541

under section 501(a) of the Internal Revenue Code; 3542

(3) The majority of the institution's board of directors 3543
are appointed by the mayor or legislative authority of a 3544
municipal corporation or a board of county commissioners, or a 3545
combination thereof; 3546

(4) The primary purpose of the institution is to assist in 3547
the development and revitalization of downtown urban areas. 3548

(D) For purposes of division (A) (1) (b) of this section, 3549
the status of a museum as open to the general public shall be 3550
conclusive if the museum is accredited by the American alliance 3551
of museums or a successor organization. 3552

(E) (1) Qualifying real property owned by an institution 3553
that meets all of the following requirements shall be considered 3554
as used exclusively for charitable purposes, and the institution 3555
shall be considered a charitable institution for purposes of 3556
this section and section 5709.12 of the Revised Code: 3557

(a) The institution is an organization described under 3558
section 501(c) (3) of the Internal Revenue Code and exempt from 3559
federal income taxation under section 501(a) of the Internal 3560
Revenue Code. 3561

(b) The institution's primary purpose is to acquire, 3562
develop, lease, or otherwise provide suitable housing to 3563
individuals with developmental disabilities. 3564

(c) The institution receives at least a portion of its 3565
funding from one or more county boards of developmental 3566
disabilities to assist in the institution's primary purpose 3567
described in division (E) (1) (b) of this section. 3568

(2) As used in division (E) of this section, "qualifying 3569

real property" means real property that is used primarily in one 3570
of the following manners: 3571

(a) The property is used by the institution described in 3572
division (E) (1) of this section for the purpose described in 3573
division (E) (1) (b) of this section. 3574

(b) The property is leased or otherwise provided by the 3575
institution described in division (E) (1) of this section to 3576
individuals with developmental disabilities and used by those 3577
individuals as housing. 3578

(c) The property is leased or otherwise provided by the 3579
institution described in division (E) (1) of this section to 3580
another charitable institution, and that charitable institution 3581
uses the property exclusively for charitable purposes. 3582

Sec. 5709.17. The following property shall be exempted 3583
from taxation: 3584

(A) Real estate held or occupied by an association or 3585
corporation, organized or incorporated under the laws of this 3586
state relative to soldiers' memorial associations or monumental 3587
building associations and that, in the opinion of the trustees, 3588
directors, or managers thereof, is necessary and proper to carry 3589
out the object intended for such association or corporation; 3590

(B) Real estate and tangible personal property held or 3591
occupied by a qualifying veterans' organization ~~that qualifies~~ 3592
~~for exemption from taxation under section 501(c) (19) or 501(c)~~ 3593
~~(23) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26~~ 3594
~~U.S.C.A. 1, as amended, and is incorporated under the laws of~~ 3595
~~this state or the United States and used primarily for meetings~~ 3596
and administration of the qualifying veterans' organization or 3597
for providing, on a not-for-profit basis, programs and 3598

supportive services to past or present members of the armed 3599
forces of the United States and their families, except real 3600
estate held by such an organization for the production of rental 3601
income in excess of thirty-six thousand dollars in a tax year, 3602
before accounting for any cost or expense incurred in the 3603
production of such income. For the purposes of this division, 3604
rental income includes only income arising directly from renting 3605
the real estate to others for consideration. 3606

As used in this division, "qualifying veterans' 3607
organization" means an organization that is incorporated under 3608
the laws of this state or the United States and that meets 3609
either of the following requirements: 3610

(1) The organization qualifies for exemption from taxation 3611
under section 501(c)(19) or 501(c)(23) of the Internal Revenue 3612
Code. 3613

(2) The organization meets the criteria for exemption 3614
under section 501(c)(19) of the Internal Revenue Code and 3615
regulations adopted pursuant thereto, but is exempt from 3616
taxation under section 501(c)(4) of the Internal Revenue Code. 3617

(C) Tangible personal property held by a corporation 3618
chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in 3619
section 501(c)(3) of the Internal Revenue Code, and exempt from 3620
taxation under section 501(a) of the Internal Revenue Code shall 3621
be exempt from taxation if it is property obtained as described 3622
in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407. 3623

(D) Real estate held or occupied by a fraternal 3624
organization and used primarily for meetings of and the 3625
administration of the fraternal organization or for providing, 3626
on a not-for-profit basis, educational or health services, 3627

except real estate held by such an organization for the 3628
production of rental income in excess of thirty-six thousand 3629
dollars in a tax year before accounting for any cost or expense 3630
incurred in the production of such income. As used in this 3631
division, "rental income" has the same meaning as in division 3632
(B) of this section, and "fraternal organization" means a 3633
domestic fraternal society, order, or association operating 3634
under the lodge, council, or grange system that qualifies for 3635
exemption from taxation under section 501(c)(5), 501(c)(8), or 3636
501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat. 3637
2085, 26 U.S.C. 1, as amended; that provides financial support 3638
for charitable purposes, as defined in division (B)(12) of 3639
section 5739.02 of the Revised Code; and that operates under a 3640
state governing body that has been operating in this state for 3641
at least eighty-five years. 3642

Sec. 5735.01. As used in this chapter: 3643

(A) "Motor vehicles" includes all vehicles, vessels, 3644
watercraft, engines, machines, or mechanical contrivances which 3645
are powered by internal combustion engines or motors. 3646

(B) "Motor fuel" means gasoline, diesel fuel, kerosene, or 3647
any other liquid motor fuel, including, but not limited to, 3648
liquid petroleum gas or liquid natural gas, but excluding 3649
substances prepackaged and sold in containers of five gallons or 3650
less. 3651

(C) "Kerosene" means all grades of kerosene, including, 3652
but not limited to, the two grades of kerosene, no. 1-K and no. 3653
2-K, commonly known as K-1 kerosene and K-2 kerosene, 3654
respectively, described in the American Society for Testing 3655
Materials Standard D-3699, in effect on January 1, 1999, and 3656
aviation grade kerosene. 3657

(D) "Diesel fuel" means any liquid fuel capable of use in discrete form or as a blend component in the operation of engines of the diesel type, including transmix when mixed with diesel fuel.

(E) "Gasoline" means any of the following:

(1) All products, commonly or commercially known or sold as gasoline;

(2) Any blend stocks or additives, including alcohol, that are sold for blending with gasoline, other than products typically sold in containers of five gallons or less;

(3) Transmix when mixed with gasoline, unless certified, as required by the tax commissioner, for withdrawal from terminals for reprocessing at refineries;

(4) Alcohol that is offered for sale or sold for use as, or commonly and commercially used as, a fuel for internal combustion engines.

Gasoline does not include diesel fuel, commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold, or used exclusively for purposes other than as a motor fuel for a motor vehicle or vessel. The blending of any of the products listed in the preceding sentence, regardless of name or characteristics, is conclusively presumed to have been done to produce gasoline, unless the product obtained by the blending is entirely incapable for use as fuel to operate a motor vehicle. An additive, blend stock, or alcohol is presumed to be sold for blending unless a certification is obtained as required by the tax commissioner.

(F) "Public highways" means lands and lots over which the public, either as user or owner, generally has a right to pass,

even though the same are closed temporarily by the authorities 3687
for the purpose of construction, reconstruction, maintenance, or 3688
repair. 3689

(G) "Waters within the boundaries of this state" means all 3690
streams, lakes, ponds, marshes, water courses, and all other 3691
bodies of surface water, natural or artificial, which are 3692
situated wholly or partially within this state or within its 3693
jurisdiction, except private impounded bodies of water. 3694

(H) "Person" includes individuals, partnerships, firms, 3695
associations, corporations, receivers, trustees in bankruptcy, 3696
estates, joint-stock companies, joint ventures, the state and 3697
its political subdivisions, and any combination of persons of 3698
any form. 3699

(I) (1) "Motor fuel dealer" means any person who satisfies 3700
any of the following: 3701

(a) The person imports from another state or foreign 3702
country or acquires motor fuel by any means into a terminal in 3703
this state; 3704

(b) The person imports motor fuel from another state or 3705
foreign country in bulk lot vehicles for subsequent sale and 3706
distribution in this state from bulk lot vehicles; 3707

(c) The person refines motor fuel in this state; 3708

(d) The person acquires motor fuel from a motor fuel 3709
dealer for subsequent sale and distribution by that person in 3710
this state from bulk lot vehicles; 3711

(e) The person possesses an unrevoked permissive motor 3712
fuel dealer's license. 3713

(2) Any person who obtains dyed diesel fuel for use other 3714

than the operation of motor vehicles upon the public highways or 3715
upon waters within the boundaries of this state, but later uses 3716
that motor fuel for the operation of motor vehicles upon the 3717
public highways or upon waters within the boundaries of this 3718
state, is deemed a motor fuel dealer as regards any unpaid motor 3719
fuel taxes levied on the motor fuel so used. 3720

(J) As used in section 5735.05 of the Revised Code only: 3721

(1) With respect to gasoline, "received" or "receipt" 3722
shall be construed as follows: 3723

(a) Gasoline produced at a refinery in this state or 3724
delivered to a terminal in this state is deemed received when it 3725
is disbursed through a loading rack at that refinery or 3726
terminal; 3727

(b) Except as provided in division (J) (1) (a) of this 3728
section, gasoline imported into this state or purchased or 3729
otherwise acquired in this state by any person is deemed 3730
received within this state by that person when the gasoline is 3731
withdrawn from the container in which it was transported; 3732

(c) Gasoline delivered or disbursed by any means from a 3733
terminal directly to another terminal is not deemed received. 3734

(2) With respect to motor fuel other than gasoline, 3735
"received" or "receipt" means distributed or sold for use or 3736
used to generate power for the operation of motor vehicles upon 3737
the public highways or upon waters within the boundaries of this 3738
state. All diesel fuel that is not dyed diesel fuel, regardless 3739
of its use, shall be considered as used to generate power for 3740
the operation of motor vehicles upon the public highways or upon 3741
waters within the boundaries of this state when the fuel is sold 3742
or distributed to a person other than a licensed motor fuel 3743

dealer or to a person licensed under section 5735.026 of the Revised Code. 3744
3745

(K) Motor fuel used for the operation of licensed motor vehicles employed in the maintenance, construction, or repair of public highways is deemed to be used for the operation of motor vehicles upon the public highways. 3746
3747
3748
3749

(L) "Licensed motor fuel dealer" means any dealer possessing an unrevoked motor fuel dealer's license issued by the tax commissioner as provided in section 5735.02 of the Revised Code. 3750
3751
3752
3753

(M) "Licensed retail dealer" means any retail dealer possessing an unrevoked retail dealer's license issued by the tax commissioner as provided in section 5735.022 of the Revised Code. 3754
3755
3756
3757

(N) "Refinery" means a facility used to produce motor fuel and from which motor fuel may be removed by pipeline, by vessel, or at a rack. 3758
3759
3760

(O) "Retail dealer" means any person that sells or distributes motor fuel at a retail service station located in this state. 3761
3762
3763

(P) "Retail service station" means a location from which motor fuel is sold to the general public and is dispensed or pumped directly into motor vehicle fuel tanks for consumption. 3764
3765
3766

(Q) "Transit bus" means a motor vehicle that is operated for public transit or paratransit service on a regular and continuing basis within the state by or for a county, a municipal corporation, a county transit board pursuant to sections 306.01 to 306.13 of the Revised Code, a regional transit authority pursuant to sections 306.30 to 306.54 of the 3767
3768
3769
3770
3771
3772

Revised Code, or a regional transit commission pursuant to 3773
sections 306.80 to 306.90 of the Revised Code. Public transit or 3774
paratransit service may include fixed route, demand-responsive, 3775
or subscription bus service transportation, but does not include 3776
shared-ride taxi service, carpools, vanpools, jitney service, 3777
school bus transportation, or charter or sightseeing services. 3778

(R) "Export" means to obtain motor fuel in this state for 3779
sale or other distribution outside this state. For the purposes 3780
of this division, motor fuel delivered outside this state by or 3781
for the seller constitutes an export by the seller, and motor 3782
fuel delivered outside this state by or for the purchaser 3783
constitutes an export by the purchaser. 3784

(S) "Import" means motor fuel delivered into this state 3785
from outside this state. Motor fuel delivered into this state 3786
from outside this state by or for the seller constitutes an 3787
import by the seller. Motor fuel delivered into this state from 3788
outside this state by or for the purchaser constitutes an import 3789
by the purchaser. 3790

(T) "Terminal" means a motor fuel storage or distribution 3791
facility that ~~has been assigned a terminal control number by the~~ 3792
~~internal revenue service, that is~~ supplied by pipeline or marine 3793
vessel, ~~and from which motor fuel may be removed at a rack.~~ 3794

(U) ~~"Terminal operator" means a person that owns,~~ 3795
~~operates, or otherwise controls a terminal~~Consumer" means a 3796
buyer of motor fuel for purposes other than resale in any form. 3797

(V) "Bulk lot vehicle" means railroad tank cars, transport 3798
tank trucks, and tank wagons with a capacity of at least 1,400 3799
gallons. 3800

(W) "Licensed permissive motor fuel dealer" means any 3801

person possessing an unrevoked permissive motor fuel dealer's 3802
license issued by the tax commissioner under section 5735.021 of 3803
the Revised Code. 3804

(X) "Licensed terminal operator" means any person 3805
possessing an unrevoked terminal operator's license issued by 3806
the tax commissioner under section 5735.026 of the Revised Code. 3807

(Y) "Licensed exporter" means any person possessing an 3808
unrevoked exporter's license issued by the tax commissioner 3809
under section 5735.026 of the Revised Code. 3810

(Z) "Dyed diesel fuel" means diesel fuel satisfying the 3811
requirements of 26 U.S.C. 4082. 3812

(AA) "Gross gallons" means U.S. gallons without 3813
temperature or barometric adjustments. 3814

(BB) "Bulk plant" means a motor fuel storage and 3815
distribution facility, other than a terminal, from which motor 3816
fuel may be withdrawn by railroad car, transport trucks, tank 3817
wagons, or marine vessels. 3818

(CC) "Transporter" means either of the following: 3819

(1) A railroad company, street, suburban, or interurban 3820
railroad company, a pipeline company, or water transportation 3821
company that transports motor fuel, either in interstate or 3822
intrastate commerce, to points in this state; 3823

(2) A person that transports motor fuel by any manner to a 3824
point in this state. 3825

(DD) "Exporter" means either of the following: 3826

(1) A person that is licensed to collect and remit motor 3827
fuel taxes in a specified state of destination; 3828

(2) A person that is statutorily prohibited from obtaining 3829
a license to collect and remit motor fuel taxes in a specified 3830
state of destination, and is licensed to sell or distribute tax- 3831
paid motor fuel in the specified state of destination. 3832

(EE) "Report" means a report or return required to be 3833
filed under this chapter and may be used interchangeably with, 3834
and for all purposes has the same meaning as, "return." 3835

(FF) "Aviation fuel" means aviation gasoline or aviation 3836
grade kerosene or any other fuel that is used in aircraft. 3837

(GG) "Aviation gasoline" means fuel specifically 3838
compounded for use in reciprocating aircraft engines. 3839

(HH) "Aviation grade kerosene" means any kerosene type jet 3840
fuel covered by ASTM Specification D1655 or meeting 3841
specification MIL-DTL-5624T (Grade JP-5) or MTL-DTL-83133E 3842
(Grade JP-8). 3843

(II) "Aviation fuel dealer" means a person that acquires 3844
aviation fuel from a supplier or from another aviation fuel 3845
dealer for subsequent sale to a person other than an end user. 3846

Sec. 5735.024. (A) No aviation fuel dealer shall purchase 3847
aviation fuel for ~~consumption-resale~~ in this state without first 3848
being ~~registered-licensed~~ as an aviation fuel dealer by the tax 3849
commissioner to engage in such activities. 3850

(B) The failure to register with the commissioner as an 3851
aviation fuel dealer does not relieve a person from the 3852
requirement to file returns under this title. 3853

(C) No person shall make a false or fraudulent statement 3854
on the application required by this section. 3855

(D) Each aviation fuel dealer shall file a report with the 3856

commissioner on or before the ~~twenty-third~~ last day of each 3857
month for the preceding month. The commissioner shall adopt 3858
rules pursuant to Chapter 119. of the Revised Code specifying 3859
the information that shall be required to be included in the 3860
report. 3861

(E) If an aviation fuel dealer files a false monthly 3862
report of the information required by the commissioner or fails 3863
to file a monthly report as required by this section, the 3864
commissioner may revoke the license of the aviation fuel dealer 3865
and notify the aviation fuel dealer in writing of such 3866
revocation by certified mail sent to the last known address of 3867
the aviation fuel dealer appearing in the files of the 3868
commissioner. 3869

Sec. 5735.04. If a motor fuel dealer files a false monthly 3870
report of the information required under section 5735.06 of the 3871
Revised Code, fails to file a monthly report as required by that 3872
section or section 5735.024 of the Revised Code, or fails to pay 3873
the full amount of the tax as required by the motor fuel laws of 3874
the state or as may be agreed upon by the tax commissioner and 3875
the motor fuel dealer, ~~or fails to file an inventory report as~~ 3876
~~required by section 5735.061 (B) of the Revised Code,~~ the 3877
commissioner may revoke the license of the motor fuel dealer, 3878
and notify the motor fuel dealer in writing of such revocation 3879
by certified mail sent to the last known address of the motor 3880
fuel dealer appearing on the files of the commissioner. 3881

The commissioner may cancel any license issued to any 3882
motor fuel dealer, and the cancellation shall become effective 3883
at the time that may be determined by the commissioner. The 3884
commissioner also may cancel the license of any motor fuel 3885
dealer upon sixty days' notice mailed to the last known address 3886

of the motor fuel dealer if the commissioner, upon 3887
investigation, finds that the person to whom the license has 3888
been issued is no longer engaged in the receipt, use, or sale of 3889
motor fuel as a motor fuel dealer, and has not been so engaged 3890
for the period of six months prior to the cancellation. No 3891
license shall be canceled upon the request of any motor fuel 3892
dealer unless the motor fuel dealer, prior to the date of 3893
cancellation, has paid to the state all motor fuel taxes payable 3894
or assumed by the motor fuel dealer under the laws of the state, 3895
together with all penalties and fines accruing by reason of any 3896
failure of the motor fuel dealer to make accurate reports of 3897
receipts of motor fuel or to pay the taxes and penalties. 3898

If the license of any motor fuel dealer is canceled by the 3899
commissioner as provided in this section, and if the motor fuel 3900
dealer has paid to the state all motor fuel taxes due and 3901
payable by the motor fuel dealer under the laws of the state, or 3902
assumed by the motor fuel dealer upon the receipt, sale, or use 3903
of motor fuel, together with all penalties accruing by reason of 3904
any failure on the part of the motor fuel dealer to make 3905
accurate reports or to pay the tax and penalties, then the 3906
commissioner shall cancel and surrender the bond theretofore 3907
filed by the motor fuel dealer. 3908

Sec. 5747.01. Except as otherwise expressly provided or 3909
clearly appearing from the context, any term used in this 3910
chapter that is not otherwise defined in this section has the 3911
same meaning as when used in a comparable context in the laws of 3912
the United States relating to federal income taxes or if not 3913
used in a comparable context in those laws, has the same meaning 3914
as in section 5733.40 of the Revised Code. Any reference in this 3915
chapter to the Internal Revenue Code includes other laws of the 3916
United States relating to federal income taxes. 3917

As used in this chapter:	3918
(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:	3919 3920 3921 3922
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	3923 3924 3925 3926
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	3927 3928 3929 3930 3931
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	3932 3933 3934 3935 3936 3937
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	3938 3939
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	3940 3941 3942 3943
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the	3944 3945 3946

beneficiary's taxable years beginning before 2002, the portion, 3947
if any, of such distribution that does not exceed the 3948
undistributed net income of the trust for the three taxable 3949
years preceding the taxable year in which the distribution is 3950
made to the extent that the portion was not included in the 3951
trust's taxable income for any of the trust's taxable years 3952
beginning in 2002 or thereafter. "Undistributed net income of a 3953
trust" means the taxable income of the trust increased by (a) (i) 3954
the additions to adjusted gross income required under division 3955
(A) of this section and (ii) the personal exemptions allowed to 3956
the trust pursuant to section 642(b) of the Internal Revenue 3957
Code, and decreased by (b) (i) the deductions to adjusted gross 3958
income required under division (A) of this section, (ii) the 3959
amount of federal income taxes attributable to such income, and 3960
(iii) the amount of taxable income that has been included in the 3961
adjusted gross income of a beneficiary by reason of a prior 3962
accumulation distribution. Any undistributed net income included 3963
in the adjusted gross income of a beneficiary shall reduce the 3964
undistributed net income of the trust commencing with the 3965
earliest years of the accumulation period. 3966

(7) Deduct the amount of wages and salaries, if any, not 3967
otherwise allowable as a deduction but that would have been 3968
allowable as a deduction in computing federal adjusted gross 3969
income for the taxable year, had the targeted jobs credit 3970
allowed and determined under sections 38, 51, and 52 of the 3971
Internal Revenue Code not been in effect. 3972

(8) Deduct any interest or interest equivalent on public 3973
obligations and purchase obligations to the extent that the 3974
interest or interest equivalent is included in federal adjusted 3975
gross income. 3976

(9) Add any loss or deduct any gain resulting from the 3977
sale, exchange, or other disposition of public obligations to 3978
the extent that the loss has been deducted or the gain has been 3979
included in computing federal adjusted gross income. 3980

(10) Deduct or add amounts, as provided under section 3981
5747.70 of the Revised Code, related to contributions to 3982
variable college savings program accounts made or tuition units 3983
purchased pursuant to Chapter 3334. of the Revised Code. 3984

(11) (a) Deduct, to the extent not otherwise allowable as a 3985
deduction or exclusion in computing federal or Ohio adjusted 3986
gross income for the taxable year, the amount the taxpayer paid 3987
during the taxable year for medical care insurance and qualified 3988
long-term care insurance for the taxpayer, the taxpayer's 3989
spouse, and dependents. No deduction for medical care insurance 3990
under division (A) (11) (a) of this section shall be allowed 3991
either to any taxpayer who is eligible to participate in any 3992
subsidized health plan maintained by any employer of the 3993
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 3994
entitled to, or on application would be entitled to, benefits 3995
under part A of Title XVIII of the "Social Security Act," 49 3996
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 3997
division (A) (11) (a) of this section, "subsidized health plan" 3998
means a health plan for which the employer pays any portion of 3999
the plan's cost. The deduction allowed under division (A) (11) (a) 4000
of this section shall be the net of any related premium refunds, 4001
related premium reimbursements, or related insurance premium 4002
dividends received during the taxable year. 4003

(b) Deduct, to the extent not otherwise deducted or 4004
excluded in computing federal or Ohio adjusted gross income 4005
during the taxable year, the amount the taxpayer paid during the 4006

taxable year, not compensated for by any insurance or otherwise, 4007
for medical care of the taxpayer, the taxpayer's spouse, and 4008
dependents, to the extent the expenses exceed seven and one-half 4009
per cent of the taxpayer's federal adjusted gross income. 4010

(c) Deduct, to the extent not otherwise deducted or 4011
excluded in computing federal or Ohio adjusted gross income, any 4012
amount included in federal adjusted gross income under section 4013
105 or not excluded under section 106 of the Internal Revenue 4014
Code solely because it relates to an accident and health plan 4015
for a person who otherwise would be a "qualifying relative" and 4016
thus a "dependent" under section 152 of the Internal Revenue 4017
Code but for the fact that the person fails to meet the income 4018
and support limitations under section 152(d)(1)(B) and (C) of 4019
the Internal Revenue Code. 4020

(d) For purposes of division (A)(11) of this section, 4021
"medical care" has the meaning given in section 213 of the 4022
Internal Revenue Code, subject to the special rules, 4023
limitations, and exclusions set forth therein, and "qualified 4024
long-term care" has the same meaning given in section 7702B(c) 4025
of the Internal Revenue Code. Solely for purposes of divisions 4026
(A)(11)(a) and (c) of this section, "dependent" includes a 4027
person who otherwise would be a "qualifying relative" and thus a 4028
"dependent" under section 152 of the Internal Revenue Code but 4029
for the fact that the person fails to meet the income and 4030
support limitations under section 152(d)(1)(B) and (C) of the 4031
Internal Revenue Code. 4032

(12)(a) Deduct any amount included in federal adjusted 4033
gross income solely because the amount represents a 4034
reimbursement or refund of expenses that in any year the 4035
taxpayer had deducted as an itemized deduction pursuant to 4036

section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A) (12) (a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a) (2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A) (14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15) (a) Add an amount equal to the funds withdrawn from a

medical savings account during the taxable year, and the net 4066
investment earnings on those funds, when the funds withdrawn 4067
were used for any purpose other than to reimburse an account 4068
holder for, or to pay, eligible medical expenses, in accordance 4069
with section 3924.66 of the Revised Code; 4070

(b) Add the amounts distributed from a medical savings 4071
account under division (A) (2) of section 3924.68 of the Revised 4072
Code during the taxable year. 4073

(16) Add any amount claimed as a credit under section 4074
5747.059 or 5747.65 of the Revised Code to the extent that such 4075
amount satisfies either of the following: 4076

(a) The amount was deducted or excluded from the 4077
computation of the taxpayer's federal adjusted gross income as 4078
required to be reported for the taxpayer's taxable year under 4079
the Internal Revenue Code; 4080

(b) The amount resulted in a reduction of the taxpayer's 4081
federal adjusted gross income as required to be reported for any 4082
of the taxpayer's taxable years under the Internal Revenue Code. 4083

(17) Deduct the amount contributed by the taxpayer to an 4084
individual development account program established by a county 4085
department of job and family services pursuant to sections 4086
329.11 to 329.14 of the Revised Code for the purpose of matching 4087
funds deposited by program participants. On request of the tax 4088
commissioner, the taxpayer shall provide any information that, 4089
in the tax commissioner's opinion, is necessary to establish the 4090
amount deducted under division (A) (17) of this section. 4091

(18) Beginning in taxable year 2001 but not for any 4092
taxable year beginning after December 31, 2005, if the taxpayer 4093
is married and files a joint return and the combined federal 4094

adjusted gross income of the taxpayer and the taxpayer's spouse 4095
for the taxable year does not exceed one hundred thousand 4096
dollars, or if the taxpayer is single and has a federal adjusted 4097
gross income for the taxable year not exceeding fifty thousand 4098
dollars, deduct amounts paid during the taxable year for 4099
qualified tuition and fees paid to an eligible institution for 4100
the taxpayer, the taxpayer's spouse, or any dependent of the 4101
taxpayer, who is a resident of this state and is enrolled in or 4102
attending a program that culminates in a degree or diploma at an 4103
eligible institution. The deduction may be claimed only to the 4104
extent that qualified tuition and fees are not otherwise 4105
deducted or excluded for any taxable year from federal or Ohio 4106
adjusted gross income. The deduction may not be claimed for 4107
educational expenses for which the taxpayer claims a credit 4108
under section 5747.27 of the Revised Code. 4109

(19) Add any reimbursement received during the taxable 4110
year of any amount the taxpayer deducted under division (A) (18) 4111
of this section in any previous taxable year to the extent the 4112
amount is not otherwise included in Ohio adjusted gross income. 4113

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 4114
(v) of this section, add five-sixths of the amount of 4115
depreciation expense allowed by subsection (k) of section 168 of 4116
the Internal Revenue Code, including the taxpayer's 4117
proportionate or distributive share of the amount of 4118
depreciation expense allowed by that subsection to a pass- 4119
through entity in which the taxpayer has a direct or indirect 4120
ownership interest. 4121

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 4122
of this section, add five-sixths of the amount of qualifying 4123
section 179 depreciation expense, including the taxpayer's 4124

proportionate or distributive share of the amount of qualifying 4125
section 179 depreciation expense allowed to any pass-through 4126
entity in which the taxpayer has a direct or indirect ownership 4127
interest. 4128

(iii) Subject to division (A) (20) (a) (v) of this section, 4129
for taxable years beginning in 2012 or thereafter, if the 4130
increase in income taxes withheld by the taxpayer is equal to or 4131
greater than ten per cent of income taxes withheld by the 4132
taxpayer during the taxpayer's immediately preceding taxable 4133
year, "two-thirds" shall be substituted for "five-sixths" for 4134
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 4135

(iv) Subject to division (A) (20) (a) (v) of this section, 4136
for taxable years beginning in 2012 or thereafter, a taxpayer is 4137
not required to add an amount under division (A) (20) of this 4138
section if the increase in income taxes withheld by the taxpayer 4139
and by any pass-through entity in which the taxpayer has a 4140
direct or indirect ownership interest is equal to or greater 4141
than the sum of (I) the amount of qualifying section 179 4142
depreciation expense and (II) the amount of depreciation expense 4143
allowed to the taxpayer by subsection (k) of section 168 of the 4144
Internal Revenue Code, and including the taxpayer's 4145
proportionate or distributive shares of such amounts allowed to 4146
any such pass-through entities. 4147

(v) If a taxpayer directly or indirectly incurs a net 4148
operating loss for the taxable year for federal income tax 4149
purposes, to the extent such loss resulted from depreciation 4150
expense allowed by subsection (k) of section 168 of the Internal 4151
Revenue Code and by qualifying section 179 depreciation expense, 4152
"the entire" shall be substituted for "five-sixths of the" for 4153
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 4154

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A) (20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A) (20) (a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) (20) (a) (v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A) (20) and (21) of this section:

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.

(ii) "Increase in income taxes withheld" means the amount

by which the amount of income taxes withheld by an employer 4184
during the employer's current taxable year exceeds the amount of 4185
income taxes withheld by that employer during the employer's 4186
immediately preceding taxable year. 4187

(iii) "Qualifying section 179 depreciation expense" means 4188
the difference between (I) the amount of depreciation expense 4189
directly or indirectly allowed to a taxpayer under section 179 4190
of the Internal Revised Code, and (II) the amount of 4191
depreciation expense directly or indirectly allowed to the 4192
taxpayer under section 179 of the Internal Revenue Code as that 4193
section existed on December 31, 2002. 4194

(21) (a) If the taxpayer was required to add an amount 4195
under division (A) (20) (a) of this section for a taxable year, 4196
deduct one of the following: 4197

(i) One-fifth of the amount so added for each of the five 4198
succeeding taxable years if the amount so added was five-sixths 4199
of qualifying section 179 depreciation expense or depreciation 4200
expense allowed by subsection (k) of section 168 of the Internal 4201
Revenue Code; 4202

(ii) One-half of the amount so added for each of the two 4203
succeeding taxable years if the amount so added was two-thirds 4204
of such depreciation expense; 4205

(iii) One-sixth of the amount so added for each of the six 4206
succeeding taxable years if the entire amount of such 4207
depreciation expense was so added. 4208

(b) If the amount deducted under division (A) (21) (a) of 4209
this section is attributable to an add-back allocated under 4210
division (A) (20) (c) of this section, the amount deducted shall 4211
be situated to the same location. Otherwise, the add-back shall 4212

be apportioned using the apportionment factors for the taxable 4213
year in which the deduction is taken, subject to one or more of 4214
the four alternative methods of apportionment enumerated in 4215
section 5747.21 of the Revised Code. 4216

(c) No deduction is available under division (A) (21) (a) of 4217
this section with regard to any depreciation allowed by section 4218
168(k) of the Internal Revenue Code and by the qualifying 4219
section 179 depreciation expense amount to the extent that such 4220
depreciation results in or increases a federal net operating 4221
loss carryback or carryforward. If no such deduction is 4222
available for a taxable year, the taxpayer may carry forward the 4223
amount not deducted in such taxable year to the next taxable 4224
year and add that amount to any deduction otherwise available 4225
under division (A) (21) (a) of this section for that next taxable 4226
year. The carryforward of amounts not so deducted shall continue 4227
until the entire addition required by division (A) (20) (a) of 4228
this section has been deducted. 4229

(d) No refund shall be allowed as a result of adjustments 4230
made by division (A) (21) of this section. 4231

(22) Deduct, to the extent not otherwise deducted or 4232
excluded in computing federal or Ohio adjusted gross income for 4233
the taxable year, the amount the taxpayer received during the 4234
taxable year as reimbursement for life insurance premiums under 4235
section 5919.31 of the Revised Code. 4236

(23) Deduct, to the extent not otherwise deducted or 4237
excluded in computing federal or Ohio adjusted gross income for 4238
the taxable year, the amount the taxpayer received during the 4239
taxable year as a death benefit paid by the adjutant general 4240
under section 5919.33 of the Revised Code. 4241

(24) Deduct, to the extent included in federal adjusted 4242
gross income and not otherwise allowable as a deduction or 4243
exclusion in computing federal or Ohio adjusted gross income for 4244
the taxable year, military pay and allowances received by the 4245
taxpayer during the taxable year for active duty service in the 4246
United States army, air force, navy, marine corps, or coast 4247
guard or reserve components thereof or the national guard. The 4248
deduction may not be claimed for military pay and allowances 4249
received by the taxpayer while the taxpayer is stationed in this 4250
state. 4251

(25) Deduct, to the extent not otherwise allowable as a 4252
deduction or exclusion in computing federal or Ohio adjusted 4253
gross income for the taxable year and not otherwise compensated 4254
for by any other source, the amount of qualified organ donation 4255
expenses incurred by the taxpayer during the taxable year, not 4256
to exceed ten thousand dollars. A taxpayer may deduct qualified 4257
organ donation expenses only once for all taxable years 4258
beginning with taxable years beginning in 2007. 4259

For the purposes of division (A) (25) of this section: 4260

(a) "Human organ" means all or any portion of a human 4261
liver, pancreas, kidney, intestine, or lung, and any portion of 4262
human bone marrow. 4263

(b) "Qualified organ donation expenses" means travel 4264
expenses, lodging expenses, and wages and salary forgone by a 4265
taxpayer in connection with the taxpayer's donation, while 4266
living, of one or more of the taxpayer's human organs to another 4267
human being. 4268

(26) Deduct, to the extent not otherwise deducted or 4269
excluded in computing federal or Ohio adjusted gross income for 4270

the taxable year, amounts received by the taxpayer as retired 4271
personnel pay for service in the uniformed services or reserve 4272
components thereof, or the national guard, or received by the 4273
surviving spouse or former spouse of such a taxpayer under the 4274
survivor benefit plan on account of such a taxpayer's death. If 4275
the taxpayer receives income on account of retirement paid under 4276
the federal civil service retirement system or federal employees 4277
retirement system, or under any successor retirement program 4278
enacted by the congress of the United States that is established 4279
and maintained for retired employees of the United States 4280
government, and such retirement income is based, in whole or in 4281
part, on credit for the taxpayer's uniformed service, the 4282
deduction allowed under this division shall include only that 4283
portion of such retirement income that is attributable to the 4284
taxpayer's uniformed service, to the extent that portion of such 4285
retirement income is otherwise included in federal adjusted 4286
gross income and is not otherwise deducted under this section. 4287
Any amount deducted under division (A) (26) of this section is 4288
not included in a taxpayer's adjusted gross income for the 4289
purposes of section 5747.055 of the Revised Code. No amount may 4290
be deducted under division (A) (26) of this section on the basis 4291
of which a credit was claimed under section 5747.055 of the 4292
Revised Code. 4293

(27) Deduct, to the extent not otherwise deducted or 4294
excluded in computing federal or Ohio adjusted gross income for 4295
the taxable year, the amount the taxpayer received during the 4296
taxable year from the military injury relief fund created in 4297
section 5902.05 of the Revised Code. 4298

(28) Deduct, to the extent not otherwise deducted or 4299
excluded in computing federal or Ohio adjusted gross income for 4300
the taxable year, the amount the taxpayer received as a veterans 4301

bonus during the taxable year from the Ohio department of 4302
veterans services as authorized by Section 2r of Article VIII, 4303
Ohio Constitution. 4304

(29) Deduct, to the extent not otherwise deducted or 4305
excluded in computing federal or Ohio adjusted gross income for 4306
the taxable year, any income derived from a transfer agreement 4307
or from the enterprise transferred under that agreement under 4308
section 4313.02 of the Revised Code. 4309

(30) Deduct, to the extent not otherwise deducted or 4310
excluded in computing federal or Ohio adjusted gross income for 4311
the taxable year, Ohio college opportunity or federal Pell grant 4312
amounts received by the taxpayer or the taxpayer's spouse or 4313
dependent pursuant to section 3333.122 of the Revised Code or 20 4314
U.S.C. 1070a, et seq., and used to pay room or board furnished 4315
by the educational institution for which the grant was awarded 4316
at the institution's facilities, including meal plans 4317
administered by the institution. For the purposes of this 4318
division, receipt of a grant includes the distribution of a 4319
grant directly to an educational institution and the crediting 4320
of the grant to the enrollee's account with the institution. 4321

(31) (a) For taxable years beginning in 2015, deduct from 4322
the portion of an individual's adjusted gross income that is 4323
business income, to the extent not otherwise deducted or 4324
excluded in computing federal or Ohio adjusted gross income for 4325
the taxable year, the lesser of the following amounts: 4326

(i) Seventy-five per cent of the individual's business 4327
income; 4328

(ii) Ninety-three thousand seven hundred fifty dollars for 4329
each spouse if spouses file separate returns under section 4330

5747.08 of the Revised Code or one hundred eighty-seven thousand 4331
five hundred dollars for all other individuals. 4332

(b) For taxable years beginning in 2016 or thereafter, 4333
deduct from the portion of an individual's adjusted gross income 4334
that is business income, to the extent not otherwise deducted or 4335
excluded in computing federal adjusted gross income for the 4336
taxable year, one hundred twenty-five thousand dollars for each 4337
spouse if spouses file separate returns under section 5747.08 of 4338
the Revised Code or two hundred fifty thousand dollars for all 4339
other individuals. 4340

(32) Deduct, as provided under section 5747.78 of the 4341
Revised Code, contributions to ABLE savings accounts made in 4342
accordance with sections 113.50 to 113.56 of the Revised Code. 4343

(B) "Business income" means income, including gain or 4344
loss, arising from transactions, activities, and sources in the 4345
regular course of a trade or business and includes income, gain, 4346
or loss from real property, tangible property, and intangible 4347
property if the acquisition, rental, management, and disposition 4348
of the property constitute integral parts of the regular course 4349
of a trade or business operation. "Business income" includes 4350
income, including gain or loss, from a partial or complete 4351
liquidation of a business, including, but not limited to, gain 4352
or loss from the sale or other disposition of goodwill. 4353

(C) "Nonbusiness income" means all income other than 4354
business income and may include, but is not limited to, 4355
compensation, rents and royalties from real or tangible personal 4356
property, capital gains, interest, dividends and distributions, 4357
patent or copyright royalties, or lottery winnings, prizes, and 4358
awards. 4359

(D) "Compensation" means any form of remuneration paid to an employee for personal services. 4360
4361

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate. 4362
4363
4364

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. 4365
4366

(G) "Individual" means any natural person. 4367

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 4368
4369

(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter: 4370
4371
4372

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 4373
4374

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section. 4375
4376
4377
4378

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 4379
4380
4381

For the purposes of division (I) (3) of this section: 4382

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, 4383
4384
4385
4386

that were transferred, or caused to be transferred, directly or 4387
indirectly, to the trust by any of the following: 4388

(i) A person, a court, or a governmental entity or 4389
instrumentality on account of the death of a decedent, but only 4390
if the trust is described in division (I)(3)(e)(i) or (ii) of 4391
this section; 4392

(ii) A person who was domiciled in this state for the 4393
purposes of this chapter when the person directly or indirectly 4394
transferred assets to an irrevocable trust, but only if at least 4395
one of the trust's qualifying beneficiaries is domiciled in this 4396
state for the purposes of this chapter during all or some 4397
portion of the trust's current taxable year; 4398

(iii) A person who was domiciled in this state for the 4399
purposes of this chapter when the trust document or instrument 4400
or part of the trust document or instrument became irrevocable, 4401
but only if at least one of the trust's qualifying beneficiaries 4402
is a resident domiciled in this state for the purposes of this 4403
chapter during all or some portion of the trust's current 4404
taxable year. If a trust document or instrument became 4405
irrevocable upon the death of a person who at the time of death 4406
was domiciled in this state for purposes of this chapter, that 4407
person is a person described in division (I)(3)(a)(iii) of this 4408
section. 4409

(b) A trust is irrevocable to the extent that the 4410
transferor is not considered to be the owner of the net assets 4411
of the trust under sections 671 to 678 of the Internal Revenue 4412
Code. 4413

(c) With respect to a trust other than a charitable lead 4414
trust, "qualifying beneficiary" has the same meaning as 4415

"potential current beneficiary" as defined in section 1361(e) (2) 4416
of the Internal Revenue Code, and with respect to a charitable 4417
lead trust "qualifying beneficiary" is any current, future, or 4418
contingent beneficiary, but with respect to any trust 4419
"qualifying beneficiary" excludes a person or a governmental 4420
entity or instrumentality to any of which a contribution would 4421
qualify for the charitable deduction under section 170 of the 4422
Internal Revenue Code. 4423

(d) For the purposes of division (I) (3) (a) of this 4424
section, the extent to which a trust consists directly or 4425
indirectly, in whole or in part, of assets, net of any related 4426
liabilities, that were transferred directly or indirectly, in 4427
whole or part, to the trust by any of the sources enumerated in 4428
that division shall be ascertained by multiplying the fair 4429
market value of the trust's assets, net of related liabilities, 4430
by the qualifying ratio, which shall be computed as follows: 4431

(i) The first time the trust receives assets, the 4432
numerator of the qualifying ratio is the fair market value of 4433
those assets at that time, net of any related liabilities, from 4434
sources enumerated in division (I) (3) (a) of this section. The 4435
denominator of the qualifying ratio is the fair market value of 4436
all the trust's assets at that time, net of any related 4437
liabilities. 4438

(ii) Each subsequent time the trust receives assets, a 4439
revised qualifying ratio shall be computed. The numerator of the 4440
revised qualifying ratio is the sum of (1) the fair market value 4441
of the trust's assets immediately prior to the subsequent 4442
transfer, net of any related liabilities, multiplied by the 4443
qualifying ratio last computed without regard to the subsequent 4444
transfer, and (2) the fair market value of the subsequently 4445

transferred assets at the time transferred, net of any related 4446
liabilities, from sources enumerated in division (I) (3) (a) of 4447
this section. The denominator of the revised qualifying ratio is 4448
the fair market value of all the trust's assets immediately 4449
after the subsequent transfer, net of any related liabilities. 4450

(iii) Whether a transfer to the trust is by or from any of 4451
the sources enumerated in division (I) (3) (a) of this section 4452
shall be ascertained without regard to the domicile of the 4453
trust's beneficiaries. 4454

(e) For the purposes of division (I) (3) (a) (i) of this 4455
section: 4456

(i) A trust is described in division (I) (3) (e) (i) of this 4457
section if the trust is a testamentary trust and the testator of 4458
that testamentary trust was domiciled in this state at the time 4459
of the testator's death for purposes of the taxes levied under 4460
Chapter 5731. of the Revised Code. 4461

(ii) A trust is described in division (I) (3) (e) (ii) of 4462
this section if the transfer is a qualifying transfer described 4463
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 4464
trust is an irrevocable inter vivos trust, and at least one of 4465
the trust's qualifying beneficiaries is domiciled in this state 4466
for purposes of this chapter during all or some portion of the 4467
trust's current taxable year. 4468

(f) For the purposes of division (I) (3) (e) (ii) of this 4469
section, a "qualifying transfer" is a transfer of assets, net of 4470
any related liabilities, directly or indirectly to a trust, if 4471
the transfer is described in any of the following: 4472

(i) The transfer is made to a trust, created by the 4473
decedent before the decedent's death and while the decedent was 4474

domiciled in this state for the purposes of this chapter, and, 4475
prior to the death of the decedent, the trust became irrevocable 4476
while the decedent was domiciled in this state for the purposes 4477
of this chapter. 4478

(ii) The transfer is made to a trust to which the 4479
decedent, prior to the decedent's death, had directly or 4480
indirectly transferred assets, net of any related liabilities, 4481
while the decedent was domiciled in this state for the purposes 4482
of this chapter, and prior to the death of the decedent the 4483
trust became irrevocable while the decedent was domiciled in 4484
this state for the purposes of this chapter. 4485

(iii) The transfer is made on account of a contractual 4486
relationship existing directly or indirectly between the 4487
transferor and either the decedent or the estate of the decedent 4488
at any time prior to the date of the decedent's death, and the 4489
decedent was domiciled in this state at the time of death for 4490
purposes of the taxes levied under Chapter 5731. of the Revised 4491
Code. 4492

(iv) The transfer is made to a trust on account of a 4493
contractual relationship existing directly or indirectly between 4494
the transferor and another person who at the time of the 4495
decedent's death was domiciled in this state for purposes of 4496
this chapter. 4497

(v) The transfer is made to a trust on account of the will 4498
of a testator who was domiciled in this state at the time of the 4499
testator's death for purposes of the taxes levied under Chapter 4500
5731. of the Revised Code. 4501

(vi) The transfer is made to a trust created by or caused 4502
to be created by a court, and the trust was directly or 4503

indirectly created in connection with or as a result of the 4504
death of an individual who, for purposes of the taxes levied 4505
under Chapter 5731. of the Revised Code, was domiciled in this 4506
state at the time of the individual's death. 4507

(g) The tax commissioner may adopt rules to ascertain the 4508
part of a trust residing in this state. 4509

(J) "Nonresident" means an individual or estate that is 4510
not a resident. An individual who is a resident for only part of 4511
a taxable year is a nonresident for the remainder of that 4512
taxable year. 4513

(K) "Pass-through entity" has the same meaning as in 4514
section 5733.04 of the Revised Code. 4515

(L) "Return" means the notifications and reports required 4516
to be filed pursuant to this chapter for the purpose of 4517
reporting the tax due and includes declarations of estimated tax 4518
when so required. 4519

(M) "Taxable year" means the calendar year or the 4520
taxpayer's fiscal year ending during the calendar year, or 4521
fractional part thereof, upon which the adjusted gross income is 4522
calculated pursuant to this chapter. 4523

(N) "Taxpayer" means any person subject to the tax imposed 4524
by section 5747.02 of the Revised Code or any pass-through 4525
entity that makes the election under division (D) of section 4526
5747.08 of the Revised Code. 4527

(O) "Dependents" means dependents as defined in the 4528
Internal Revenue Code and as claimed in the taxpayer's federal 4529
income tax return for the taxable year or which the taxpayer 4530
would have been permitted to claim had the taxpayer filed a 4531
federal income tax return. 4532

(P) "Principal county of employment" means, in the case of 4533
a nonresident, the county within the state in which a taxpayer 4534
performs services for an employer or, if those services are 4535
performed in more than one county, the county in which the major 4536
portion of the services are performed. 4537

(Q) As used in sections 5747.50 to 5747.55 of the Revised 4538
Code: 4539

(1) "Subdivision" means any county, municipal corporation, 4540
park district, or township. 4541

(2) "Essential local government purposes" includes all 4542
functions that any subdivision is required by general law to 4543
exercise, including like functions that are exercised under a 4544
charter adopted pursuant to the Ohio Constitution. 4545

(R) "Overpayment" means any amount already paid that 4546
exceeds the figure determined to be the correct amount of the 4547
tax. 4548

(S) "Taxable income" or "Ohio taxable income" applies only 4549
to estates and trusts, and means federal taxable income, as 4550
defined and used in the Internal Revenue Code, adjusted as 4551
follows: 4552

(1) Add interest or dividends, net of ordinary, necessary, 4553
and reasonable expenses not deducted in computing federal 4554
taxable income, on obligations or securities of any state or of 4555
any political subdivision or authority of any state, other than 4556
this state and its subdivisions and authorities, but only to the 4557
extent that such net amount is not otherwise includible in Ohio 4558
taxable income and is described in either division (S) (1) (a) or 4559
(b) of this section: 4560

(a) The net amount is not attributable to the S portion of 4561

an electing small business trust and has not been distributed to 4562
beneficiaries for the taxable year; 4563

(b) The net amount is attributable to the S portion of an 4564
electing small business trust for the taxable year. 4565

(2) Add interest or dividends, net of ordinary, necessary, 4566
and reasonable expenses not deducted in computing federal 4567
taxable income, on obligations of any authority, commission, 4568
instrumentality, territory, or possession of the United States 4569
to the extent that the interest or dividends are exempt from 4570
federal income taxes but not from state income taxes, but only 4571
to the extent that such net amount is not otherwise includible 4572
in Ohio taxable income and is described in either division (S) 4573
(1) (a) or (b) of this section; 4574

(3) Add the amount of personal exemption allowed to the 4575
estate pursuant to section 642(b) of the Internal Revenue Code; 4576

(4) Deduct interest or dividends, net of related expenses 4577
deducted in computing federal taxable income, on obligations of 4578
the United States and its territories and possessions or of any 4579
authority, commission, or instrumentality of the United States 4580
to the extent that the interest or dividends are exempt from 4581
state taxes under the laws of the United States, but only to the 4582
extent that such amount is included in federal taxable income 4583
and is described in either division (S) (1) (a) or (b) of this 4584
section; 4585

(5) Deduct the amount of wages and salaries, if any, not 4586
otherwise allowable as a deduction but that would have been 4587
allowable as a deduction in computing federal taxable income for 4588
the taxable year, had the targeted jobs credit allowed under 4589
sections 38, 51, and 52 of the Internal Revenue Code not been in 4590

effect, but only to the extent such amount relates either to 4591
income included in federal taxable income for the taxable year 4592
or to income of the S portion of an electing small business 4593
trust for the taxable year; 4594

(6) Deduct any interest or interest equivalent, net of 4595
related expenses deducted in computing federal taxable income, 4596
on public obligations and purchase obligations, but only to the 4597
extent that such net amount relates either to income included in 4598
federal taxable income for the taxable year or to income of the 4599
S portion of an electing small business trust for the taxable 4600
year; 4601

(7) Add any loss or deduct any gain resulting from sale, 4602
exchange, or other disposition of public obligations to the 4603
extent that such loss has been deducted or such gain has been 4604
included in computing either federal taxable income or income of 4605
the S portion of an electing small business trust for the 4606
taxable year; 4607

(8) Except in the case of the final return of an estate, 4608
add any amount deducted by the taxpayer on both its Ohio estate 4609
tax return pursuant to section 5731.14 of the Revised Code, and 4610
on its federal income tax return in determining federal taxable 4611
income; 4612

(9) (a) Deduct any amount included in federal taxable 4613
income solely because the amount represents a reimbursement or 4614
refund of expenses that in a previous year the decedent had 4615
deducted as an itemized deduction pursuant to section 63 of the 4616
Internal Revenue Code and applicable treasury regulations. The 4617
deduction otherwise allowed under division (S) (9) (a) of this 4618
section shall be reduced to the extent the reimbursement is 4619
attributable to an amount the taxpayer or decedent deducted 4620

under this section in any taxable year. 4621

(b) Add any amount not otherwise included in Ohio taxable 4622
income for any taxable year to the extent that the amount is 4623
attributable to the recovery during the taxable year of any 4624
amount deducted or excluded in computing federal or Ohio taxable 4625
income in any taxable year, but only to the extent such amount 4626
has not been distributed to beneficiaries for the taxable year. 4627

(10) Deduct any portion of the deduction described in 4628
section 1341(a)(2) of the Internal Revenue Code, for repaying 4629
previously reported income received under a claim of right, that 4630
meets both of the following requirements: 4631

(a) It is allowable for repayment of an item that was 4632
included in the taxpayer's taxable income or the decedent's 4633
adjusted gross income for a prior taxable year and did not 4634
qualify for a credit under division (A) or (B) of section 4635
5747.05 of the Revised Code for that year. 4636

(b) It does not otherwise reduce the taxpayer's taxable 4637
income or the decedent's adjusted gross income for the current 4638
or any other taxable year. 4639

(11) Add any amount claimed as a credit under section 4640
5747.059 or 5747.65 of the Revised Code to the extent that the 4641
amount satisfies either of the following: 4642

(a) The amount was deducted or excluded from the 4643
computation of the taxpayer's federal taxable income as required 4644
to be reported for the taxpayer's taxable year under the 4645
Internal Revenue Code; 4646

(b) The amount resulted in a reduction in the taxpayer's 4647
federal taxable income as required to be reported for any of the 4648
taxpayer's taxable years under the Internal Revenue Code. 4649

(12) Deduct any amount, net of related expenses deducted 4650
in computing federal taxable income, that a trust is required to 4651
report as farm income on its federal income tax return, but only 4652
if the assets of the trust include at least ten acres of land 4653
satisfying the definition of "land devoted exclusively to 4654
agricultural use" under section 5713.30 of the Revised Code, 4655
regardless of whether the land is valued for tax purposes as 4656
such land under sections 5713.30 to 5713.38 of the Revised Code. 4657
If the trust is a pass-through entity investor, section 5747.231 4658
of the Revised Code applies in ascertaining if the trust is 4659
eligible to claim the deduction provided by division (S) (12) of 4660
this section in connection with the pass-through entity's farm 4661
income. 4662

Except for farm income attributable to the S portion of an 4663
electing small business trust, the deduction provided by 4664
division (S) (12) of this section is allowed only to the extent 4665
that the trust has not distributed such farm income. Division 4666
(S) (12) of this section applies only to taxable years of a trust 4667
beginning in 2002 or thereafter. 4668

(13) Add the net amount of income described in section 4669
641(c) of the Internal Revenue Code to the extent that amount is 4670
not included in federal taxable income. 4671

(14) Add or deduct the amount the taxpayer would be 4672
required to add or deduct under division (A) (20) or (21) of this 4673
section if the taxpayer's Ohio taxable income were computed in 4674
the same manner as an individual's Ohio adjusted gross income is 4675
computed under this section. In the case of a trust, division 4676
(S) (14) of this section applies only to any of the trust's 4677
taxable years beginning in 2002 or thereafter. 4678

(T) "School district income" and "school district income 4679

tax" have the same meanings as in section 5748.01 of the Revised Code. 4680
4681

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code. 4682
4683
4684
4685

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state. 4686
4687
4688

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity. 4689
4690
4691
4692

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code. 4693
4694

(Y) "Month" means a calendar month. 4695

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year. 4696
4697
4698

(AA) (1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code. 4699
4700
4701
4702
4703
4704
4705
4706
4707

(2) "Qualified tuition and fees" means tuition and fees 4708
imposed by an eligible institution as a condition of enrollment 4709
or attendance, not exceeding two thousand five hundred dollars 4710
in each of the individual's first two years of post-secondary 4711
education. If the individual is a part-time student, "qualified 4712
tuition and fees" includes tuition and fees paid for the 4713
academic equivalent of the first two years of post-secondary 4714
education during a maximum of five taxable years, not exceeding 4715
a total of five thousand dollars. "Qualified tuition and fees" 4716
does not include: 4717

(a) Expenses for any course or activity involving sports, 4718
games, or hobbies unless the course or activity is part of the 4719
individual's degree or diploma program; 4720

(b) The cost of books, room and board, student activity 4721
fees, athletic fees, insurance expenses, or other expenses 4722
unrelated to the individual's academic course of instruction; 4723

(c) Tuition, fees, or other expenses paid or reimbursed 4724
through an employer, scholarship, grant in aid, or other 4725
educational benefit program. 4726

(BB) (1) "Modified business income" means the business 4727
income included in a trust's Ohio taxable income after such 4728
taxable income is first reduced by the qualifying trust amount, 4729
if any. 4730

(2) "Qualifying trust amount" of a trust means capital 4731
gains and losses from the sale, exchange, or other disposition 4732
of equity or ownership interests in, or debt obligations of, a 4733
qualifying investee to the extent included in the trust's Ohio 4734
taxable income, but only if the following requirements are 4735
satisfied: 4736

(a) The book value of the qualifying investee's physical 4737
assets in this state and everywhere, as of the last day of the 4738
qualifying investee's fiscal or calendar year ending immediately 4739
prior to the date on which the trust recognizes the gain or 4740
loss, is available to the trust. 4741

(b) The requirements of section 5747.011 of the Revised 4742
Code are satisfied for the trust's taxable year in which the 4743
trust recognizes the gain or loss. 4744

Any gain or loss that is not a qualifying trust amount is 4745
modified business income, qualifying investment income, or 4746
modified nonbusiness income, as the case may be. 4747

(3) "Modified nonbusiness income" means a trust's Ohio 4748
taxable income other than modified business income, other than 4749
the qualifying trust amount, and other than qualifying 4750
investment income, as defined in section 5747.012 of the Revised 4751
Code, to the extent such qualifying investment income is not 4752
otherwise part of modified business income. 4753

(4) "Modified Ohio taxable income" applies only to trusts, 4754
and means the sum of the amounts described in divisions (BB) (4) 4755
(a) to (c) of this section: 4756

(a) The fraction, calculated under section 5747.013, and 4757
applying section 5747.231 of the Revised Code, multiplied by the 4758
sum of the following amounts: 4759

(i) The trust's modified business income; 4760

(ii) The trust's qualifying investment income, as defined 4761
in section 5747.012 of the Revised Code, but only to the extent 4762
the qualifying investment income does not otherwise constitute 4763
modified business income and does not otherwise constitute a 4764
qualifying trust amount. 4765

(b) The qualifying trust amount multiplied by a fraction, 4766
the numerator of which is the sum of the book value of the 4767
qualifying investee's physical assets in this state on the last 4768
day of the qualifying investee's fiscal or calendar year ending 4769
immediately prior to the day on which the trust recognizes the 4770
qualifying trust amount, and the denominator of which is the sum 4771
of the book value of the qualifying investee's total physical 4772
assets everywhere on the last day of the qualifying investee's 4773
fiscal or calendar year ending immediately prior to the day on 4774
which the trust recognizes the qualifying trust amount. If, for 4775
a taxable year, the trust recognizes a qualifying trust amount 4776
with respect to more than one qualifying investee, the amount 4777
described in division (BB) (4) (b) of this section shall equal the 4778
sum of the products so computed for each such qualifying 4779
investee. 4780

(c) (i) With respect to a trust or portion of a trust that 4781
is a resident as ascertained in accordance with division (I) (3) 4782
(d) of this section, its modified nonbusiness income. 4783

(ii) With respect to a trust or portion of a trust that is 4784
not a resident as ascertained in accordance with division (I) (3) 4785
(d) of this section, the amount of its modified nonbusiness 4786
income satisfying the descriptions in divisions (B) (2) to (5) of 4787
section 5747.20 of the Revised Code, except as otherwise 4788
provided in division (BB) (4) (c) (ii) of this section. With 4789
respect to a trust or portion of a trust that is not a resident 4790
as ascertained in accordance with division (I) (3) (d) of this 4791
section, the trust's portion of modified nonbusiness income 4792
recognized from the sale, exchange, or other disposition of a 4793
debt interest in or equity interest in a section 5747.212 4794
entity, as defined in section 5747.212 of the Revised Code, 4795
without regard to division (A) of that section, shall not be 4796

allocated to this state in accordance with section 5747.20 of 4797
the Revised Code but shall be apportioned to this state in 4798
accordance with division (B) of section 5747.212 of the Revised 4799
Code without regard to division (A) of that section. 4800

If the allocation and apportionment of a trust's income 4801
under divisions (BB) (4) (a) and (c) of this section do not fairly 4802
represent the modified Ohio taxable income of the trust in this 4803
state, the alternative methods described in division (C) of 4804
section 5747.21 of the Revised Code may be applied in the manner 4805
and to the same extent provided in that section. 4806

(5) (a) Except as set forth in division (BB) (5) (b) of this 4807
section, "qualifying investee" means a person in which a trust 4808
has an equity or ownership interest, or a person or unit of 4809
government the debt obligations of either of which are owned by 4810
a trust. For the purposes of division (BB) (2) (a) of this section 4811
and for the purpose of computing the fraction described in 4812
division (BB) (4) (b) of this section, all of the following apply: 4813

(i) If the qualifying investee is a member of a qualifying 4814
controlled group on the last day of the qualifying investee's 4815
fiscal or calendar year ending immediately prior to the date on 4816
which the trust recognizes the gain or loss, then "qualifying 4817
investee" includes all persons in the qualifying controlled 4818
group on such last day. 4819

(ii) If the qualifying investee, or if the qualifying 4820
investee and any members of the qualifying controlled group of 4821
which the qualifying investee is a member on the last day of the 4822
qualifying investee's fiscal or calendar year ending immediately 4823
prior to the date on which the trust recognizes the gain or 4824
loss, separately or cumulatively own, directly or indirectly, on 4825
the last day of the qualifying investee's fiscal or calendar 4826

year ending immediately prior to the date on which the trust 4827
recognizes the qualifying trust amount, more than fifty per cent 4828
of the equity of a pass-through entity, then the qualifying 4829
investee and the other members are deemed to own the 4830
proportionate share of the pass-through entity's physical assets 4831
which the pass-through entity directly or indirectly owns on the 4832
last day of the pass-through entity's calendar or fiscal year 4833
ending within or with the last day of the qualifying investee's 4834
fiscal or calendar year ending immediately prior to the date on 4835
which the trust recognizes the qualifying trust amount. 4836

(iii) For the purposes of division (BB) (5) (a) (iii) of this 4837
section, "upper level pass-through entity" means a pass-through 4838
entity directly or indirectly owning any equity of another pass- 4839
through entity, and "lower level pass-through entity" means that 4840
other pass-through entity. 4841

An upper level pass-through entity, whether or not it is 4842
also a qualifying investee, is deemed to own, on the last day of 4843
the upper level pass-through entity's calendar or fiscal year, 4844
the proportionate share of the lower level pass-through entity's 4845
physical assets that the lower level pass-through entity 4846
directly or indirectly owns on the last day of the lower level 4847
pass-through entity's calendar or fiscal year ending within or 4848
with the last day of the upper level pass-through entity's 4849
fiscal or calendar year. If the upper level pass-through entity 4850
directly and indirectly owns less than fifty per cent of the 4851
equity of the lower level pass-through entity on each day of the 4852
upper level pass-through entity's calendar or fiscal year in 4853
which or with which ends the calendar or fiscal year of the 4854
lower level pass-through entity and if, based upon clear and 4855
convincing evidence, complete information about the location and 4856
cost of the physical assets of the lower pass-through entity is 4857

not available to the upper level pass-through entity, then 4858
solely for purposes of ascertaining if a gain or loss 4859
constitutes a qualifying trust amount, the upper level pass- 4860
through entity shall be deemed as owning no equity of the lower 4861
level pass-through entity for each day during the upper level 4862
pass-through entity's calendar or fiscal year in which or with 4863
which ends the lower level pass-through entity's calendar or 4864
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 4865
shall be construed to provide for any deduction or exclusion in 4866
computing any trust's Ohio taxable income. 4867

(b) With respect to a trust that is not a resident for the 4868
taxable year and with respect to a part of a trust that is not a 4869
resident for the taxable year, "qualifying investee" for that 4870
taxable year does not include a C corporation if both of the 4871
following apply: 4872

(i) During the taxable year the trust or part of the trust 4873
recognizes a gain or loss from the sale, exchange, or other 4874
disposition of equity or ownership interests in, or debt 4875
obligations of, the C corporation. 4876

(ii) Such gain or loss constitutes nonbusiness income. 4877

(6) "Available" means information is such that a person is 4878
able to learn of the information by the due date plus 4879
extensions, if any, for filing the return for the taxable year 4880
in which the trust recognizes the gain or loss. 4881

(CC) "Qualifying controlled group" has the same meaning as 4882
in section 5733.04 of the Revised Code. 4883

(DD) "Related member" has the same meaning as in section 4884
5733.042 of the Revised Code. 4885

(EE) (1) For the purposes of division (EE) of this section: 4886

(a) "Qualifying person" means any person other than a qualifying corporation.	4887 4888
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	4889 4890 4891
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	4892 4893 4894 4895
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	4896 4897 4898 4899 4900
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	4901 4902 4903
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	4904 4905
(1) "Trust" does not include a qualified pre-income tax trust.	4906 4907
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.	4908 4909 4910
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or	4911 4912 4913 4914

controls, directly, indirectly, or constructively through 4915
related interests, five per cent or more of the ownership or 4916
equity interests. The trustee shall notify the tax commissioner 4917
in writing of the election on or before April 15, 2006. The 4918
election, if timely made, shall be effective on and after 4919
January 1, 2006, and shall apply for all tax periods and tax 4920
years until revoked by the trustee of the trust. 4921

(4) A "pre-income tax trust" is a trust that satisfies all 4922
of the following requirements: 4923

(a) The document or instrument creating the trust was 4924
executed by the grantor before January 1, 1972; 4925

(b) The trust became irrevocable upon the creation of the 4926
trust; and 4927

(c) The grantor was domiciled in this state at the time 4928
the trust was created. 4929

(GG) "Uniformed services" has the same meaning as in 10 4930
U.S.C. 101. 4931

(HH) "Taxable business income" means the amount by which 4932
an individual's business income that is included in federal 4933
adjusted gross income exceeds the amount of business income the 4934
individual is authorized to deduct under division (A) (31) of 4935
this section for the taxable year. 4936

Section 2. That existing sections 3350.15, 5124.01, 4937
5124.101, 5124.15, 5124.151, 5124.152, 5124.17, 5124.19, 4938
5124.191, 5124.192, 5124.193, 5124.195, 5124.21, 5124.23, 4939
5124.28, 5124.29, 5124.30, 5124.38, 5124.39, 5124.40, 5124.41, 4940
5124.46, 5124.68, 5705.21, 5709.121, 5709.17, 5735.01, 5735.024, 4941
5735.04, and 5747.01 and sections 5124.155 and 5124.194 of the 4942
Revised Code are hereby repealed. 4943

Section 3. That the amendment by this act of section 5709.121 of the Revised Code applies to tax year 2018 and thereafter and the tax years at issue in any application for exemption from taxation or any appeal from such an application pending before the Tax Commissioner, the Board of Tax Appeals, any Court of Common Pleas or Court of Appeals, or the Supreme Court on the effective date of this section and to the property that is the subject of any such application or appeal. That amendment is remedial in nature and the purpose thereof is to clarify the intent of the General Assembly that real property described in division (E) of section 5709.121 of the Revised Code, as amended by this act, is exempt from taxation.

That the amendment by this act of section 5709.17 of the Revised Code applies to tax years ending on or after the effective date of this act.

Section 4. The amendment by this act of section 5747.01 of the Revised Code is intended to clarify the law as it existed prior to the amendment of that section by this act.

Section 5. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. The appropriations made in this act are for the biennium ending June 30, 2020. The appropriations made in this act are in addition to any other appropriations made for the FY 2019-FY 2020 biennium.

COT CENTRAL OHIO TECHNICAL COLLEGE			4968
Higher Education Improvement Fund (Fund 7034)			4969
C36924	Boys and Girls Club of Newark	\$750,000	4970
TOTAL Higher Education Improvement Fund			4971

TOTAL ALL FUNDS \$750,000 4972

Section 6. Within the limits set forth in this act, the 4973
Director of Budget and Management shall establish accounts 4974
indicating the source and amount of funds for each appropriation 4975
made in this act, and shall determine the form and manner in 4976
which appropriation accounts shall be maintained. Expenditures 4977
from appropriations contained in this act shall be accounted for 4978
as though made in the capital appropriations act of the 132nd 4979
General Assembly. 4980

The appropriations made in this act are subject to all 4981
provisions of the capital appropriations act of the 132nd 4982
General Assembly that are generally applicable to such 4983
appropriations. 4984

Section 7. That Section 261.168 of Am. Sub. H.B. 49 of the 4985
132nd General Assembly be amended to read as follows: 4986

Sec. 261.168. MODIFICATIONS AND CAP FOR FISCAL YEAR-YEARS 4987
2019, 2020, AND 2021 ICF/IID MEDICAID RATES ~~DETERMINED~~ UNDER 4988
~~CURRENT-THE~~ FORMULA BEING PHASED OUT 4989

(A) As used in this section: 4990

(1) "Change of operator," "cost report year," "entering 4991
operator," "exiting operator," "ICF/IID," "ICF/IID services," 4992
"Medicaid days," "peer group 1-B," "peer group 2-B," "peer group 4993
3-B," "provider," and "provider agreement" have the same 4994
meanings as in section 5124.01 of the Revised Code. 4995

(2) "Formula being phased out" means the formula specified 4996
in division (C) of section 5124.15 of the Revised Code. 4997

(3) "Franchise permit fee" means the fee imposed by 4998
sections 5168.60 to 5168.71 of the Revised Code. 4999

(B) (1) This section applies to each ICF/IID that is in 5000
peer group 1-B or peer group 2-B and to which ~~any either~~ of the 5001
following ~~apply~~, as applicable to a fiscal year, applies: 5002

(a) ~~The~~ In the context of determining an ICF/IID's total 5003
Medicaid payment rate for fiscal year 2019 under the formula 5004
being phased out, either of the following is the case: 5005

(i) The provider of the ICF/IID has a valid Medicaid 5006
provider agreement for the ICF/IID on June 30, 2018, and a valid 5007
Medicaid provider agreement for the ICF/IID during fiscal year 5008
2019; 5009

~~(b)~~ (ii) The ICF/IID undergoes a change of operator that 5010
takes effect during fiscal year 2019, the exiting operator has a 5011
valid Medicaid provider agreement for the ICF/IID on the day 5012
immediately preceding the effective date of the change of 5013
operator, and the entering operator has a valid Medicaid 5014
provider agreement for the ICF/IID during fiscal year 2019. 5015

~~(c) The ICF/IID is a new ICF/IID for which the provider 5016
obtains an initial provider agreement during fiscal year 2019.~~ 5017

(b) In the context of determining an ICF/IID's total 5018
Medicaid payment rate for fiscal year 2020, either of the 5019
following is the case: 5020

(i) The provider of the ICF/IID has a valid Medicaid 5021
provider agreement for the ICF/IID on June 30, 2019, and a valid 5022
Medicaid provider agreement for the ICF/IID during fiscal year 5023
2020; 5024

(ii) The ICF/IID undergoes a change of operator that takes 5025
effect during fiscal year 2020, the exiting operator has a valid 5026
Medicaid provider agreement for the ICF/IID on the day 5027
immediately preceding the effective date of the change of 5028

operator, and the entering operator has a valid Medicaid 5029
provider agreement for the ICF/IID during fiscal year 2020. 5030

(c) In the context of determining an ICF/IID's total 5031
Medicaid payment rate for fiscal year 2021, either of the 5032
following is the case: 5033

(i) The provider of the ICF/IID has a valid Medicaid 5034
provider agreement for the ICF/IID on June 30, 2020, and a valid 5035
Medicaid provider agreement for the ICF/IID during fiscal year 5036
2021; 5037

(ii) The ICF/IID undergoes a change of operator that takes 5038
effect during fiscal year 2021, the exiting operator has a valid 5039
Medicaid provider agreement for the ICF/IID on the day 5040
immediately preceding the effective date of the change of 5041
operator, and the entering operator has a valid Medicaid 5042
provider agreement for the ICF/IID during fiscal year 2021. 5043

(2) This section does not apply to ~~an~~ either of the 5044
following: 5045

(a) An ICF/IID in peer group 3-B; 5046

(b) An ICF/IID for which the provider obtains an initial 5047
provider agreement during a fiscal year for which modifications 5048
to the formula being phased out are made under this section. 5049

~~(3) Notwithstanding anything to the contrary in Chapter~~ 5050
~~5124. of the Revised Code, the Department of Developmental~~ 5051
~~Disabilities shall follow this section in determining the rates~~ 5052
~~to be paid under this section for ICF/IID services provided~~ 5053
~~during fiscal year 2019 by ICFs/IID subject to this section.~~ 5054

~~(C) (1) Except as otherwise provided in this section and~~ 5055
~~the section of this act titled "FISCAL YEAR 2019 ICF/IID"~~ 5056

~~MEDICAID RATES DETERMINED UNDER NEW FORMULA," the provider of an ICF/IID to which this section applies shall be paid, for ICF/IID services the ICF/IID provides during fiscal year 2019, the total per Medicaid day rate determined for the ICF/IID under division (C) (2) or (3) of this section.~~ 5057
5058
5059
5060
5061

~~(2) Except in the case of a new ICF/IID, Notwithstanding Chapter 5124. of the Revised Code, the following modifications shall be made when determining under the formula being phased out the fiscal year years 2019, 2020, and 2021 total per Medicaid day rate payment rates for an ICF/IID to which this section applies shall be the ICF/IID's total per Medicaid day rate determined for the ICF/IID in accordance with Chapter 5124. of the Revised Code for the fiscal year with the following modifications:~~ 5062
5063
5064
5065
5066
5067
5068
5069
5070

~~(a) (1) The ICF/IID's efficiency incentive for capital costs, as determined under division (F) of section 5124.17-5124.171 of the Revised Code, shall be reduced by 50%.~~ 5071
5072
5073

~~(b) (2) In place of the maximum cost per case-mix unit established for the ICF/IID's peer group under division (C) of section 5124.19-5124.195 of the Revised Code, the ICF/IID's maximum costs per case-mix unit shall be the amount the Department determined for the ICF/IID's peer group for fiscal year 2016 in accordance with division (E) of Section 259.160 of Am. Sub. H.B. 64 of the 131st General Assembly.~~ 5074
5075
5076
5077
5078
5079
5080

~~(c) (3) In place of the inflation adjustment otherwise calculated under division (D) of section 5124.19-5124.195 of the Revised Code for the purpose of division (A) (1) (b) of that section, an inflation adjustment of 1.014 shall be used.~~ 5081
5082
5083
5084

~~(d) (4) In place of the efficiency incentive otherwise~~ 5085

calculated under division (B) (2) of section ~~5124.21~~5124.211 of 5086
the Revised Code, the ICF/IID's efficiency incentive for 5087
indirect care costs shall be the following: 5088

~~(i)~~(a) In the case of an ICF/IID in peer group ~~1-B~~, not 5089
more than \$3.69; 5090

~~(ii)~~(b) In the case of an ICF/IID in peer group ~~2-B~~, not 5091
more than \$3.19. 5092

~~(e)~~(5) In place of the maximum rate for indirect care 5093
costs established for the ICF/IID's peer group under division 5094
(C) of section ~~5124.21~~5124.211 of the Revised Code, the maximum 5095
rate for indirect care costs for the ICF/IID's peer group shall 5096
be an amount the Department shall determine in accordance with 5097
division ~~(E)~~(D) of this section. 5098

~~(f)~~(6) In place of the inflation adjustment otherwise 5099
calculated under division (D) (1) of section ~~5124.21~~5124.211 of 5100
the Revised Code for the purpose of division (B) (1) of that 5101
section only, an inflation adjustment of 1.014 shall be used. 5102

~~(g)~~(7) In place of the inflation adjustment otherwise 5103
made under section ~~5124.23~~5124.231 of the Revised Code, the 5104
ICF/IID's desk-reviewed, actual, allowable, per Medicaid day 5105
other protected costs, excluding the franchise permit fee, from 5106
~~calendar the applicable cost report year 2017~~ shall be 5107
multiplied by 1.014. 5108

~~(h) After all of the modifications specified in divisions 5109
(C) (2) (a) to (g) of this section have been made, the ICF/IID's 5110
total per Medicaid day rate shall be increased by a direct- 5111
support personnel payment equal to 3.04% of the ICF/IID's desk- 5112
reviewed, actual, allowable, per Medicaid day direct care costs- 5113
from calendar year 2017.- 5114~~

~~(3) The fiscal year 2019 initial total per Medicaid day rate for a new ICF/IID to which this section applies shall be the ICF/IID's initial total per Medicaid day rate determined for the ICF/IID in accordance with section 5124.151 of the Revised Code for the fiscal year with the following modifications:~~ 5115
5116
5117
5118
5119

~~(a) In place of the amount determined under division (B) (1) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for capital costs shall be the median rate for all ICFs/IID determined under section 5124.17 of the Revised Code with the modification made under division (C) (2) (a) of this section.~~ 5120
5121
5122
5123
5124
5125

~~(b) In place of the amount determined under division (B) (2) (a) of section 5124.151 of the Revised Code, if there are no cost or resident assessment data for the new ICF/IID, the new ICF/IID's initial per Medicaid day rate for direct care costs shall be determined as follows:~~ 5126
5127
5128
5129
5130

~~(i) Determine the median of the costs per case mix units of each peer group;~~ 5131
5132

~~(ii) Multiply the median determined under division (C) (3) (b) (i) of this section by the median annual average case mix score for the new ICF/IID's peer group for calendar year 2017;~~ 5133
5134
5135

~~(iii) Multiply the product determined under division (C) (3) (b) (ii) of this section by 1.014.~~ 5136
5137

~~(c) In place of the amount determined under division (B) (3) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for indirect care costs shall be the amount of the maximum rate for indirect costs determined for the ICF/IID's peer group under division (E) of this section.~~ 5138
5139
5140
5141
5142

~~(d) In place of the amount determined under division (B)~~ 5143

~~(4) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for other protected costs shall be 115% of the median rate for ICFs/IID determined under section 5124.23 of the Revised Code with the modification made under division (C) (2) (g) of this section.~~

~~(e) After all of the modifications specified in divisions (C) (3) (a) to (d) of this section have been made, the new ICF/IID's initial total per Medicaid day rate shall be increased by the median direct support personnel payment made under division (C) (2) (h) of this section.~~

~~(D) A new ICF/IID's initial total modified per Medicaid day rate for fiscal year 2019 as determined under division (C) (3) of this section shall be adjusted at the applicable time specified in division (D) of section 5124.151 of the Revised Code. If the adjustment affects the ICF/IID's rate for ICF/IID services provided during fiscal year 2019, the modifications specified in division (C) (2) of this section apply to the adjustment.~~

~~(E)~~ In determining the amount of the maximum rate for indirect costs for the purpose of divisions (C) (2) (e) and division (C) (3) (e) (5) of this section, the Department shall strive to the greatest extent possible to do both of the following:

(1) Avoid rate reductions under division ~~(F)~~ (E) (1) of this section;

(2) Have the amount so determined result in payment of all desk-reviewed, actual, allowable indirect care costs for the same percentage of Medicaid days for ICFs/IID in peer group 1-B as for ICFs/IID in peer group 2-B as of July 1, 2018 the first

day of the fiscal year for which the determination is made, 5173
based on May 2018-Medicaid days from the calendar year in which 5174
the fiscal year begins. 5175

~~(F)~~(E) (1) If the mean total per Medicaid day rate for all 5176
ICFs/IID to which this section applies, as determined under 5177
division (C) of this section as of July 1, 2018, the first day 5178
of a fiscal year for which a rate is determined under this 5179
section and weighted by May 2018-Medicaid days from the calendar 5180
year in which the fiscal year begins, is other than the amount 5181
determined under division ~~(F)~~(E) (2) of this section, the 5182
Department shall adjust, for the fiscal year-2019 for which the 5183
rate is determined, the total per Medicaid day rate for each 5184
ICF/IID to which this section applies by a percentage that is 5185
equal to the percentage by which the mean total per Medicaid day 5186
rate is greater or less than the amount determined under 5187
division ~~(F)~~(E) (2) of this section. 5188

(2) The amount to be used for the purpose of division ~~(F)~~ 5189
~~(E)~~(1) of this section shall be not less than \$290.10. The 5190
Department, in its sole discretion, may use a larger amount for 5191
the purpose of that division. In determining whether to use a 5192
larger amount, the Department may consider any of the following: 5193

(a) The reduction in the total Medicaid-certified capacity 5194
of all ICFs/IID that occurs in the fiscal year-2018 immediately 5195
preceding the fiscal year for which the determination is made, 5196
and the reduction that is projected to occur in the fiscal year 5197
2019 for which the determination is made, as a result of either 5198
of the following: 5199

(i) A downsizing pursuant to a plan approved by the 5200
Department under section 5123.042 of the Revised Code; 5201

(ii) A conversion of beds to providing home and community- 5202
based services under the Individual Options waiver pursuant to 5203
section 5124.60 or 5124.61 of the Revised Code. 5204

(b) The increase in Medicaid payments made for ICF/IID 5205
services provided during the fiscal year-2018 immediately 5206
preceding the fiscal year for which the determination is made, 5207
and the increase that is projected to occur in the fiscal year 5208
2019 for which the determination is made, as a result of the 5209
modifications to the payment rates made under section 5124.101 5210
of the Revised Code; 5211

(c) The total reduction in the number of ICF/IID beds that 5212
occurs pursuant to section 5124.67 of the Revised Code; 5213

(d) Other factors the Department determines to be 5214
relevant. 5215

~~(G) If the United States Centers for Medicare and Medicaid-~~ 5216
~~Services requires that the franchise permit fee be reduced or~~ 5217
~~eliminated, the Department shall reduce the amount it pays~~ 5218
~~ICF/IID providers under this section as necessary to reflect the~~ 5219
~~loss to the state of the revenue and federal financial~~ 5220
~~participation generated from the franchise permit fee.~~ 5221

Section 8. That existing Section 261.168 of Am. Sub. H.B. 5222
49 of the 132nd General Assembly is hereby repealed. 5223

Section 9. That Section 261.169 of Am. Sub. H.B. 49 of the 5224
132nd General Assembly is hereby repealed. 5225

Section 10. (A) As used in this section, "ICF/IID" and 5226
"ICF/IID services" have the same meanings as in section 5124.01 5227
of the Revised Code. 5228

(B) The Department of Developmental Disabilities may 5229

establish a pilot program that does both of the following: 5230

(1) Requires ICFs/IID to submit to the Department data 5231
regarding their ability to meet proposed quality indicators 5232
during the last six months of calendar year 2018; 5233

(2) Provides for ICFs/IID that submit the data to receive 5234
an incentive payment in the form of an add-on to their total 5235
Medicaid payment rates for ICF/IID services provided during 5236
fiscal year 2020. 5237

(C) An incentive payment add-on paid under the pilot 5238
program is not part of an ICF/IID's total per medicaid day 5239
payment rate. 5240

Section 11. It is the General Assembly's intent to enact 5241
legislation that goes into effect on or after July 1, 2021, and 5242
does both of the following: 5243

(A) Repeals the following sections that become obsolete on 5244
that date: sections 5124.171, 5124.195, 5124.196, 5124.197, 5245
5124.198, 5124.199, 5124.211, 5124.231, and 5124.28 of the 5246
Revised Code; 5247

(B) Amends other sections of the Revised Code as necessary 5248
to reflect the repeal of the sections listed in division (A) of 5249
this section. 5250

Section 12. All of the following go into effect on the 5251
later of July 1, 2018, or the earliest time permitted by law: 5252

(A) The amendment by this act of sections 5124.01, 5253
5124.101, 5124.15, 5124.151, 5124.152, 5124.17, 5124.19, 5254
5124.191, 5124.192, 5124.193, 5124.195, 5124.21, 5124.23, 5255
5124.28, 5124.29, 5124.30, 5124.38, 5124.39, 5124.40, 5124.41, 5256
5124.46, and 5124.68 of the Revised Code; 5257

(B) The amendment by this act, for the purpose of adopting 5258
new section numbers as indicated in parentheses, of sections 5259
5124.17 (5124.171), 5124.19 (5124.195), 5124.191 (5124.196), 5260
5124.192 (5124.197), 5124.193 (5124.198), 5124.195 (5124.199), 5261
5124.21 (5124.211), and 5124.23 (5124.231) of the Revised Code; 5262

(C) The new enactment by this act of sections 5124.17, 5263
5124.19, 5124.191, 5124.192, 5124.193, 5124.194, 5124.21, and 5264
5124.23 of the Revised Code; 5265

(D) The enactment by this act of section 5124.24 of the 5266
Revised Code; 5267

(E) The repeal by this act of sections 5124.155 and 5268
5124.194 of the Revised Code; 5269

(F) Sections 6 through 10 of this act. 5270

Section 13. (A) The Governor may execute a deed(s) in the 5271
name of the State conveying to the City of Columbus, Ohio, or an 5272
alternate purchaser(s) and the purchaser's(s') heirs and assigns 5273
or successors and assigns, all of the State's right, title, and 5274
interest in the following described real estate: 5275

Situated in the County of Franklin in the State of Ohio, 5276
and in the Township of Perry and bounded and described as 5277
follows: 5278

Beginning at a stake on the South line of Lot Number One 5279
(1) of Brown's Subdivision and 101.84 poles East from the 5280
Southeast corner, thence North 2 deg. 45 minutes East 91.04 5281
poles to a stake on the North line of said Lot Number One (1) 5282
thence with said North line South 88 deg. East 101.43 poles to a 5283
stake at the Northeast corner of Lot Number One (1), thence with 5284
the East line of said Lot South 2 deg. 45 minutes West 91.58 5285
poles to a stake at the Southeast corner of said Lot from which 5286

a sugar tree 8 inches in diameter bears South 87 deg. East 17 5287
feet distant, thence on the South line North 87 deg. 45 minutes 5288
West 101.43 poles to a stake, thence North 2 deg. 45 minutes 5289
East 91.04 poles to the place of beginning, containing 57.78 5290
acres, being the East half of Lot Number One (1) of Brown's 5291
survey of lands in the fourth quarter of Township 2, Range 19, 5292
United States Military Lands. Being the same premises conveyed 5293
by Esther A. Matters and Harvey E. Matters her husband, to 5294
William F. Lane and Maud Lane by deed recorded in Deed Book 575, 5295
page 495, Recorder's Office, Franklin County, Ohio. 5296

Subject to all easements and restrictions contained in 5297
former deeds of record. 5298

The foregoing legal description may be corrected or 5299
modified by the Department of Administrative Services to a final 5300
form if such corrections or modifications are needed to 5301
facilitate the sale(s) of all or a part of the above described 5302
property and recordation of the deed(s). 5303

(B) (1) The conveyance(s) includes improvements situated on 5304
the real estate, and is/are subject to all easements, covenants, 5305
conditions, and restrictions of record; all legal highways and 5306
public rights-of-way; zoning, building, and other laws, 5307
ordinances, restrictions, and regulations; and real estate taxes 5308
and assessments not yet due and payable. The real estate shall 5309
be conveyed in an "as-is, where-is, with all faults" condition. 5310

(2) The deed(s) for the conveyance(s) of the subject real 5311
estate described in division (A) of this section may contain 5312
restrictions, exceptions, reservations, reversionary interests, 5313
and other terms and conditions specified in the real estate 5314
purchase agreement(s) entered into by the parties, and/or the 5315
resolution(s) adopted by the Board of Trustees of the Ohio State 5316

University approving the sale(s). 5317

(3) Subsequent to the conveyance(s), any restrictions, 5318
exceptions, reservations, reversionary interests, or other terms 5319
and conditions contained in the deed(s) may be released by the 5320
State or the Ohio State University without the necessity of 5321
further legislation. 5322

(4) The above referenced property is known as Franklin 5323
County Parcel Number 590-159023. 5324

(C) (1) Not later than July 31, 2018, the Ohio State 5325
University may enter into a real estate purchase agreement with 5326
the City of Columbus, Ohio, to convey the real estate described 5327
in division (A) of this section. 5328

(2) If the Ohio State University and the City of Columbus 5329
do not enter into a real estate purchase agreement by July 31, 5330
2018, the real estate described in division (A) of this section 5331
may be sold via real estate purchase agreement or agreements to 5332
one or more purchasers, as determined by the Board of Trustees 5333
of the Ohio State University, as an entire tract or in multiple 5334
tracts. 5335

(D) Consideration for the conveyance(s) of the real estate 5336
described in division (A) of this section shall be a purchase 5337
price and any terms and conditions acceptable to the Board of 5338
Trustees of the Ohio State University. 5339

(E) All costs associated with the purchase(s), the 5340
closing(s), and the conveyance(s) of the real estate described 5341
in division (A) of this section shall be paid in the manner 5342
provided for in the real estate purchase agreement(s). 5343

(F) The net proceeds of the sale(s) shall be deposited 5344
into university accounts for purposes to be determined by the 5345

Board of Trustees of the Ohio State University. 5346

(G) Subsequent to the effective date of this section, the 5347
Department of Administrative Services shall request the Auditor 5348
of State, with the assistance of the Attorney General, to 5349
prepare a deed(s) for the conveyance(s) of the real estate 5350
described in division (A) of this section. The deed(s) shall 5351
state the consideration and shall be executed by the Governor in 5352
the name of the State, countersigned by the Secretary of State, 5353
sealed with the Great Seal of the State, presented in the Office 5354
of the Auditor of State for recording, and delivered to the City 5355
of Columbus or other purchaser(s). The City of Columbus or other 5356
purchaser(s) shall present the deed(s) for recording in the 5357
Office of the Franklin County Recorder. 5358

(H) This section expires five years after its effective 5359
date. 5360

Section 14. This act is hereby declared to be an emergency 5361
measure necessary for the immediate preservation of the public 5362
peace, health, and safety. The reason for such necessity is to 5363
enable taxpayers to avoid making adjustments to the medical 5364
expense deduction on their 2017 tax returns that increase costs 5365
of compliance. Therefore, this act shall go into immediate 5366
effect. 5367