

**As Passed by the House**

**129th General Assembly  
Regular Session  
2011-2012**

**Sub. S. B. No. 264**

**Senator Jones**

**Cosponsors: Senators Niehaus, Burke, Lehner, Widener, Patton, Balderson,  
Beagle, Coley, Daniels, Eklund, Hite, Manning, Sawyer, Schaffer, Smith,  
Tavares, Wagoner**

**Representatives Adams, R., Amstutz, Anielski, Antonio, Baker, Blair, Boose,  
Bubp, Combs, Dovilla, Fende, Garland, Grossman, Hackett, Hill, Hottinger,  
Johnson, Kozlowski, Letson, Luckie, Lundy, Maag, Mallory, Martin, McClain,  
McGregor, Milkovich, Newbold, O'Brien, Phillips, Ramos, Ruhl, Sears, Slaby,  
Slesnick, Sprague, Thompson, Weddington, Young, Yuko**

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**A B I L L**

To amend sections 173.47, 5111.222, and 5111.244 and 1  
to enact section 5111.245 of the Revised Code and 2  
to amend Section 309.30.70 of Am. Sub. H.B. 153 of 3  
the 129th General Assembly regarding quality 4  
incentive payments and quality bonuses paid to 5  
nursing facilities under the Medicaid program. 6

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

**Section 1.** That sections 173.47, 5111.222, and 5111.244 be 7  
amended and section 5111.245 of the Revised Code be enacted to 8  
read as follows: 9

**Sec. 173.47.** (A) For purposes of publishing the Ohio 10  
long-term care consumer guide, the department of aging shall 11  
conduct or provide for the conduct of an annual customer 12

satisfaction survey of each long-term care facility. The results 13  
of the surveys may include information obtained from long-term 14  
care facility residents, their families, or both. A survey that is 15  
to include information obtained from nursing facility residents 16  
shall include the questions specified in divisions (C)(7)(a) and 17  
(b) and (18) of section 5111.244 of the Revised Code. A survey 18  
that is to include information obtained from the families of 19  
nursing facility residents shall include the questions specified 20  
in divisions (C)(8)(a) and (b) and (19) of section 5111.244 of the 21  
Revised Code. 22

(B) Each long-term care facility shall cooperate in the 23  
conduct of its annual customer satisfaction survey. 24

**Sec. 5111.222.** (A) Except as otherwise provided by sections 25  
5111.20 to 5111.331 of the Revised Code and by division (B) of 26  
this section, the ~~payments~~ total rate that the department of job 27  
and family services shall agree to ~~make~~ pay for a fiscal year to 28  
the provider of a nursing facility pursuant to a provider 29  
agreement shall equal the sum of all of the following: 30

(1) The rate for direct care costs determined for the nursing 31  
facility under section 5111.231 of the Revised Code; 32

(2) The rate for ancillary and support costs determined for 33  
the nursing facility's ancillary and support cost peer group under 34  
section 5111.24 of the Revised Code; 35

(3) The rate for tax costs determined for the nursing 36  
facility under section 5111.242 of the Revised Code; 37

(4) The quality incentive payment paid to the nursing 38  
facility under section 5111.244 of the Revised Code; 39

(5) The rate for capital costs determined for the nursing 40  
facility's capital costs peer group under section 5111.25 of the 41  
Revised Code. 42

(B) The department shall adjust the rates otherwise 43  
determined under division (A) of this section as directed by the 44  
general assembly through the enactment of law governing medicaid 45  
payments to providers of nursing facilities, including any law 46  
that establishes factors by which the rates are to be adjusted. 47

(C) In addition to paying a nursing facility provider the 48  
total rate determined for the nursing facility under division (A) 49  
of this section for a fiscal year, the department shall pay the 50  
provider a quality bonus under section 5111.245 of the Revised 51  
Code for that fiscal year if the provider's nursing facility is a 52  
qualifying nursing facility, as defined in that section, for that 53  
fiscal year. The quality bonus shall not be part of the total 54  
rate. 55

**Sec. 5111.244.** (A) As used in this section, ~~"deficiency" and 56  
"standard survey" have the same meanings as in section 5111.35 of 57  
the Revised Code:~~ 58

(1) "Applicable percentage" means, for the accountability 59  
measures identified in divisions (C)(10) to (13) of this section, 60  
the following: 61

(a) For fiscal year 2013, whichever of the following applies: 62

(i) The percentage that the department of job and family 63  
services specifies for an accountability measure pursuant to 64  
division (E)(1)(b) or (E)(2)(a)(ii) of this section; 65

(ii) The percentage specified for an accountability measure 66  
in division (E)(2)(b), (ii), (iii), (iv), or (v) of this section. 67

(b) For fiscal year 2014, whichever of the following applies: 68

(i) The percentage used pursuant to division (F)(2) of this 69  
section; 70

(ii) The percentage that the department specifies for an 71  
accountability measure pursuant to division (F)(3)(a) of this 72

<u>section.</u>	73
<u>(c) For fiscal year 2015 and thereafter, whichever of the following applies:</u>	74 75
<u>(i) The percentage used pursuant to division (F)(2) of this section;</u>	76 77
<u>(ii) The percentage used pursuant to division (F)(3)(b) of this section.</u>	78 79
<u>(2) "Complaint surveys" has the same meaning as in 42 C.F.R. 488.30.</u>	80 81
<u>(3) "Customer satisfaction survey" means the annual survey of long-term care facilities required by section 173.47 of the Revised Code.</u>	82 83 84
<u>(4) "Deficiency" has the same meaning as in 42 C.F.R. 488.301.</u>	85 86
<u>(5) "Family satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from the families of a nursing facility's residents.</u>	87 88 89 90
<u>(6) "Minimum data set" means the standardized, uniform comprehensive assessment of nursing facility residents that is used to identify potential problems, strengths, and preferences of residents and is part of the resident assessment instrument required by section 1919(e)(5) of the "Social Security Act," 101 Stat. 1330-197 (1987), 42 U.S.C. 1396r(e)(5), as amended.</u>	91 92 93 94 95 96
<u>(7) "National voluntary consensus standards for nursing homes" means measures used to determine the quality of care provided by nursing facilities as endorsed by the national quality forum.</u>	97 98 99 100
<u>(8) "Nurse aide" has the same meaning as in section 3721.21 of the Revised Code.</u>	101 102

(9) "Resident satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from a nursing facility's residents. 103  
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(10) "Room mirror" means a mirror that is located in either of the following rooms: 107  
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(a) A resident bathroom if the sink used by a resident after the resident uses the resident bathroom is in the resident bathroom; 109  
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(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room. 112  
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(11) "Room sink" means a sink that is located in either of the following rooms: 114  
115

(a) A resident bathroom if the sink used by a resident after the resident uses the resident bathroom is in the resident bathroom; 116  
117  
118

(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room. 119  
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(12) "Standard survey" has the same meaning as in 42 C.F.R. 488.301. 121  
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(B) The (1) Each fiscal year, the department of job and family services shall pay a quality incentive payment to the provider of each nursing facility a ~~quality incentive payment that is awarded one or more points for meeting accountability measures under division (C) of this section.~~ ~~The Subject to division (B)(2) of this section,~~ the per medicaid day amount of a quality incentive payment paid to a provider shall be ~~based on~~ the product of the following: 123  
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(a) The number of points the provider's nursing facility is awarded for meeting accountability measures under division (C) of 131  
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this section; 133

~~(b) Three dollars and twenty-nine cents. The amount of a~~ 134  
~~quality incentive payment paid to a provider of a nursing facility~~ 135  
~~that is awarded no points may be zero.~~ 136

(2) The maximum quality incentive payment that may be paid to 137  
the provider of a nursing facility for a fiscal year shall be 138  
sixteen dollars and forty-four cents per medicaid day. 139

~~(C)(1) For fiscal year 2012 only and subject~~ Subject to 140  
~~division (C)(2) divisions (D), (E), and (F) of this section, the~~ 141  
department shall award each nursing facility participating in the 142  
medicaid program ~~points~~ one point for meeting each of the 143  
following accountability measures the facility meets: 144

~~(a) The facility had no health deficiencies on the facility's~~ 145  
~~most recent standard survey.~~ 146

~~(b) The facility had no health deficiencies with a scope and~~ 147  
~~severity level greater than E, as determined under nursing~~ 148  
~~facility certification standards established under Title XIX, on~~ 149  
~~the facility's most recent standard survey.~~ 150

~~(c) The facility's resident satisfaction is above the~~ 151  
~~statewide average.~~ 152

~~(d) The facility's family satisfaction is above the statewide~~ 153  
~~average.~~ 154

~~(e) The number of hours the facility employs nurses is above~~ 155  
~~the statewide average.~~ 156

~~(f) The facility's employee retention rate is above the~~ 157  
~~average for the facility's peer group established in division (C)~~ 158  
~~of section 5111.231 of the Revised Code.~~ 159

~~(g) The facility's occupancy rate is above the statewide~~ 160  
~~average.~~ 161

~~(h) The facility's case mix score is above the statewide~~ 162

average.	163
<del>(i) The facility's medicaid utilization rate is above the statewide average.</del>	164 165
<del>(2) A nursing facility shall be awarded one point for each of the accountability measures specified in divisions (C)(1)(a) to (h) of this section that the nursing facility meets. A nursing facility shall be awarded three points for meeting the accountability measure specified in division (C)(1)(i) of this section. The</del>	166 167 168 169 170 171
<u>(1) The facility's overall score on its resident satisfaction survey is at least eighty-six.</u>	172 173
<u>(2) The facility's overall score on its family satisfaction survey is at least eighty-eight.</u>	174 175
<u>(3) The facility satisfies the requirements for participation in the advancing excellence in America's nursing homes campaign.</u>	176 177
<u>(4) The facility had neither of the following on the facility's most recent standard survey conducted not later than the last day of the calendar year preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year preceding the fiscal year for which the point is to be awarded:</u>	178 179 180 181 182 183
<u>(a) A health deficiency with a scope and severity level greater than F;</u>	184 185
<u>(b) A deficiency that constitutes a substandard quality of care.</u>	186 187
<u>(5) The facility offers at least fifty per cent of its residents at least one of the following dining choices for at least one meal each day:</u>	188 189 190
<u>(a) Restaurant-style dining in which food is brought from the food preparation area to residents per the residents' orders;</u>	191 192

<u>(b) Buffet-style dining in which residents obtain their own</u>	193
<u>food, or have the facility's staff bring food to them per the</u>	194
<u>residents' directions, from the buffet;</u>	195
<u>(c) Family-style dining in which food is customarily served</u>	196
<u>on a serving dish and shared by residents;</u>	197
<u>(d) Open dining in which residents have at least a two-hour</u>	198
<u>period to choose when to have a meal;</u>	199
<u>(e) Twenty-four-hour dining in which residents may order</u>	200
<u>meals from the facility any time of the day.</u>	201
<u>(6) At least fifty per cent of the facility's residents are</u>	202
<u>able to take a bath or shower as often as they choose.</u>	203
<u>(7) The facility has at least both of the following scores on</u>	204
<u>its resident satisfaction survey:</u>	205
<u>(a) With regard to the question in the survey regarding</u>	206
<u>residents' ability to choose when to go to bed in the evening, at</u>	207
<u>least eighty-nine;</u>	208
<u>(b) With regard to the question in the survey regarding</u>	209
<u>residents' ability to choose when to get out of bed in the</u>	210
<u>morning, at least seventy-six.</u>	211
<u>(8) The facility has at least both of the following scores on</u>	212
<u>its family satisfaction survey:</u>	213
<u>(a) With regard to the question in the survey regarding</u>	214
<u>residents' ability to choose when to go to bed in the evening, at</u>	215
<u>least eighty-eight;</u>	216
<u>(b) With regard to the question in the survey regarding</u>	217
<u>residents' ability to choose when to get out of bed in the</u>	218
<u>morning, at least seventy-five.</u>	219
<u>(9) All of the following apply to the facility:</u>	220
<u>(a) At least seventy-five per cent of the facility's</u>	221



residents have the opportunity, following admission to the facility and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive at the facility, including their preferences for advance care planning, with a member of the residents' healthcare teams that the facility, residents, and residents' sponsors consider appropriate. 222  
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(b) The facility records the residents' care goals, including the residents' advance care planning preferences, in their medical records. 229  
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(c) The facility uses the residents' care goals, including the residents' advance care planning preferences, in the development of the residents' individual plans of care. 232  
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(10) Not more than the applicable percentage of the facility's long-stay residents report severe to moderate pain during the minimum data set assessment process. 235  
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(11) Not more than the applicable percentage of the facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process. 238  
239  
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(12) Not more than the applicable percentage of the facility's long-stay residents were physically restrained as reported during the minimum data set assessment process. 242  
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(13) Less than the applicable percentage of the facility's long-stay residents had a urinary tract infection as reported during the minimum data set assessment process. 245  
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(14) The facility uses a tool for tracking residents' admissions to hospitals. 248  
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(15) An average of at least fifty per cent of the facility's medicaid-certified beds are in private rooms. 250  
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(16) The facility has accessible resident bathrooms, all of which meet at least two of the following standards and at least some of which meet all of the following standards: 252  
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(a) There are room mirrors that are accessible to residents in wheelchairs, can be adjusted so as to be visible to residents who are seated or standing, or both. 255  
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(b) There are room sinks that are accessible to residents in wheelchairs and have clearance for wheelchairs. 258  
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(c) There are room sinks that have faucets with adaptive or easy-to-use lever or paddle handles. 260  
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(17) The facility does both of the following: 262

(a) Maintains a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy; 263  
264  
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(b) Communicates the policy to its staff, residents, and families of residents. 266  
267

(18) The facility has a score of at least ninety on its resident satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings. 268  
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(19) The facility has a score of at least ninety-five on its family satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings. 272  
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(20) The facility does both of the following: 276

(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than eight different nurse aides during a thirty-day period; 277  
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280

(b) Communicates the policy to its staff, residents, and 281

<u>families of residents.</u>	282
<u>(21) The facility's staff retention rate is at least</u>	283
<u>seventy-five per cent.</u>	284
<u>(22) The facility's turnover rate for nurse aides is not</u>	285
<u>higher than sixty-five per cent.</u>	286
<u>(23) For at least fifty per cent of the resident care</u>	287
<u>conferences in the facility, a nurse aide who is a primary</u>	288
<u>caregiver for the resident attends and participates in the</u>	289
<u>conference.</u>	290
<u>(D)(1) To be awarded a point for meeting an accountability</u>	291
<u>measure under division (C) of this section other than the</u>	292
<u>accountability measure identified in division (C)(4) of this</u>	293
<u>section, a nursing facility must meet the accountability measure</u>	294
<u>in the calendar year preceding the fiscal year for which the point</u>	295
<u>is to be awarded. However, a nursing facility must meet the</u>	296
<u>accountability measures specified in divisions (C)(3), (5), (6),</u>	297
<u>(9), (14) to (17), (20), (22), and (23) of this section in the</u>	298
<u>period beginning January 1, 2012, and ending March 31, 2012, to be</u>	299
<u>awarded points for those accountability measures for fiscal year</u>	300
<u>2013.</u>	301
<u>(2) The department shall award points pursuant to division</u>	302
<u>(C)(1)<del>(e)</del>, (7), or <del>(d)</del>(18) of this section to a nursing facility</u>	303
<u>only if a <del>survey of resident or family satisfaction survey</del> was</u>	304
<u><del>conducted</del> <u>initiated</u> under section 173.47 of the Revised Code for</u>	305
<u>the nursing facility in <u>the</u> calendar year <del>2010</del> <u>preceding the</u></u>	306
<u><u>fiscal year for which the points are to be awarded.</u></u>	307
<del>(D)(1) For fiscal year 2013 and thereafter, the department</del>	308
<del>shall award each nursing facility participating in the medicaid</del>	309
<del>program points for meeting accountability measures in accordance</del>	310
<del>with amendments to be made to this section not later than December</del>	311
<del>31, 2011, that provide for all of the following:</del>	312

<del>(a) Meaningful accountability measures of quality of care,</del>	313
<del>quality of life, and nursing facility staffing;</del>	314
<del>(b) The maximum number of points that a nursing facility may</del>	315
<del>earn for meeting accountability measures;</del>	316
<del>(c) A methodology for calculating the quality incentive</del>	317
<del>payment that recognizes different business and care models in</del>	318
<del>nursing facilities by providing flexibility in nursing facilities'</del>	319
<del>ability to earn the entire quality incentive payment;</del>	320
<del>(d) A quality bonus to be paid at the end of a fiscal year in</del>	321
<del>a manner that provides for all funds that the general assembly</del>	322
<del>intends to be used for the quality incentive payment for that</del>	323
<del>fiscal year are distributed to nursing facilities.</del>	324
<del>(2) For the purpose of division (D)(1)(d) of this section,</del>	325
<del>the amount of funds that the general assembly intends to be used</del>	326
<del>for the quality incentive payment for a fiscal year shall be the</del>	327
<del>product of the following:</del>	328
<del>(a) The number of medicaid days in the fiscal year;</del>	329
<del>(b) The maximum quality incentive payment the general</del>	330
<del>assembly has specified in law to be paid to nursing facilities for</del>	331
<del>that fiscal year.</del>	332
<u>(3) The department shall award points pursuant to division</u>	333
<u>(C)(2), (8), or (19) of this section to a nursing facility only if</u>	334
<u>a family satisfaction survey was initiated under section 173.47 of</u>	335
<u>the Revised Code for the nursing facility in the calendar year</u>	336
<u>preceding the fiscal year for which the points are to be awarded.</u>	337
<u>(4) Not later than July 1, 2013, the department shall adjust</u>	338
<u>the score used for the purpose of division (C)(8)(b) of this</u>	339
<u>section in a manner that causes at least fifty per cent of nursing</u>	340
<u>facilities to meet division (C)(8)(b) of this section.</u>	341
(E) <u>For the purposes of awarding points under divisions</u>	342

(C)(10) to (13) of this section for fiscal year 2013, the 343  
following apply: 344

(1) If, by July 1, 2012, the United States centers for 345  
medicare and medicaid services makes calculations using the 3.0 346  
version of the minimum data set that indicate whether nursing 347  
facilities meet those accountability measures, the department 348  
shall do both of the following: 349

(a) Rely on those calculations; 350

(b) Specify the percentages to be used for the purposes of 351  
those accountability measures and, in specifying the percentages, 352  
provide for at least fifty per cent of nursing facilities to earn 353  
points for meeting those accountability measures. 354

(2) If, by July 1, 2012, the United States centers for 355  
medicare and medicaid services does not make calculations using 356  
the 3.0 version of the minimum data set that indicate whether 357  
nursing facilities meet those accountability measures, the 358  
department shall do either of the following: 359

(a) Do both of the following: 360

(i) Make the calculations using the 3.0 version of the 361  
minimum data set in accordance with the national voluntary 362  
consensus standards for nursing homes; 363

(ii) Specify the percentages to be used for the purposes of 364  
those accountability measures and, in specifying the percentages, 365  
provide for at least fifty per cent of nursing facilities to earn 366  
points for meeting those accountability measures. 367

(b) Do all of the following: 368

(i) Rely on the most recent calculations the United States 369  
centers for medicare and medicaid services made using the 2.0 370  
version of the minimum data set that indicate whether nursing 371  
facilities meet those accountability measures; 372

<u>(ii) Use four per cent as the applicable percentage for the</u>	373
<u>accountability measure identified in division (C)(10) of this</u>	374
<u>section;</u>	375
<u>(iii) Use nine per cent as the applicable percentage for the</u>	376
<u>accountability measure identified in division (C)(11) of this</u>	377
<u>section;</u>	378
<u>(iv) Use two per cent as the applicable percentage for the</u>	379
<u>accountability measure identified in division (C)(12) of this</u>	380
<u>section;</u>	381
<u>(v) Use ten per cent as the applicable percentage for the</u>	382
<u>accountability measure identified in division (C)(13) of this</u>	383
<u>section.</u>	384
<u>(F) For the purposes of awarding points under divisions</u>	385
<u>(C)(10) to (13) of this section for fiscal year 2014 and</u>	386
<u>thereafter, the department shall do the following:</u>	387
<u>(1) Rely on calculations the United States centers for</u>	388
<u>medicare and medicaid services makes using the 3.0 version of the</u>	389
<u>minimum data set that indicate whether nursing facilities meet</u>	390
<u>those accountability measures;</u>	391
<u>(2) If the department takes action pursuant to division</u>	392
<u>(E)(1) of this section for fiscal year 2013, continue to use the</u>	393
<u>percentages the department specifies pursuant to division</u>	394
<u>(E)(1)(b) of this section for the purposes of those accountability</u>	395
<u>measures;</u>	396
<u>(3) If the department takes action pursuant to division</u>	397
<u>(E)(2) of this section for fiscal year 2013, do the following:</u>	398
<u>(a) For fiscal year 2014, specify the percentages to be used</u>	399
<u>for the purposes of those accountability measures and, in</u>	400
<u>specifying the percentages, provide for at least fifty per cent of</u>	401
<u>nursing facilities to earn points for meeting those accountability</u>	402

measures; 403

(b) For fiscal year 2015 and thereafter, continue to use the 404  
percentages the department specifies pursuant to division 405  
(F)(3)(a) of this section for the purposes of those accountability 406  
measures. 407

(G) The director of job and family services shall adopt rules 408  
under section 5111.02 of the Revised Code as necessary to 409  
implement this section. 410

The rules may specify what is meant by "some" as that word is 411  
used in division (C)(16) of this section. 412

Sec. 5111.245. (A) As used in this section: 413

(1) "Point days for a fiscal year" means the product of the 414  
following: 415

(a) A qualifying nursing facility's quality bonus points for 416  
the fiscal year; 417

(b) The number of the qualifying nursing facility's medicaid 418  
days in the fiscal year. 419

(2) "Qualifying nursing facility" means a nursing facility 420  
that qualifies for a quality bonus for a fiscal year as determined 421  
under division (B) of this section. 422

(3) "Quality bonus points for a fiscal year" means the amount 423  
determined by subtracting five from the number of points awarded 424  
to a qualifying nursing facility under division (C) of section 425  
5111.244 of the Revised Code for a fiscal year. 426

(4) "Residual budgeted amount for quality incentive payments 427  
for a fiscal year" means the amount determined for a fiscal year 428  
as follows: 429

(a) Multiply the total number of medicaid days in the fiscal 430  
year by sixteen dollars and forty-four cents; 431

(b) Determine the total amount of quality incentive payments that was paid under section 5111.244 of the Revised Code to all nursing facility providers for the fiscal year; 432  
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434

(c) Subtract the amount determined under division (A)(4)(b) of this section from the product calculated under division (A)(4)(a) of this section. 435  
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(B) The department of job and family services shall pay a nursing facility provider a quality bonus for a fiscal year if both of the following apply: 438  
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(1) The provider's nursing facility is awarded more than five points under division (C) of section 5111.244 of the Revised Code for the fiscal year. 441  
442  
443

(2) The residual budgeted amount for quality incentive payments for the fiscal year is greater than zero. 444  
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(C) The total quality bonus to be paid to the provider of a qualifying nursing facility for a fiscal year shall equal the product of the following: 446  
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448

(1) The quality bonus per medicaid day for the fiscal year determined for the provider's qualifying nursing facility under division (D) of this section; 449  
450  
451

(2) The number of the qualifying nursing facility's medicaid days in the fiscal year. 452  
453

(D) A qualifying nursing facility's quality bonus per medicaid day for a fiscal year shall be the product of the following: 454  
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456

(1) The nursing facility's quality bonus points for the fiscal year; 457  
458

(2) The quality bonus per point for the fiscal year determined under division (E) of this section. 459  
460

(E) The quality bonus per point for a fiscal year shall be 461



determined as follows: 462

(1) Determine the number of each qualifying nursing facility's point days for the fiscal year; 463  
464

(2) Determine the sum of all qualifying nursing facilities' point days for the fiscal year; 465  
466

(3) Divide the residual budgeted amount for quality incentive payments for the fiscal year by the sum determined under division (E)(2) of this section. 467  
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469

(F) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code. 470  
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(G) The director of job and family services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. 473  
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**Section 2.** That existing sections 173.47, 5111.222, and 5111.244 of the Revised Code are hereby repealed. 476  
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**Section 3.** That Section 309.30.70 of Am. Sub. H.B. 153 of the 129th General Assembly be amended to read as follows: 478  
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**Sec. 309.30.70.** FISCAL YEAR 2013 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES 480  
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(A) As used in this section: 482

"Franchise permit fee," "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code. 483  
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"Low resource utilization resident" means a Medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's Medicaid reimbursement rate for direct care costs, is placed in either of the two lowest resource 486  
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utilization groups, excluding any resource utilization group that 490  
is a default group used for residents with incomplete assessment 491  
data. 492

"Nursing facility services" means nursing facility services 493  
covered by the Medicaid program that a nursing facility provides 494  
to a resident of the nursing facility who is a Medicaid recipient 495  
eligible for Medicaid-covered nursing facility services. 496

(B) Except as otherwise provided by this section, the 497  
provider of a nursing facility that has a valid Medicaid provider 498  
agreement on June 30, 2012, and a valid Medicaid provider 499  
agreement during fiscal year 2013 shall be paid, for nursing 500  
facility services the nursing facility provides during fiscal year 501  
2013, the rate calculated for the nursing facility under sections 502  
5111.20 to 5111.331 of the Revised Code ~~with the following~~ 503  
~~adjustments:~~ 504

~~(1) The, except that the~~ cost per case mix-unit calculated 505  
under section 5111.231 of the Revised Code, the rate for ancillary 506  
and support costs calculated under section 5111.24 of the Revised 507  
Code, the rate for tax costs calculated under section 5111.242 of 508  
the Revised Code, and the rate for capital costs calculated under 509  
section 5111.25 of the Revised Code shall each be increased by 510  
5.08 per cent. 511

~~(2) The maximum quality incentive payment made under section~~ 512  
~~5111.244 of the Revised Code shall be \$16.44 per Medicaid day.~~ 513

(C) The rate determined under division (B) of this section 514  
shall not be paid for nursing facility services provided to low 515  
resource utilization residents. Except as provided in division (D) 516  
of this section, the provider of a nursing facility that has a 517  
valid Medicaid provider agreement on June 30, 2012, and a valid 518  
Medicaid provider agreement during fiscal year 2013 shall be paid, 519  
for nursing facility services the nursing facility provides during 520

fiscal year 2013 to low resource utilization residents, \$130.00 521  
per Medicaid day. 522

(D) If the franchise permit fee must be reduced or eliminated 523  
to comply with federal law, the Department of Job and Family 524  
Services shall reduce the amount it pays providers of nursing 525  
facility services under this section as necessary to reflect the 526  
loss to the state of the revenue and federal financial 527  
participation generated from the franchise permit fee. 528

(E) The Department of Job and Family Services shall follow 529  
this section in determining the rate to be paid to the provider of 530  
a nursing facility that has a valid Medicaid provider agreement on 531  
June 30, 2012, and a valid Medicaid provider agreement during 532  
fiscal year 2013 notwithstanding anything to the contrary in 533  
sections 5111.20 to 5111.331 of the Revised Code. 534

**Section 4.** That existing Section 309.30.70 of Am. Sub. H.B. 535  
153 of the 129th General Assembly is hereby repealed. 536

**Section 5.** Sections 1 to 4 of this act shall take effect July 537  
1, 2012. 538

**Section 6.** It is the intent of the General Assembly 539  
periodically to amend section 5111.244 of the Revised Code in a 540  
manner that increasingly provides for the quality incentive 541  
payments paid under that section to serve as opportunities for 542  
nursing facilities to earn portions of their total Medicaid rates 543  
by satisfying accountability measures and therefore help 544  
differentiate higher-quality nursing facilities from lower-quality 545  
nursing facilities. 546