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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 169\*  
134<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 169's Fiscal Note](#)

**Version:** As Reported by Senate Finance

**Primary Sponsors:** Reps. Cutrona and Swearingen

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## SUMMARY

### COVID-19 recovery appropriations

- Makes appropriations to support recovery from the COVID-19 pandemic.

### Medicaid provider relief and workforce incentive payments

- Appropriates a portion of the enhanced Federal Medical Assistance Percentage under the federal "Families First Coronavirus Response Act" (FFCRA) to be used by the Department of Medicaid for health care provider relief payments for nursing facilities, assisted living facilities, hospice care programs, and certain hospitals.
- Appropriates a portion of those funds to the Department of Developmental Disabilities to be used for Medicaid payments during FY 2022, with a portion of those funds to be payments to intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) exclusively for workforce incentive payments.
- Permits the Medicaid Director to make provider relief payments to certain Medicaid providers that are home and community-based service providers or assisted living facilities, hospice care programs, and certain hospitals.
- Permits the Director to make workforce incentive payments to nursing facilities; nonstate ICFs/IID; and critical access, rural, or distressed hospitals.

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\* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

## Publicly funded child care and Step Up to Quality

- Suspends through December 31, 2022, the requirement that, to be eligible to provide publicly funded child care, a licensed child care center, home, or program must be rated in the Step Up to Quality Program.

## Commercial driver's license training

- Requires an applicant to complete new federal mandatory training requirements before taking the skills test or knowledge test related to an initial application for certain commercial driver's licenses (CDLs) or endorsements.
- Requires the Registrar of Motor Vehicles to verify that an applicant has completed the required training before the applicant takes the skills test or knowledge test and before issuing the applicant the CDL or endorsement.
- Authorizes the Registrar to use the Trainer Provider Registry, available through the Federal Motor Carrier Safety Administration, to verify completion of the required training.
- Requires all authorized driver training schools that teach CDL students to incorporate the new federal training requirements.
- Clarifies that the Registrar must determine both of the following prior to issuing, renewing, transferring, or upgrading a CDL:
  - Whether the applicant was previously issued a CDL in another state; and
  - Whether the applicant is disqualified from operating a commercial motor vehicle.

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## DETAILED ANALYSIS

### COVID-19 recovery appropriations

The bill appropriates funds for FY 2022, as provided below. For details on earmarks and other appropriation details, please consult the Legislative Budget Office's [fiscal note](#) for H.B. 169.

Sub. H.B. 169 appropriations			
Agency	Amount	Line item	Bill section
Department of Developmental Disabilities	\$142,000,000	Medicaid Services	207.10
Department of Education	\$33,803,196	Governor Emergency Education Relief – EDU	209.10
Department of Education	\$155,190,488	Emergency Assistance to Non-Public Schools	209.10

<b>Sub. H.B. 169 appropriations</b>			
<b>Agency</b>	<b>Amount</b>	<b>Line item</b>	<b>Bill section</b>
Department of Education	\$2,288,901,788	Federal Coronavirus School Relief	209.10
Department of Education	\$7,327,165	ARP – Homeless Children and Youth	209.10
Department of Health	\$32,000,000	ARPA – Crisis Response Workforce	211.10
Department of Health	\$8,476,274	Public Health Emergency Response	211.10
Department of Health	\$12,643,140	ARPA – Disease Intervention Workforce	211.10
Department of Health	\$10,958,150	ELC Nursing Home & Long-Term Care Strike Teams	211.10
Department of Health	\$5,676,540	ELC Strengthening HAI/AR Grant	211.10
Department of Health	\$13,090,000	Detect and Mitigate COVID-19 – Confinement Facilities	211.10
Department of Health	\$8,268,032	SHIP – Testing and Mitigation Grant	211.10
Department of Job and Family Services	\$28,000,000	Child Care Federal	213.10
Department of Job and Family Services	\$639,000,000	Child Care ARPA Supplement	213.10
Department of Job and Family Services	\$20,000,000	Federal Unemployment Programs	213.10
Department of Public Safety	\$250,000,000	Community Violence Intervention – First Responder Program	217.10
Department of Higher Education	\$4,000,000	GEER – Higher Education Initiatives	218.10
Department of Medicaid	\$158,700,000	MCD Home and Community Based Services	220.10
Department of Medicaid	\$370,300,000	MCD Home and Community Based Services – Federal	220.10

## Additional appropriations

The bill appropriates for FY 2022 the unexpended and unencumbered amounts in the State Coronavirus Relief Fund (CRF) to the COVID Response Costs – Multiple Agencies line item. As of December 3, 2021, the CRF held \$123 million in unexpended, unencumbered funds. It should be noted, however, that this dollar amount may change at any time. The Director of Budget and Management may transfer the appropriations to new or existing items within the CRF but must report any transfers to the Controlling Board by June 30, 2022.<sup>1</sup>

### Fund rollovers – FY 2022 to FY 2023

The bill permits certain agencies to rollover unexpended, unencumbered balances in the following funds from FY 2022 to FY 2023:

- Department of Mental Health and Addiction Services, the Mental Health Block Grant funds and Substance Abuse Block Grant funds;<sup>2</sup>
- Department of Education, ARP – Homeless Children and Youth Fund;<sup>3</sup>
- Department of Education, ARP – Students with Disabilities Fund;<sup>4</sup>
- All of the appropriations to funds in the table [above](#).<sup>5</sup>

### School special revenue funds deficits

Under the bill, school districts, community schools, and STEM schools are permitted to have a deficit in the special revenue fund established to receive certain COVID-19 relief funds in FYs 2021 and 2022 if the deficit results from a temporary delay in the Department of Education’s ability to process reimbursement claims.<sup>6</sup>

## Medicaid provider relief and workforce incentive payments

### Enhanced FMAP dollars

The bill appropriates certain federal COVID-19 funds under the “Families First Coronavirus Response Act” (FFCRA) and requires the Department of Medicaid to use a portion of those funds for health care provider relief payments. The federal share of Medicaid spending is referred to as the Federal Medical Assistance Percentage (FMAP) and is based on a state’s per capita income. Effective January 1, 2020, the FFCRA provided a temporary 6.2% increase to

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<sup>1</sup> Section 221.10.

<sup>2</sup> Section 223.10.

<sup>3</sup> Section 209.40.

<sup>4</sup> Section 209.50. This fund was created by the [Controlling Board](#) at the request of the Department of Education in August 2021.

<sup>5</sup> Section 233.10.

<sup>6</sup> Section 209.60.

each qualifying state's FMAP. States must meet certain requirements to qualify for the enhanced FMAP.<sup>7</sup>

The bill requires that a portion of those dollars be used for provider relief payments to the following:

- Nursing facilities;
- Residential care facilities (“assisted living facilities”);
- Hospice care programs; and
- Providers from critical access, rural, or distressed hospitals, as determined by the Medicaid Director.<sup>8</sup>

Related to the components of the Medicaid program administered by the Department of Developmental Disabilities, the bill appropriates some of the increased FMAP funds for that Department and permits it to use the funds to pay for Medicaid services in FY 2022. The Department must pay a portion of those funds to nonstate intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) exclusively for workforce incentive payments, as described below (see “[Workforce incentive payments](#)”).<sup>9</sup>

### **Provider relief payments**

The bill permits the Medicaid Director to make relief payments to the following Medicaid home and community-based services providers, as authorized under the “American Rescue Plan Act of 2021”:

- Developmental disabilities providers;
- Long-term services and supports providers;
- Behavioral health services providers; and
- Home and community-based services-related providers.

The bill also permits the Director to make provider relief payments to the following Medicaid providers:

- Critical access, rural, and distressed hospitals, as determined by the Director;
- Assisted living facilities; and
- Hospice care programs.<sup>10</sup>

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<sup>7</sup> Pub. L. 116-127.

<sup>8</sup> Section 220.40.

<sup>9</sup> Sections 207.20 and 207.30.

<sup>10</sup> Section 220.50.

## Workforce incentive payments

Additionally, the bill permits the Director to make workforce incentive payments to the following facilities that are Medicaid providers and in good standing with the Department of Medicaid:

1. Nursing facilities;
2. Nonstate ICFs/IID; and
3. Hospitals that are general, acute-care facilities certified by the Department as critical access, rural, or distressed hospitals.

A facility or hospital must use the payments exclusively for direct care staff compensation, including staff retention bonuses, overtime pay and shift differential payments, staff recruitment costs, and new hire incentive payments. The Medicaid Director may recover any funds that are used for any other purpose, and any nursing facility that receives funds and sells any of its business or bed licenses on or before June 30, 2023, must reimburse those funds to the state from the proceeds of the sale. The bill prohibits any of the workforce incentive payments from going to any of the following:

- Contract workers;
- Staff from a staffing agency;
- Administrators;
- Executive staff; or
- Owners.<sup>11</sup>

## Publicly funded child care and Step Up to Quality

In an effort to strengthen the state's workforce and child care infrastructure, encourage Ohioans to return to full-time employment, and expand child care options for families, the bill suspends through December 31, 2022, the requirement that, to be eligible to provide publicly funded child care, a child day-care center, family day-care home, or licensed preschool or school child program must be rated in the Department of Job and Family Services' Step Up to Quality Program.<sup>12</sup>

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<sup>11</sup> Sections 220.60 to 220.80.

<sup>12</sup> Section 751.10 of the bill. See also R.C. 5104.31(C)(1).

## Commercial driver's license (CDL) changes

### CDL training

#### Background

The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) in 2012 required the Federal Motor Carrier Safety Administration (FMCSA) to update its rules regarding entry-level driver training for commercial driver's license (CDL) applicants. Additionally, the act required the FMCSA to create a registry to record which CDL applicants have completed the new training and certification process. After extensive committee meetings and interested party input, the new federal rules pertaining to entry-level driver training and the Training Provider Registry will take effect February 7, 2022.<sup>13</sup>

#### State training and license

The bill updates state law to reflect the new federal regulations. The new training requirements apply only to new, initial applicants for the CDL or endorsements. They do not apply to anyone who already holds the license or endorsement. Specifically, an applicant for a CDL must successfully complete the training required by federal law before doing any of the following:

1. Taking the skills test required for the initial issuance of a Class A or Class B CDL;
2. Taking the skills test required for the initial issuance of a Passenger (P) or School Bus (B) endorsement on the applicant's CDL; or
3. Taking the knowledge test required for the initial issuance of a Hazardous Materials (H) endorsement on the applicant's CDL.

The Registrar of Motor Vehicles must electronically verify that an applicant has completed the required training through the new FMCSA Training Provider Registry both prior to the applicant taking the requisite skills or knowledge test and prior to issuing the license or endorsement. The Registrar may not issue the license or endorsement if the applicant did not successfully complete the training.<sup>14</sup>

#### Driver training schools

The bill authorizes both state driver training schools and authorized driver training providers listed in the Registry to provide the federal CDL training.<sup>15</sup> Additionally, any state-licensed driver training school that provides CDL education courses training drivers in the operation of commercial trucks, commercial cars, buses, and commercial tractors, trailers, and semitrailers must update their courses to comply with the federal requirements.<sup>16</sup>

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<sup>13</sup> See the [FMCSA website](#) for further information about the training and new registry.

<sup>14</sup> R.C. 4506.09(F)(1) and 4506.13(B)(1) and (2)(d).

<sup>15</sup> R.C. 4506.09(F)(2).

<sup>16</sup> R.C. 4508.031.

## Precheck prior to CDL issuance

The bill clarifies that the Registrar must determine both of the following prior to issuing, renewing, transferring, or upgrading a CDL:

1. Whether the applicant was previously issued a CDL in another state; and
2. Whether the applicant is disqualified from operating a commercial motor vehicle.<sup>17</sup>

## Immediate effective date

The bill states that the appropriations and the suspension of the requirement for publicly funded child care providers to be rated under Step Up to Quality take effect immediately, as provided under Article II, Section 1d of the Ohio Constitution.<sup>18</sup>

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## HISTORY

Action	Date
Introduced	03-02-21
Re-referred to H. Rules and Reference	03-24-21
Reported, H. Finance	04-15-21
Passed House (91-0)	04-15-21
Reported, S. Finance	---

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<sup>17</sup> R.C. 4506.13(B)(1).

<sup>18</sup> Section 812.10.