

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 114**

**Representative Blessing**

**Cosponsors: Representative Seitz, Speaker Rosenberger, Representatives Schuring, Pelanda, McColley, Hill, Conditt, Hambley, Retherford, Brinkman, Koehler, Johnson, T., Green, Stein, Thompson, Roegner, Schaffer, Slaby, Scherer, Wiggam, Huffman, Becker, Riedel, Zeltwanger, Vitale, Hood, Keller, Dean, Butler, Householder, Hughes, Brenner, Dever, DeVitis, Goodman, Kick, Landis, LaTourette, Lipps, Rezabek, Romanchuk, Ryan, Smith, R., Young, Patton, Ginter, Cupp, Carfagna, Cera, Greenspan, Perales, Arndt, Faber, Sprague**

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**A BILL**

To amend sections 4928.142, 4928.143, 4928.20, 1  
4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 2  
4928.644, 4928.645, 4928.65, 4928.66, 4928.662, 3  
4928.6610, 4928.6611, and 5727.75 and to enact 4  
sections 4928.031, 4928.647, 4928.6620, and 5  
4928.6621 of the Revised Code and to amend 6  
Section 257.80 of Am. Sub. H.B. 64 of the 132nd 7  
General Assembly and to repeal Sections 5, 6, 7, 8  
8, 9, 10, and 11 of Sub. S.B. 310 of the 130th 9  
General Assembly to revise the provisions 10  
governing renewable energy, energy efficiency, 11  
and peak demand reduction and to alter funding 12  
allocations under the Home Energy Assistance 13  
Program. 14

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

**Section 1.** That sections 4928.142, 4928.143, 4928.20, 15  
4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 4928.644, 16  
4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, 4928.6611, and 17  
5727.75 be amended and sections 4928.031, 4928.647, 4928.6620, 18  
and 4928.6621 of the Revised Code be enacted to read as follows: 19

**Sec. 4928.031.** Except as otherwise provided in divisions 20  
(B) (2) (b) and (c) of section 4928.143 of the Revised Code, 21  
sections 4928.144 and 4928.239 of the Revised Code, and division 22  
(A) (1) (b) of section 4928.37 of the Revised Code, all costs 23  
incurred by an electric distribution utility in providing 24  
generation service, including all costs of providing electricity 25  
from renewable energy resources, shall be bypassable by any 26  
consumer that has exercised choice of supplier under section 27  
4928.03 of the Revised Code. 28

**Sec. 4928.142.** (A) For the purpose of complying with 29  
section 4928.141 of the Revised Code and subject to division (D) 30  
of this section and, as applicable, subject to the rate plan 31  
requirement of division (A) of section 4928.141 of the Revised 32  
Code, an electric distribution utility may establish a standard 33  
service offer price for retail electric generation service that 34  
is delivered to the utility under a market-rate offer. 35

(1) The market-rate offer shall be determined through a 36  
competitive bidding process that provides for all of the 37  
following: 38

(a) Open, fair, and transparent competitive solicitation; 39

(b) Clear product definition; 40

(c) Standardized bid evaluation criteria; 41

(d) Oversight by an independent third party that shall 42  
design the solicitation, administer the bidding, and ensure that 43

the criteria specified in ~~division~~ divisions (A) (1) (a) to (c) of 44  
this section are met; 45

(e) Evaluation of the submitted bids prior to the 46  
selection of the least-cost bid winner or winners. 47

No generation supplier shall be prohibited from 48  
participating in the bidding process. 49

(2) The public utilities commission shall modify rules, or 50  
adopt new rules as necessary, concerning the conduct of the 51  
competitive bidding process and the qualifications of bidders, 52  
which rules shall foster supplier participation in the bidding 53  
process and shall be consistent with the requirements of 54  
division (A) (1) of this section. 55

(B) Prior to initiating a competitive bidding process for 56  
a market-rate offer under division (A) of this section, the 57  
electric distribution utility shall file an application with the 58  
commission. An electric distribution utility may file its 59  
application with the commission prior to the effective date of 60  
the commission rules required under division (A) (2) of this 61  
section, and, as the commission determines necessary, the 62  
utility shall immediately conform its filing to the rules upon 63  
their taking effect. 64

An application under this division shall detail the 65  
electric distribution utility's proposed compliance with the 66  
requirements of division (A) (1) of this section and with 67  
commission rules under division (A) (2) of this section and 68  
demonstrate that all of the following requirements are met: 69

(1) The electric distribution utility or its transmission 70  
service affiliate belongs to at least one regional transmission 71  
organization that has been approved by the federal energy 72

regulatory commission; or there otherwise is comparable and 73  
nondiscriminatory access to the electric transmission grid. 74

(2) Any such regional transmission organization has a 75  
market-monitor function and the ability to take actions to 76  
identify and mitigate market power or the electric distribution 77  
utility's market conduct; or a similar market monitoring 78  
function exists with commensurate ability to identify and 79  
monitor market conditions and mitigate conduct associated with 80  
the exercise of market power. 81

(3) A published source of information is available 82  
publicly or through subscription that identifies pricing 83  
information for traded electricity on- and off-peak energy 84  
products that are contracts for delivery beginning at least two 85  
years from the date of the publication and is updated on a 86  
regular basis. 87

The commission shall initiate a proceeding and, within 88  
ninety days after the application's filing date, shall determine 89  
by order whether the electric distribution utility and its 90  
market-rate offer meet all of the foregoing requirements. If the 91  
finding is positive, the electric distribution utility may 92  
initiate its competitive bidding process. If the finding is 93  
negative as to one or more requirements, the commission in the 94  
order shall direct the electric distribution utility regarding 95  
how any deficiency may be remedied in a timely manner to the 96  
commission's satisfaction; otherwise, the electric distribution 97  
utility shall withdraw the application. However, if such remedy 98  
is made and the subsequent finding is positive and also if the 99  
electric distribution utility made a simultaneous filing under 100  
this section and section 4928.143 of the Revised Code, the 101  
utility shall not initiate its competitive bid until at least 102

one hundred fifty days after the filing date of those 103  
applications. 104

(C) Upon the completion of the competitive bidding process 105  
authorized by divisions (A) and (B) of this section, including 106  
for the purpose of division (D) of this section, the commission 107  
shall select the least-cost bid winner or winners of that 108  
process, and such selected bid or bids, as prescribed as retail 109  
rates by the commission, shall be the electric distribution 110  
utility's standard service offer unless the commission, by order 111  
issued before the third calendar day following the conclusion of 112  
the competitive bidding process for the market rate offer, 113  
determines that one or more of the following criteria were not 114  
met: 115

(1) Each portion of the bidding process was 116  
oversubscribed, such that the amount of supply bid upon was 117  
greater than the amount of the load bid out. 118

(2) There were four or more bidders. 119

(3) At least twenty-five per cent of the load is bid upon 120  
by one or more persons other than the electric distribution 121  
utility. 122

All costs incurred by the electric distribution utility as 123  
a result of or related to the competitive bidding process or to 124  
procuring generation service to provide the standard service 125  
offer, including the costs of energy and capacity and the costs 126  
of all other products and services procured as a result of the 127  
competitive bidding process, shall be timely recovered through 128  
the standard service offer price, and, for that purpose, the 129  
commission shall approve a reconciliation mechanism, other 130  
recovery mechanism, or a combination of such mechanisms for the 131

utility. 132

(D) The first application filed under this section by an 133  
electric distribution utility that, as of July 31, 2008, 134  
directly owns, in whole or in part, operating electric 135  
generating facilities that had been used and useful in this 136  
state shall require that a portion of that utility's standard 137  
service offer load for the first five years of the market rate 138  
offer be competitively bid under division (A) of this section as 139  
follows: ten per cent of the load in year one, not more than 140  
twenty per cent in year two, thirty per cent in year three, 141  
forty per cent in year four, and fifty per cent in year five. 142  
Consistent with those percentages, the commission shall 143  
determine the actual percentages for each year of years one 144  
through five. The standard service offer price for retail 145  
electric generation service under this first application shall 146  
be a proportionate blend of the bid price and the generation 147  
service price for the remaining standard service offer load, 148  
which latter price shall be equal to the electric distribution 149  
utility's most recent standard service offer price, adjusted 150  
upward or downward as the commission determines reasonable, 151  
relative to the jurisdictional portion of any known and 152  
measurable changes from the level of any one or more of the 153  
following costs as reflected in that most recent standard 154  
service offer price: 155

(1) The electric distribution utility's prudently incurred 156  
cost of fuel used to produce electricity; 157

(2) Its prudently incurred purchased power costs; 158

(3) Its prudently incurred costs of satisfying the supply 159  
and demand portfolio requirements of this state, including, but 160  
not limited to, ~~renewable energy resource and energy efficiency~~ 161

requirements;	162
(4) Its costs prudently incurred to comply with	163
environmental laws and regulations, with consideration of the	164
derating of any facility associated with those costs.	165
In making any adjustment to the most recent standard	166
service offer price on the basis of costs described in division	167
(D) of this section, the commission shall include the benefits	168
that may become available to the electric distribution utility	169
as a result of or in connection with the costs included in the	170
adjustment, including, but not limited to, the utility's receipt	171
of emissions credits or its receipt of tax benefits or of other	172
benefits, and, accordingly, the commission may impose such	173
conditions on the adjustment to ensure that any such benefits	174
are properly aligned with the associated cost responsibility.	175
The commission shall also determine how such adjustments will	176
affect the electric distribution utility's return on common	177
equity that may be achieved by those adjustments. The commission	178
shall not apply its consideration of the return on common equity	179
to reduce any adjustments authorized under this division unless	180
the adjustments will cause the electric distribution utility to	181
earn a return on common equity that is significantly in excess	182
of the return on common equity that is earned by publicly traded	183
companies, including utilities, that face comparable business	184
and financial risk, with such adjustments for capital structure	185
as may be appropriate. The burden of proof for demonstrating	186
that significantly excessive earnings will not occur shall be on	187
the electric distribution utility.	188
Additionally, the commission may adjust the electric	189
distribution utility's most recent standard service offer price	190
by such just and reasonable amount that the commission	191

determines necessary to address any emergency that threatens the 192  
utility's financial integrity or to ensure that the resulting 193  
revenue available to the utility for providing the standard 194  
service offer is not so inadequate as to result, directly or 195  
indirectly, in a taking of property without compensation 196  
pursuant to Section 19 of Article I, Ohio Constitution. The 197  
electric distribution utility has the burden of demonstrating 198  
that any adjustment to its most recent standard service offer 199  
price is proper in accordance with this division. 200

(E) Beginning in the second year of a blended price under 201  
division (D) of this section and notwithstanding any other 202  
requirement of this section, the commission may alter 203  
prospectively the proportions specified in that division to 204  
mitigate any effect of an abrupt or significant change in the 205  
electric distribution utility's standard service offer price 206  
that would otherwise result in general or with respect to any 207  
rate group or rate schedule but for such alteration. Any such 208  
alteration shall be made not more often than annually, and the 209  
commission shall not, by altering those proportions and in any 210  
event, including because of the length of time, as authorized 211  
under division (C) of this section, taken to approve the market 212  
rate offer, cause the duration of the blending period to exceed 213  
ten years as counted from the effective date of the approved 214  
market rate offer. Additionally, any such alteration shall be 215  
limited to an alteration affecting the prospective proportions 216  
used during the blending period and shall not affect any 217  
blending proportion previously approved and applied by the 218  
commission under this division. 219

(F) An electric distribution utility that has received 220  
commission approval of its first application under division (C) 221  
of this section shall not, nor ever shall be authorized or 222



required by the commission to, file an application under section 223  
4928.143 of the Revised Code. 224

**Sec. 4928.143.** (A) For the purpose of complying with 225  
section 4928.141 of the Revised Code, an electric distribution 226  
utility may file an application for public utilities commission 227  
approval of an electric security plan as prescribed under 228  
division (B) of this section. The utility may file that 229  
application prior to the effective date of any rules the 230  
commission may adopt for the purpose of this section, and, as 231  
the commission determines necessary, the utility immediately 232  
shall conform its filing to those rules upon their taking 233  
effect. 234

(B) Notwithstanding any other provision of Title XLIX of 235  
the Revised Code to the contrary except division (D) of this 236  
section, divisions (I), (J), and (K) of section 4928.20, ~~and~~ 237  
~~division (E) of section 4928.64 of the Revised Code, and section~~ 238  
sections 4928.031 and 4928.69 of the Revised Code: 239

(1) An electric security plan shall include provisions 240  
relating to the supply and pricing of electric generation 241  
service. In addition, if the proposed electric security plan has 242  
a term longer than three years, it may include provisions in the 243  
plan to permit the commission to test the plan pursuant to 244  
division (E) of this section and any transitional conditions 245  
that should be adopted by the commission if the commission 246  
terminates the plan as authorized under that division. 247

(2) The plan may provide for or include, without 248  
limitation, any of the following: 249

(a) Automatic recovery of any of the following costs of 250  
the electric distribution utility, provided the cost is 251

prudently incurred: the cost of fuel used to generate the 252  
electricity supplied under the offer; the cost of purchased 253  
power supplied under the offer, including the cost of energy and 254  
capacity, and including purchased power acquired from an 255  
affiliate; the cost of emission allowances; and the cost of 256  
federally mandated carbon or energy taxes; 257

(b) A reasonable allowance for construction work in 258  
progress for any of the electric distribution utility's cost of 259  
constructing an electric generating facility or for an 260  
environmental expenditure for any electric generating facility 261  
of the electric distribution utility, provided the cost is 262  
incurred or the expenditure occurs on or after January 1, 2009. 263  
Any such allowance shall be subject to the construction work in 264  
progress allowance limitations of division (A) of section 265  
4909.15 of the Revised Code, except that the commission may 266  
authorize such an allowance upon the incurrence of the cost or 267  
occurrence of the expenditure. No such allowance for generating 268  
facility construction shall be authorized, however, unless the 269  
commission first determines in the proceeding that there is need 270  
for the facility based on resource planning projections 271  
submitted by the electric distribution utility. Further, no such 272  
allowance shall be authorized unless the facility's construction 273  
was sourced through a competitive bid process, regarding which 274  
process the commission may adopt rules. An allowance approved 275  
under division (B) (2) (b) of this section shall be established as 276  
a nonbypassable surcharge for the life of the facility. 277

(c) The establishment of a nonbypassable surcharge for the 278  
life of an electric generating facility that is owned or 279  
operated by the electric distribution utility, was sourced 280  
through a competitive bid process subject to any such rules as 281  
the commission adopts under division (B) (2) (b) of this section, 282

and is newly used and useful on or after January 1, 2009, which 283  
surcharge shall cover all costs of the utility specified in the 284  
application, excluding costs recovered through a surcharge under 285  
division (B) (2) (b) of this section. However, no surcharge shall 286  
be authorized unless the commission first determines in the 287  
proceeding that there is need for the facility based on resource 288  
planning projections submitted by the electric distribution 289  
utility. Additionally, if a surcharge is authorized for a 290  
facility pursuant to plan approval under division (C) of this 291  
section and as a condition of the continuation of the surcharge, 292  
the electric distribution utility shall dedicate to Ohio 293  
consumers the capacity and energy and the rate associated with 294  
the cost of that facility. Before the commission authorizes any 295  
surcharge pursuant to this division, it may consider, as 296  
applicable, the effects of any decommissioning, deratings, and 297  
retirements. 298

(d) Terms, conditions, or charges relating to limitations 299  
on customer shopping for retail electric generation service, 300  
bypassability, standby, back-up, or supplemental power service, 301  
default service, carrying costs, amortization periods, and 302  
accounting or deferrals, including future recovery of such 303  
deferrals, as would have the effect of stabilizing or providing 304  
certainty regarding retail electric service; 305

(e) Automatic increases or decreases in any component of 306  
the standard service offer price; 307

(f) Consistent with sections 4928.23 to 4928.2318 of the 308  
Revised Code, both of the following: 309

(i) Provisions for the electric distribution utility to 310  
securitize any phase-in, inclusive of carrying charges, of the 311  
utility's standard service offer price, which phase-in is 312

authorized in accordance with section 4928.144 of the Revised	313
Code;	314
(ii) Provisions for the recovery of the utility's cost of	315
securitization.	316
(g) Provisions relating to transmission, ancillary,	317
congestion, or any related service required for the standard	318
service offer, including provisions for the recovery of any cost	319
of such service that the electric distribution utility incurs on	320
or after that date pursuant to the standard service offer;	321
(h) Provisions regarding the utility's distribution	322
service, including, without limitation and notwithstanding any	323
provision of Title XLIX of the Revised Code to the contrary,	324
provisions regarding single issue ratemaking, a revenue	325
decoupling mechanism or any other incentive ratemaking, and	326
provisions regarding distribution infrastructure and	327
modernization incentives for the electric distribution utility.	328
The latter may include a long-term energy delivery	329
infrastructure modernization plan for that utility or any plan	330
providing for the utility's recovery of costs, including lost	331
revenue, shared savings, and avoided costs, and a just and	332
reasonable rate of return on such infrastructure modernization.	333
As part of its determination as to whether to allow in an	334
electric distribution utility's electric security plan inclusion	335
of any provision described in division (B)(2)(h) of this	336
section, the commission shall examine the reliability of the	337
electric distribution utility's distribution system and ensure	338
that customers' and the electric distribution utility's	339
expectations are aligned and that the electric distribution	340
utility is placing sufficient emphasis on and dedicating	341
sufficient resources to the reliability of its distribution	342

system. 343

(i) Provisions under which the electric distribution 344  
utility may implement economic development, job retention, and 345  
energy efficiency programs, which provisions may allocate 346  
program costs across all classes of customers of the utility and 347  
those of electric distribution utilities in the same holding 348  
company system. 349

(C) (1) The burden of proof in the proceeding shall be on 350  
the electric distribution utility. The commission shall issue an 351  
order under this division for an initial application under this 352  
section not later than one hundred fifty days after the 353  
application's filing date and, for any subsequent application by 354  
the utility under this section, not later than two hundred 355  
seventy-five days after the application's filing date. Subject 356  
to division (D) of this section, the commission by order shall 357  
approve or modify and approve an application filed under 358  
division (A) of this section if it finds that the electric 359  
security plan so approved, including its pricing and all other 360  
terms and conditions, including any deferrals and any future 361  
recovery of deferrals, is more favorable in the aggregate as 362  
compared to the expected results that would otherwise apply 363  
under section 4928.142 of the Revised Code. Additionally, if the 364  
commission so approves an application that contains a surcharge 365  
under division (B) (2) (b) or (c) of this section, the commission 366  
shall ensure that the benefits derived for any purpose for which 367  
the surcharge is established are reserved and made available to 368  
those that bear the surcharge. Otherwise, the commission by 369  
order shall disapprove the application. 370

(2) (a) If the commission modifies and approves an 371  
application under division (C) (1) of this section, the electric 372

distribution utility may withdraw the application, thereby 373  
terminating it, and may file a new standard service offer under 374  
this section or a standard service offer under section 4928.142 375  
of the Revised Code. 376

(b) If the utility terminates an application pursuant to 377  
division (C) (2) (a) of this section or if the commission 378  
disapproves an application under division (C) (1) of this 379  
section, the commission shall issue such order as is necessary 380  
to continue the provisions, terms, and conditions of the 381  
utility's most recent standard service offer, along with any 382  
expected increases or decreases in fuel costs from those 383  
contained in that offer, until a subsequent offer is authorized 384  
pursuant to this section or section 4928.142 of the Revised 385  
Code, respectively. 386

(D) Regarding the rate plan requirement of division (A) of 387  
section 4928.141 of the Revised Code, if an electric 388  
distribution utility that has a rate plan that extends beyond 389  
December 31, 2008, files an application under this section for 390  
the purpose of its compliance with division (A) of section 391  
4928.141 of the Revised Code, that rate plan and its terms and 392  
conditions are hereby incorporated into its proposed electric 393  
security plan and shall continue in effect until the date 394  
scheduled under the rate plan for its expiration, and that 395  
portion of the electric security plan shall not be subject to 396  
commission approval or disapproval under division (C) of this 397  
section, and the earnings test provided for in division (F) of 398  
this section shall not apply until after the expiration of the 399  
rate plan. However, that utility may include in its electric 400  
security plan under this section, and the commission may 401  
approve, modify and approve, or disapprove subject to division 402  
(C) of this section, provisions for the incremental recovery or 403

the deferral of any costs that are not being recovered under the 404  
rate plan and that the utility incurs during that continuation 405  
period to comply with section 4928.141, ~~division (B) of section~~ 406  
~~4928.64~~, or division (A) of section 4928.66 of the Revised Code. 407

(E) If an electric security plan approved under division 408  
(C) of this section, except one withdrawn by the utility as 409  
authorized under that division, has a term, exclusive of phase- 410  
ins or deferrals, that exceeds three years from the effective 411  
date of the plan, the commission shall test the plan in the 412  
fourth year, and if applicable, every fourth year thereafter, to 413  
determine whether the plan, including its then-existing pricing 414  
and all other terms and conditions, including any deferrals and 415  
any future recovery of deferrals, continues to be more favorable 416  
in the aggregate and during the remaining term of the plan as 417  
compared to the expected results that would otherwise apply 418  
under section 4928.142 of the Revised Code. The commission shall 419  
also determine the prospective effect of the electric security 420  
plan to determine if that effect is substantially likely to 421  
provide the electric distribution utility with a return on 422  
common equity that is significantly in excess of the return on 423  
common equity that is likely to be earned by publicly traded 424  
companies, including utilities, that face comparable business 425  
and financial risk, with such adjustments for capital structure 426  
as may be appropriate. The burden of proof for demonstrating 427  
that significantly excessive earnings will not occur shall be on 428  
the electric distribution utility. If the test results are in 429  
the negative or the commission finds that continuation of the 430  
electric security plan will result in a return on equity that is 431  
significantly in excess of the return on common equity that is 432  
likely to be earned by publicly traded companies, including 433  
utilities, that will face comparable business and financial 434

risk, with such adjustments for capital structure as may be 435  
appropriate, during the balance of the plan, the commission may 436  
terminate the electric security plan, but not until it shall 437  
have provided interested parties with notice and an opportunity 438  
to be heard. The commission may impose such conditions on the 439  
plan's termination as it considers reasonable and necessary to 440  
accommodate the transition from an approved plan to the more 441  
advantageous alternative. In the event of an electric security 442  
plan's termination pursuant to this division, the commission 443  
shall permit the continued deferral and phase-in of any amounts 444  
that occurred prior to that termination and the recovery of 445  
those amounts as contemplated under that electric security plan. 446

(F) With regard to the provisions that are included in an 447  
electric security plan under this section, the commission shall 448  
consider, following the end of each annual period of the plan, 449  
if any such adjustments resulted in excessive earnings as 450  
measured by whether the earned return on common equity of the 451  
electric distribution utility is significantly in excess of the 452  
return on common equity that was earned during the same period 453  
by publicly traded companies, including utilities, that face 454  
comparable business and financial risk, with such adjustments 455  
for capital structure as may be appropriate. Consideration also 456  
shall be given to the capital requirements of future committed 457  
investments in this state. The burden of proof for demonstrating 458  
that significantly excessive earnings did not occur shall be on 459  
the electric distribution utility. If the commission finds that 460  
such adjustments, in the aggregate, did result in significantly 461  
excessive earnings, it shall require the electric distribution 462  
utility to return to consumers the amount of the excess by 463  
prospective adjustments; provided that, upon making such 464  
prospective adjustments, the electric distribution utility shall 465



have the right to terminate the plan and immediately file an 466  
application pursuant to section 4928.142 of the Revised Code. 467  
Upon termination of a plan under this division, rates shall be 468  
set on the same basis as specified in division (C) (2) (b) of this 469  
section, and the commission shall permit the continued deferral 470  
and phase-in of any amounts that occurred prior to that 471  
termination and the recovery of those amounts as contemplated 472  
under that electric security plan. In making its determination 473  
of significantly excessive earnings under this division, the 474  
commission shall not consider, directly or indirectly, the 475  
revenue, expenses, or earnings of any affiliate or parent 476  
company. 477

**Sec. 4928.20.** (A) The legislative authority of a municipal 478  
corporation may adopt an ordinance, or the board of township 479  
trustees of a township or the board of county commissioners of a 480  
county may adopt a resolution, under which, on or after the 481  
starting date of competitive retail electric service, it may 482  
aggregate in accordance with this section the retail electrical 483  
loads located, respectively, within the municipal corporation, 484  
township, or unincorporated area of the county and, for that 485  
purpose, may enter into service agreements to facilitate for 486  
those loads the sale and purchase of electricity. The 487  
legislative authority or board also may exercise such authority 488  
jointly with any other such legislative authority or board. For 489  
customers that are not mercantile customers, an ordinance or 490  
resolution under this division shall specify whether the 491  
aggregation will occur only with the prior, affirmative consent 492  
of each person owning, occupying, controlling, or using an 493  
electric load center proposed to be aggregated or will occur 494  
automatically for all such persons pursuant to the opt-out 495  
requirements of division (D) of this section. The aggregation of 496

mercantile customers shall occur only with the prior, 497  
affirmative consent of each such person owning, occupying, 498  
controlling, or using an electric load center proposed to be 499  
aggregated. Nothing in this division, however, authorizes the 500  
aggregation of the retail electric loads of an electric load 501  
center, as defined in section 4933.81 of the Revised Code, that 502  
is located in the certified territory of a nonprofit electric 503  
supplier under sections 4933.81 to 4933.90 of the Revised Code 504  
or an electric load center served by transmission or 505  
distribution facilities of a municipal electric utility. 506

(B) If an ordinance or resolution adopted under division 507  
(A) of this section specifies that aggregation of customers that 508  
are not mercantile customers will occur automatically as 509  
described in that division, the ordinance or resolution shall 510  
direct the board of elections to submit the question of the 511  
authority to aggregate to the electors of the respective 512  
municipal corporation, township, or unincorporated area of a 513  
county at a special election on the day of the next primary or 514  
general election in the municipal corporation, township, or 515  
county. The legislative authority or board shall certify a copy 516  
of the ordinance or resolution to the board of elections not 517  
less than ninety days before the day of the special election. No 518  
ordinance or resolution adopted under division (A) of this 519  
section that provides for an election under this division shall 520  
take effect unless approved by a majority of the electors voting 521  
upon the ordinance or resolution at the election held pursuant 522  
to this division. 523

(C) Upon the applicable requisite authority under 524  
divisions (A) and (B) of this section, the legislative authority 525  
or board shall develop a plan of operation and governance for 526  
the aggregation program so authorized. Before adopting a plan 527

under this division, the legislative authority or board shall 528  
hold at least two public hearings on the plan. Before the first 529  
hearing, the legislative authority or board shall publish notice 530  
of the hearings once a week for two consecutive weeks in a 531  
newspaper of general circulation in the jurisdiction or as 532  
provided in section 7.16 of the Revised Code. The notice shall 533  
summarize the plan and state the date, time, and location of 534  
each hearing. 535

(D) No legislative authority or board, pursuant to an 536  
ordinance or resolution under divisions (A) and (B) of this 537  
section that provides for automatic aggregation of customers 538  
that are not mercantile customers as described in division (A) 539  
of this section, shall aggregate the electrical load of any 540  
electric load center located within its jurisdiction unless it 541  
in advance clearly discloses to the person owning, occupying, 542  
controlling, or using the load center that the person will be 543  
enrolled automatically in the aggregation program and will 544  
remain so enrolled unless the person affirmatively elects by a 545  
stated procedure not to be so enrolled. The disclosure shall 546  
state prominently the rates, charges, and other terms and 547  
conditions of enrollment. The stated procedure shall allow any 548  
person enrolled in the aggregation program the opportunity to 549  
opt out of the program every three years, without paying a 550  
switching fee. Any such person that opts out before the 551  
commencement of the aggregation program pursuant to the stated 552  
procedure shall default to the standard service offer provided 553  
under section 4928.14 or division (D) of section 4928.35 of the 554  
Revised Code until the person chooses an alternative supplier. 555

(E) (1) With respect to a governmental aggregation for a 556  
municipal corporation that is authorized pursuant to divisions 557  
(A) to (D) of this section, resolutions may be proposed by 558

initiative or referendum petitions in accordance with sections 559  
731.28 to 731.41 of the Revised Code. 560

(2) With respect to a governmental aggregation for a 561  
township or the unincorporated area of a county, which 562  
aggregation is authorized pursuant to divisions (A) to (D) of 563  
this section, resolutions may be proposed by initiative or 564  
referendum petitions in accordance with sections 731.28 to 565  
731.40 of the Revised Code, except that: 566

(a) The petitions shall be filed, respectively, with the 567  
township fiscal officer or the board of county commissioners, 568  
who shall perform those duties imposed under those sections upon 569  
the city auditor or village clerk. 570

(b) The petitions shall contain the signatures of not less 571  
than ten per cent of the total number of electors in, 572  
respectively, the township or the unincorporated area of the 573  
county who voted for the office of governor at the preceding 574  
general election for that office in that area. 575

(F) A governmental aggregator under division (A) of this 576  
section is not a public utility engaging in the wholesale 577  
purchase and resale of electricity, and provision of the 578  
aggregated service is not a wholesale utility transaction. A 579  
governmental aggregator shall be subject to supervision and 580  
regulation by the public utilities commission only to the extent 581  
of any competitive retail electric service it provides and 582  
commission authority under this chapter. 583

(G) This section does not apply in the case of a municipal 584  
corporation that supplies such aggregated service to electric 585  
load centers to which its municipal electric utility also 586  
supplies a noncompetitive retail electric service through 587

transmission or distribution facilities the utility singly or 588  
jointly owns or operates. 589

(H) A governmental aggregator shall not include in its 590  
aggregation the accounts of any of the following: 591

(1) A customer that has opted out of the aggregation; 592

(2) A customer in contract with a certified electric 593  
services company; 594

(3) A customer that has a special contract with an 595  
electric distribution utility; 596

(4) A customer that is not located within the governmental 597  
aggregator's governmental boundaries; 598

(5) Subject to division (C) of section 4928.21 of the 599  
Revised Code, a customer who appears on the "do not aggregate" 600  
list maintained under that section. 601

(I) Customers that are part of a governmental aggregation 602  
under this section shall be responsible only for such portion of 603  
a surcharge under section 4928.144 of the Revised Code that is 604  
proportionate to the benefits, as determined by the commission, 605  
that electric load centers within the jurisdiction of the 606  
governmental aggregation as a group receive. The proportionate 607  
surcharge so established shall apply to each customer of the 608  
governmental aggregation while the customer is part of that 609  
aggregation. If a customer ceases being such a customer, the 610  
otherwise applicable surcharge shall apply. Nothing in this 611  
section shall result in less than full recovery by an electric 612  
distribution utility of any surcharge authorized under section 613  
4928.144 of the Revised Code. Nothing in this section shall 614  
result in less than the full and timely imposition, charging, 615  
collection, and adjustment by an electric distribution utility, 616

its assignee, or any collection agent, of the phase-in-recovery 617  
charges authorized pursuant to a final financing order issued 618  
pursuant to sections 4928.23 to 4928.2318 of the Revised Code. 619

(J) On behalf of the customers that are part of a 620  
governmental aggregation under this section and by filing 621  
written notice with the public utilities commission, the 622  
legislative authority that formed or is forming that 623  
governmental aggregation may elect not to receive standby 624  
service within the meaning of division (B)(2)(d) of section 625  
4928.143 of the Revised Code from an electric distribution 626  
utility in whose certified territory the governmental 627  
aggregation is located and that operates under an approved 628  
electric security plan under that section. Upon the filing of 629  
that notice, the electric distribution utility shall not charge 630  
any such customer to whom competitive retail electric generation 631  
service is provided by another supplier under the governmental 632  
aggregation for the standby service. Any such consumer that 633  
returns to the utility for competitive retail electric service 634  
shall pay the market price of power incurred by the utility to 635  
serve that consumer plus any additional amount attributable to 636  
the utility's cost of ~~compliance with the providing, after the~~ 637  
effective date of the amendments to this section by ...B... of 638  
the 132nd general assembly, electricity from qualifying 639  
renewable energy resource provisions of resources as defined in 640  
section 4928.64 of the Revised Code ~~to serve the consumer,~~ 641  
unless that customer opts out under section 4928.647 of the 642  
Revised Code. Such market price shall include, but not be 643  
limited to, capacity and energy charges; all charges associated 644  
with the provision of that power supply through the regional 645  
transmission organization, including, but not limited to, 646  
transmission, ancillary services, congestion, and settlement and 647

administrative charges; and all other costs incurred by the 648  
utility that are associated with the procurement, provision, and 649  
administration of that power supply, as such costs may be 650  
approved by the commission. The period of time during which the 651  
market price and qualifying renewable energy resource amount 652  
shall be so assessed on the consumer shall be from the time the 653  
consumer so returns to the electric distribution utility until 654  
the expiration of the electric security plan. However, if that 655  
period of time is expected to be more than two years, the 656  
commission may reduce the time period to a period of not less 657  
than two years. 658

(K) The commission shall adopt rules to encourage and 659  
promote large-scale governmental aggregation in this state. For 660  
that purpose, the commission shall conduct an immediate review 661  
of any rules it has adopted for the purpose of this section that 662  
are in effect on the effective date of the amendment of this 663  
section by S.B. 221 of the 127th general assembly, July 31, 664  
2008. Further, within the context of an electric security plan 665  
under section 4928.143 of the Revised Code, the commission shall 666  
consider the effect on large-scale governmental aggregation of 667  
any nonbypassable generation charges, however collected, that 668  
would be established under that plan, except any nonbypassable 669  
generation charges that relate to any cost incurred by the 670  
electric distribution utility, the deferral of which has been 671  
authorized by the commission prior to the effective date of the 672  
amendment of this section by S.B. 221 of the 127th general 673  
assembly, July 31, 2008. 674

**Sec. 4928.61.** (A) There is hereby established in the state 675  
treasury the advanced energy fund, into which shall be deposited 676  
all advanced energy revenues remitted to the director of 677  
development under division (B) of this section, for the 678

exclusive purposes of funding the advanced energy program 679  
created under section 4928.62 of the Revised Code and paying the 680  
program's administrative costs. Interest on the fund shall be 681  
credited to the fund. 682

(B) Advanced energy revenues shall include all of the 683  
following: 684

(1) Revenues remitted to the director after collection by 685  
each electric distribution utility in this state of a temporary 686  
rider on retail electric distribution service rates as such 687  
rates are determined by the public utilities commission pursuant 688  
to this chapter. The rider shall be a uniform amount statewide, 689  
determined by the director of development, after consultation 690  
with the public benefits advisory board created by section 691  
4928.58 of the Revised Code. The amount shall be determined by 692  
dividing an aggregate revenue target for a given year as 693  
determined by the director, after consultation with the advisory 694  
board, by the number of customers of electric distribution 695  
utilities in this state in the prior year. Such aggregate 696  
revenue target shall not exceed more than fifteen million 697  
dollars in any year through 2005 and shall not exceed more than 698  
five million dollars in any year after 2005. The rider shall be 699  
imposed beginning on the effective date of the amendment of this 700  
section by Sub. H.B. 251 of the 126th general assembly, January 701  
4, 2007, and shall terminate at the end of ten years following 702  
the starting date of competitive retail electric service or 703  
until the advanced energy fund, including interest, reaches one 704  
hundred million dollars, whichever is first. 705

(2) Revenues from payments, repayments, and collections 706  
under the advanced energy program and from program income; 707

(3) Revenues remitted to the director after collection by 708



a municipal electric utility or electric cooperative in this 709  
state upon the utility's or cooperative's decision to 710  
participate in the advanced energy fund; 711

~~(4) Revenues from renewable energy compliance payments as 712  
provided under division (C) (2) of section 4928.64 of the Revised 713  
Code; 714~~

~~(5) Revenue from forfeitures under division ~~(C)~~ (B) of 715  
section 4928.66 of the Revised Code; 716~~

~~(6) (5) Funds transferred pursuant to division (B) of 717  
Section 512.10 of S.B. 315 of the 129th general assembly; 718~~

~~(7) (6) Interest earnings on the advanced energy fund. 719~~

(C) (1) Each electric distribution utility in this state 720  
shall remit to the director on a quarterly basis the revenues 721  
described in divisions (B) (1) and (2) of this section. Such 722  
remittances shall occur within thirty days after the end of each 723  
calendar quarter. 724

(2) Each participating electric cooperative and 725  
participating municipal electric utility shall remit to the 726  
director on a quarterly basis the revenues described in division 727  
(B) (3) of this section. Such remittances shall occur within 728  
thirty days after the end of each calendar quarter. For the 729  
purpose of division (B) (3) of this section, the participation of 730  
an electric cooperative or municipal electric utility in the 731  
energy efficiency revolving loan program as it existed 732  
immediately prior to the effective date of the amendment of this 733  
section by Sub. H.B. 251 of the 126th general assembly, January 734  
4, 2007, does not constitute a decision to participate in the 735  
advanced energy fund under this section as so amended. 736

(3) All remittances under divisions (C) (1) and (2) of this 737

section shall continue only until the end of ten years following 738  
the starting date of competitive retail electric service or 739  
until the advanced energy fund, including interest, reaches one 740  
hundred million dollars, whichever is first. 741

(D) Any moneys collected in rates for non-low-income 742  
customer energy efficiency programs, as of October 5, 1999, and 743  
not contributed to the energy efficiency revolving loan fund 744  
authorized under this section prior to the effective date of its 745  
amendment by Sub. H.B. 251 of the 126th general assembly, 746  
January 4, 2007, shall be used to continue to fund cost- 747  
effective, residential energy efficiency programs, be 748  
contributed into the universal service fund as a supplement to 749  
that required under section 4928.53 of the Revised Code, or be 750  
returned to ratepayers in the form of a rate reduction at the 751  
option of the affected electric distribution utility. 752

**Sec. 4928.62.** (A) There is hereby created the advanced 753  
energy program, which shall be administered by the director of 754  
development. Under the program, the director may authorize the 755  
use of moneys in the advanced energy fund for financial, 756  
technical, and related assistance for advanced energy projects 757  
in this state or for economic development assistance, in 758  
furtherance of the purposes set forth in section 4928.63 of the 759  
Revised Code. 760

(1) To the extent feasible given approved applications for 761  
assistance, the assistance shall be distributed among the 762  
certified territories of electric distribution utilities and 763  
participating electric cooperatives, and among the service areas 764  
of participating municipal electric utilities, in amounts 765  
proportionate to the remittances of each utility and cooperative 766  
under divisions (B) (1) and (3) of section 4928.61 of the Revised 767

Code. 768

(2) The funds described in division (B) ~~(6)~~ (5) of section 769  
4928.61 of the Revised Code shall not be subject to the 770  
territorial requirements of division (A)(1) of this section. 771

(3) The director shall not authorize financial assistance 772  
for an advanced energy project under the program unless the 773  
director first determines that the project will create new jobs 774  
or preserve existing jobs in this state or use innovative 775  
technologies or materials. 776

(B) In carrying out sections 4928.61 to 4928.63 of the 777  
Revised Code, the director may do all of the following to 778  
further the public interest in advanced energy projects and 779  
economic development: 780

(1) Award grants, contracts, loans, loan participation 781  
agreements, linked deposits, and energy production incentives; 782

(2) Acquire in the name of the director any property of 783  
any kind or character in accordance with this section, by 784  
purchase, purchase at foreclosure, or exchange, on such terms 785  
and in such manner as the director considers proper; 786

(3) Make and enter into all contracts and agreements 787  
necessary or incidental to the performance of the director's 788  
duties and the exercise of the director's powers under sections 789  
4928.61 to 4928.63 of the Revised Code; 790

(4) Employ or enter into contracts with financial 791  
consultants, marketing consultants, consulting engineers, 792  
architects, managers, construction experts, attorneys, technical 793  
monitors, energy evaluators, or other employees or agents as the 794  
director considers necessary, and fix their compensation; 795

(5) Adopt rules prescribing the application procedures for financial assistance under the advanced energy program; the fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives; criteria pertaining to the eligibility of participating lending institutions; and any other matters necessary for the implementation of the program;

(6) Do all things necessary and appropriate for the operation of the program.

(C) The department of development may hold ownership to any unclaimed energy efficiency and renewable energy emission allowances provided for in Chapter 3745-14 of the Administrative Code or otherwise, that result from advanced energy projects that receive funding from the advanced energy fund, and it may use the allowances to further the public interest in advanced energy projects or for economic development.

(D) Financial statements, financial data, and trade secrets submitted to or received by the director from an applicant or recipient of financial assistance under sections 4928.61 to 4928.63 of the Revised Code, or any information taken from those statements, data, or trade secrets for any purpose, are not public records for the purpose of section 149.43 of the Revised Code.

(E) Nothing in the amendments of sections 4928.61, 4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th general assembly shall affect any pending or effected assistance, pending or effected purchases or exchanges of property made, or pending or effected contracts or agreements

entered into pursuant to division (A) or (B) of this section as 826  
the section existed prior to the effective date of those 827  
amendments, January 4, 2007, or shall affect the exemption 828  
provided under division (C) of this section as the section 829  
existed prior to that effective date. 830

(F) Any assistance a school district receives for an 831  
advanced energy project, including a geothermal heating, 832  
ventilating, and air conditioning system, shall be in addition 833  
to any assistance provided under Chapter 3318. of the Revised 834  
Code and shall not be included as part of the district or state 835  
portion of the basic project cost under that chapter. 836

**Sec. 4928.64.** (A) (1) As used in this section and sections 837  
4928.645, 4928.647, 4928.65, and 4928.6620 of the Revised Code, 838  
"qualifying renewable energy resource" means a renewable energy 839  
resource, as defined in section 4928.01 of the Revised Code that 840  
has a placed-in-service date on or after January 1, 1998, or 841  
with respect to any run-of-the-river hydroelectric facility, an 842  
in-service date on or after January 1, 1980; a renewable energy 843  
resource created on or after January 1, 1998, by the 844  
modification or retrofit of any facility placed in service prior 845  
to January 1, 1998; or a mercantile customer-sited renewable 846  
energy resource, whether new or existing, that the mercantile 847  
customer commits for integration into the electric distribution 848  
utility's demand-response, energy efficiency, or peak demand 849  
reduction programs as provided under division (A) (2) (c) of 850  
section 4928.66 of the Revised Code, including, but not limited 851  
to, any of the following: 852

(a) A resource that has the effect of improving the 853  
relationship between real and reactive power; 854

(b) A resource that makes efficient use of waste heat or 855

other thermal capabilities owned or controlled by a mercantile customer; 856  
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(c) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics; 858  
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(d) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource. 861  
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(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such a qualifying renewable energy resource. 863  
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(B) Except as provided in division (D) of this section: 866

(1) By 2027 ~~and thereafter~~, an electric distribution utility ~~shall~~ may provide from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company ~~shall~~ may provide a portion of its electricity supply for retail consumers in this state from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion ~~shall~~ may equal twelve and one-half per cent of the ~~total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within this state~~ baseline as defined in section 4928.643 of the 867  
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~~Revised Code. However, nothing in this section precludes a utility or company from providing a greater percentage.~~ 885  
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(2) The portion ~~required~~ permitted under division (B) (1) 887  
of this section ~~shall~~ may be generated ~~from renewable energy~~ 888  
~~resources, including one-half per cent from solar energy~~ 889  
~~resources,~~ in accordance with the following benchmarks, which 890  
are expressed as percentages of the baseline as defined in 891  
section 4928.643 of the Revised Code: 892

By end of year	Renewable energy resources	Solar energy resources	
2009	0.25%	0.004%	895
2010	0.50%	0.010%	896
2011	1%	0.030%	897
2012	1.5%	0.060%	898
2013	2%	0.090%	899
2014	2.5%	0.12%	900
2015	2.5%	0.12%	901
2016	2.5%	0.12%	902
2017	3.5%	0.15%	903
2018	4.5%	0.18%	904
2019	5.5%	0.22%	905
2020	6.5%	0.26%	906
2021	7.5%	0.3%	907
2022	8.5%	0.34%	908
2023	9.5%	0.38%	909
2024	10.5%	0.42%	910
2025	11.5%	0.46%	911
<del>2026 and each calendar</del>	12.5%	0.5%.	912
<del>year thereafter</del>			913

~~(3)~~ (C) The qualifying renewable energy resources 914

implemented by the utility or company ~~shall~~may be met either: 915

~~(a) (1) Through facilities located in this state; or~~ 916

~~(b) (2) With resources that can be shown to be deliverable~~ 917  
into this state. 918

~~(C) (1) The commission annually shall review an electric~~ 919  
~~distribution utility's or electric services company's compliance~~ 920  
~~with the most recent applicable benchmark under division (B) (2)~~ 921  
~~of this section and, in the course of that review, shall~~ 922  
~~identify any undercompliance or noncompliance of the utility or~~ 923  
~~company that it determines is weather related, related to~~ 924  
~~equipment or resource shortages for qualifying renewable energy~~ 925  
~~resources as applicable, or is otherwise outside the utility's~~ 926  
~~or company's control.~~ 927

~~(2) Subject to the cost cap provisions of division (C) (3)~~ 928  
~~of this section, if the commission determines, after notice and~~ 929  
~~opportunity for hearing, and based upon its findings in that~~ 930  
~~review regarding avoidable undercompliance or noncompliance, but~~ 931  
~~subject to division (C) (4) of this section, that the utility or~~ 932  
~~company has failed to comply with any such benchmark, the~~ 933  
~~commission shall impose a renewable energy compliance payment on~~ 934  
~~the utility or company.~~ 935

~~(a) The compliance payment pertaining to the solar energy~~ 936  
~~resource benchmarks under division (B) (2) of this section shall~~ 937  
~~be an amount per megawatt hour of undercompliance or~~ 938  
~~noncompliance in the period under review, as follows:~~ 939

~~(i) Three hundred dollars for 2014, 2015, and 2016;~~ 940

~~(ii) Two hundred fifty dollars for 2017 and 2018;~~ 941

~~(iii) Two hundred dollars for 2019 and 2020;~~ 942



~~(iv) Similarly reduced every two years thereafter through 2026 by fifty dollars, to a minimum of fifty dollars.~~ 943  
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~~(b) The compliance payment pertaining to the renewable energy resource benchmarks under division (B) (2) of this section shall equal the number of additional renewable energy credits that the electric distribution utility or electric services company would have needed to comply with the applicable benchmark in the period under review times an amount that shall begin at forty five dollars and shall be adjusted annually by the commission to reflect any change in the consumer price index as defined in section 101.27 of the Revised Code, but shall not be less than forty five dollars.~~ 945  
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~~(c) The compliance payment shall not be passed through by the electric distribution utility or electric services company to consumers. The compliance payment shall be remitted to the commission, for deposit to the credit of the advanced energy fund created under section 4928.61 of the Revised Code. Payment of the compliance payment shall be subject to such collection and enforcement procedures as apply to the collection of a forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code.~~ 955  
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~~(3) An (D) Neither an electric distribution utility or nor an electric services company need not comply with a benchmark under division (B) (2) of this section to the extent that may provide a portion of its electricity from qualifying renewable energy resources if its reasonably expected cost of that compliance providing that portion from those resources exceeds its reasonably expected cost of otherwise producing or acquiring the requisite same amount of electricity by three per cent or more. The cost of compliance providing the portion from~~ 964  
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qualifying renewable energy resources shall be calculated as 973  
though any exemption from taxes and assessments had not been 974  
granted under section 5727.75 of the Revised Code. As long as 975  
the cost of providing the portion from qualifying renewable 976  
energy resources does not exceed the cost cap set forth in this 977  
division, then the portion may exceed any of the benchmarks set 978  
forth in division (B) (2) of this section. 979

~~(4) (a) (E) (1)~~ An electric distribution utility or electric 980  
services company may request the commission to make a force 981  
majeure determination pursuant to this division regarding all or 982  
part of the utility's or company's ~~compliance with~~ provision of 983  
electricity from qualifying renewable energy resources at the 984  
level of any minimum benchmark of the benchmarks under division 985  
(B) (2) of this section ~~during the period of review occurring~~ 986  
~~pursuant to division (C) (2) of this section.~~ The commission may 987  
~~require~~ encourage the electric distribution utility or electric 988  
services company to make solicitations for renewable energy 989  
resource credits as part of its default service before the 990  
utility's or company's request of force majeure under this 991  
division can be made. 992

~~(b) (2)~~ Within ninety days after the filing of a request 993  
by an electric distribution utility or electric services company 994  
under division ~~(C) (4) (a) (E) (1)~~ of this section, the commission 995  
shall determine if qualifying renewable energy resources are 996  
reasonably available in the marketplace in sufficient quantities 997  
for the utility or company to ~~comply with the subject minimum~~ 998  
provide electricity from qualifying renewable energy resources 999  
at the level of the benchmark during the review period at issue. 1000  
In making this determination, the commission shall consider 1001  
whether the electric distribution utility or electric services 1002  
company has made a good faith effort to acquire sufficient 1003

qualifying renewable energy or, as applicable, solar energy 1004  
resources ~~to so comply~~, including, but not limited to, by 1005  
banking or seeking renewable energy resource credits or by 1006  
seeking the resources through long-term contracts. Additionally, 1007  
the commission shall consider the availability of qualifying 1008  
renewable energy or solar energy resources in this state and 1009  
other jurisdictions in the PJM interconnection regional 1010  
transmission organization, L.L.C., or its successor and the 1011  
midcontinent independent system operator or its successor. 1012

~~(e)~~ (3) If, pursuant to division ~~(C) (4) (b)~~ (E) (2) of this 1013  
section, the commission determines that qualifying renewable 1014  
energy or solar energy resources are not reasonably available to 1015  
permit the electric distribution utility or electric services 1016  
company to ~~comply, during the period of review, with the subject-~~ 1017  
minimum provide electricity from qualifying renewable energy 1018  
resources at the level of the benchmark prescribed under 1019  
division (B) (2) of this section at issue, the commission shall 1020  
modify that ~~compliance obligation of the utility or company-~~ 1021  
benchmark as it determines appropriate to accommodate the 1022  
finding. ~~Commission modification shall not automatically reduce-~~ 1023  
~~the obligation for the electric distribution utility's or~~ 1024  
~~electric services company's compliance in subsequent years. If-~~ 1025  
~~it modifies the electric distribution utility or electric-~~ 1026  
~~services company obligation under division (C) (4) (c) of this-~~ 1027  
~~section, the commission may require the utility or company, if-~~ 1028  
~~sufficient renewable energy resource credits exist in the-~~ 1029  
~~marketplace, to acquire additional renewable energy resource-~~ 1030  
~~credits in subsequent years equivalent to the utility's or~~ 1031  
~~company's modified obligation under division (C) (4) (c) of this-~~ 1032  
~~section.~~ 1033

~~(5)~~ (F) The commission shall establish a process to 1034

provide for at least an annual review of the renewable energy 1035  
resource market in this state and in the service territories of 1036  
the regional transmission organizations that manage transmission 1037  
systems located in this state. ~~The commission shall use the~~ 1038  
~~results of this study to identify any needed changes to the~~ 1039  
~~amount of the renewable energy compliance payment specified~~ 1040  
~~under divisions (C) (2) (a) and (b) of this section. Specifically,~~ 1041  
~~the commission may increase the amount to ensure that payment of~~ 1042  
~~compliance payments is not used to achieve compliance with this~~ 1043  
~~section in lieu of actually acquiring or realizing energy~~ 1044  
~~derived from qualifying renewable energy resources. However, if~~ 1045  
~~the commission finds that the amount of the compliance payment~~ 1046  
~~should be otherwise changed, the commission shall present this~~ 1047  
~~finding to the general assembly for legislative enactment.~~ 1048

~~(D) The commission annually shall submit to the general~~ 1049  
~~assembly in accordance with section 101.68 of the Revised Code a~~ 1050  
~~report describing all of the following:~~ 1051

~~(1) The compliance of electric distribution utilities and~~ 1052  
~~electric services companies with division (B) of this section;~~ 1053

~~(2) The average annual cost of renewable energy credits~~ 1054  
~~purchased by utilities and companies for the year covered in the~~ 1055  
~~report;~~ 1056

~~(3) Any strategy for utility and company compliance or for~~ 1057  
~~encouraging the use of qualifying renewable energy resources in~~ 1058  
~~supplying this state's electricity needs in a manner that~~ 1059  
~~considers available technology, costs, job creation, and~~ 1060  
~~economic impacts.~~ 1061

~~The commission shall begin providing the information~~ 1062  
~~described in division (D) (2) of this section in each report~~ 1063

~~submitted after September 10, 2012. The commission shall allow  
and consider public comments on the report prior to its  
submission to the general assembly. Nothing in the report shall  
be binding on any person, including any utility or company for  
the purpose of its compliance with any benchmark under division  
(B) of this section, or the enforcement of that provision under  
division (C) of this section.~~ 1064  
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~~(E) All costs incurred by an electric distribution utility  
in complying with the requirements of this section shall be  
bypassable by any consumer that has exercised choice of supplier  
under section 4928.03 of the Revised Code.~~ 1071  
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**Sec. 4928.641.** (A) If an electric distribution utility has 1075  
executed a contract before ~~April 1, 2014, the effective date of~~ 1076  
the amendments to this section by ...B... of the 132nd general 1077  
assembly to procure renewable energy resources for compliance 1078  
with section 4928.64 of the Revised Code as that section existed 1079  
prior to that date and there are ongoing costs associated with 1080  
that contract that are being recovered from customers through a 1081  
bypassable charge as of ~~the effective that date of S.B. 310 of~~ 1082  
~~the 130th general assembly~~, that cost recovery shall continue on 1083  
a bypassable basis until the prudently incurred costs associated 1084  
with that contract are fully recovered. 1085

(B) Division (A) of this section applies only to costs 1086  
associated with the original term of a contract described in 1087  
that division and entered into before ~~April 1, 2014 the~~ 1088  
effective date of the amendments to this section by ...B... of 1089  
the 132nd general assembly. This section does not permit 1090  
recovery of costs associated with an extension of such a 1091  
contract. This section does not permit recovery of costs 1092  
associated with an amendment of such a contract if that 1093

amendment was made on or after ~~April 1, 2014~~ the effective date 1094  
of the amendments to this section by ...B... of the 132nd 1095  
general assembly. 1096

**Sec. 4928.643.** (A) ~~Except~~ As used in sections 4928.64 and 1097  
4928.6620 of the Revised Code, and except as provided in 1098  
division (B) of this section and section 4928.644 of the Revised 1099  
Code, ~~the baseline for an electric distribution utility's or an~~ 1100  
~~electric services company's compliance with the qualified~~ 1101  
~~renewable energy resource requirements of section 4928.64 of the~~ 1102  
~~Revised Code shall be~~ "baseline" means the average of total 1103  
kilowatt hours sold by ~~the~~ an electric distribution utility or 1104  
electric services company in the preceding three calendar years 1105  
to the following: 1106

(1) In the case of an electric distribution utility, any 1107  
and all retail electric consumers whose electric load centers 1108  
are served by that utility and are located within the utility's 1109  
certified territory, excluding customers of the utility who have 1110  
opted out under section 4928.647 of the Revised Code; 1111

(2) In the case of an electric services company, any and 1112  
all retail electric consumers who are served by the company and 1113  
are located within this state, excluding customers of the 1114  
company who have opted out under section 4928.647 of the Revised 1115  
Code. 1116

(B) ~~Beginning with compliance year 2014, a~~ A utility or 1117  
company may choose for its baseline ~~for compliance with the~~ 1118  
~~qualified renewable energy resource requirements of section~~ 1119  
~~4928.64 of the Revised Code to be~~ the total kilowatt hours sold 1120  
to the applicable consumers, as described in division (A) (1) or 1121  
(2) of this section, in the applicable compliance year. 1122

(C) A utility or company that uses the baseline permitted 1123  
under division (B) of this section may use the baseline 1124  
described in division (A) of this section in any subsequent 1125  
compliance year. A utility or company that makes this switch 1126  
shall use the baseline described in division (A) of this section 1127  
for at least three consecutive compliance years before again 1128  
using the baseline permitted under division (B) of this section. 1129

**Sec. 4928.644.** The public utilities commission may reduce 1130  
either baseline ~~described~~ defined in section 4928.643 of the 1131  
Revised Code to adjust for new economic growth in the electric 1132  
distribution utility's certified territory or in the electric 1133  
services company's service area in this state. 1134

**Sec. 4928.645.** (A) An electric distribution utility or 1135  
electric services company may use, for the purpose of ~~complying~~ 1136  
~~with the requirements under divisions (B) (1) and (2) of section~~ 1137  
~~4928.64 of the Revised Code~~ providing electricity from 1138  
qualifying renewable energy resources, renewable energy credits 1139  
any time in the five calendar years following the date of their 1140  
purchase or acquisition from any entity, including, but not 1141  
limited to, the following: 1142

(1) A mercantile customer; 1143

(2) An owner or operator of a hydroelectric generating 1144  
facility that is located at a dam on a river, or on any water 1145  
discharged to a river, that is within or bordering this state or 1146  
within or bordering an adjoining state, or that produces power 1147  
that can be shown to be deliverable into this state; 1148

(3) A seller of compressed natural gas that has been 1149  
produced from biologically derived methane gas, provided that 1150  
the seller may only provide renewable energy credits for metered 1151

amounts of gas. 1152

(B) (1) The public utilities commission shall adopt rules 1153  
specifying that one unit of credit shall equal one megawatt hour 1154  
of electricity derived from qualifying renewable energy 1155  
resources, except that, for a generating facility of seventy- 1156  
five megawatts or greater that is situated within this state and 1157  
has committed by December 31, 2009, to modify or retrofit its 1158  
generating unit or units to enable the facility to generate 1159  
principally from biomass energy by June 30, 2013, each megawatt 1160  
hour of electricity generated principally from that biomass 1161  
energy shall equal, in units of credit, the product obtained by 1162  
multiplying the actual percentage of biomass feedstock heat 1163  
input used to generate such megawatt hour by the quotient 1164  
obtained by dividing ~~the then existing unit dollar amount used~~ 1165  
~~to determine a renewable energy compliance payment as provided~~ 1166  
~~under division (C) (2) (b) of section 4928.64 of the Revised Code~~ 1167  
forty-five by the then existing market value of one renewable 1168  
energy credit, but such megawatt hour shall not equal less than 1169  
one unit of credit. ~~Renewable~~ Qualifying renewable energy 1170  
resources do not have to be converted to electricity in order to 1171  
be eligible to receive renewable energy credits. The rules shall 1172  
specify that, for purposes of converting the quantity of energy 1173  
derived from biologically derived methane gas to an electricity 1174  
equivalent, one megawatt hour equals 3,412,142 British thermal 1175  
units. 1176

(2) The rules also shall provide for this state a system 1177  
of registering renewable energy credits by specifying which of 1178  
any generally available registries shall be used for that 1179  
purpose and not by creating a registry. That selected system of 1180  
registering renewable energy credits shall allow a hydroelectric 1181  
generating facility to be eligible for obtaining renewable 1182



energy credits and shall allow customer-sited projects or 1183  
actions the broadest opportunities to be eligible for obtaining 1184  
renewable energy credits. 1185

Sec. 4928.647. (A) Beginning January 1, 2019, and in 1186  
accordance with rules adopted by the public utilities commission 1187  
under division (C) of this section, any customer of an electric 1188  
distribution utility and any customer of an electric services 1189  
company may opt out of paying any rider, charge, or other cost 1190  
recovery mechanism designed to recover the costs of the 1191  
utility's or company's, as applicable, provision of electricity 1192  
from qualifying renewable energy resources. 1193

(B) Division (A) of this section does not apply to cost 1194  
recovery under section 4928.641 of the Revised Code. 1195

(C) Not later than January 1, 2019, the commission shall 1196  
adopt rules governing division (A) of this section. 1197

Sec. 4928.65. (A) Not later than January 1, ~~2015~~ 2018, the 1198  
public utilities commission shall adopt rules governing the 1199  
disclosure of the costs to customers of all of the following: 1200

(1) If applicable, the renewable energy resource 1201  
requirements of section 4928.64 of the Revised Code as that 1202  
section existed prior to the effective date of the amendments to 1203  
this section by ...B... of the 132nd general assembly, including 1204  
costs recovered under section 4928.641 of the Revised Code; 1205

(2) The energy efficiency savings<sup>7</sup> and peak demand 1206  
reduction requirements provisions of sections 4928.64 and 1207  
section 4928.66 of the Revised Code; 1208

(3) Electricity provided after the effective date of the 1209  
amendments to this section by ...B... of the 132nd general 1210  
assembly from qualifying renewable energy resources. ~~The~~ 1211

(B) The rules shall include both of the following 1212  
requirements: 1213

(1) That every electric distribution utility list, on all 1214  
customer bills sent by the utility, including utility 1215  
consolidated bills that include both electric distribution 1216  
utility and electric services company charges, the individual 1217  
customer cost of both of the following for the applicable 1218  
billing period: 1219

(a) Electricity provided by the utility after the 1220  
effective date of the amendments to this section by ...B... of 1221  
the 132nd general assembly from qualifying renewable energy 1222  
resources; 1223

(b) The utility's compliance with all of the following 1224  
for the applicable billing period: 1225

~~(a) The~~ (i) If applicable, the renewable energy resource 1226  
requirements under section 4928.64 of the Revised Code as that 1227  
section existed prior to the effective date of the amendments to 1228  
this section by ...B... of the 132nd general assembly, including 1229  
costs recovered under section 4928.641 of the Revised Code and 1230  
subject to division ~~(B)~~ (C) of this section; 1231

~~(b)~~ (ii) The energy efficiency savings ~~requirements~~ 1232  
provisions under section 4928.66 of the Revised Code; 1233

~~(c)~~ (iii) The peak demand reduction ~~requirements~~ 1234  
provisions under section 4928.66 of the Revised Code. 1235

(2) That every electric services company list, on all 1236  
customer bills sent by the company, the individual customer 1237  
cost, ~~subject to division (B) of this section,~~ of both of the 1238  
following for the applicable billing period: 1239

(a) Electricity provided by the company after the 1240  
effective date of the amendments to this section by ...B... of 1241  
the 132nd general assembly from qualifying renewable energy 1242  
resources; 1243

(b) If applicable, the company's compliance with the 1244  
renewable energy resource requirements under section 4928.64 of 1245  
the Revised Code ~~for the applicable billing period as that~~ 1246  
section existed prior to the effective date of the amendments to 1247  
this section by ...B... of the 132nd general assembly, subject 1248  
to division (C) of this section. 1249

~~(B)~~ (C) (1) For purposes of division ~~(A)~~ (B) (1) ~~(a)~~ (b) (i) of 1250  
this section, ~~the any~~ cost of compliance with the renewable 1251  
energy resource requirements, including costs recovered under 1252  
section 4928.641 of the Revised Code, shall be calculated by 1253  
multiplying the individual customer's monthly usage by the 1254  
combined weighted average of renewable-energy-credit costs, 1255  
including solar-renewable-energy-credit costs, paid by all 1256  
electric distribution utilities, as listed in the commission's 1257  
most recently available alternative energy portfolio standard 1258  
report. 1259

(2) For purposes of division ~~(A)~~ (B) (2) (b) of this section, 1260  
~~the any~~ cost of compliance with the renewable energy resource 1261  
requirements shall be calculated by multiplying the individual 1262  
customer's monthly usage by the combined weighted average of 1263  
renewable-energy-credit costs, including solar-renewable-energy- 1264  
credit costs, paid by all electric services companies, as listed 1265  
in the commission's most recently available alternative energy 1266  
portfolio standard report. 1267

~~(C)~~ (D) The costs required to be listed under division ~~(A)~~ 1268  
(B) (1) of this section shall be listed on each customer's 1269

monthly bill as ~~three-four~~ distinct line items. The ~~cost-costs~~ 1270  
required to be listed under division ~~(A)(B)~~ (2) of this section 1271  
shall be listed on each customer's monthly bill as ~~a-two~~ 1272  
distinct line ~~item~~ items. 1273

**Sec. 4928.66.** (A) (1) (a) Beginning in 2009, an electric 1274  
distribution utility shall implement energy efficiency programs 1275  
that achieve energy savings equivalent to at least three-tenths 1276  
of one per cent of the total, annual average, and normalized 1277  
kilowatt-hour sales of the electric distribution utility during 1278  
the preceding three calendar years to customers in this state. 1279  
An energy efficiency program may include a combined heat and 1280  
power system placed into service or retrofitted on or after the 1281  
effective date of the amendment of this section by S.B. 315 of 1282  
the 129th general assembly, September 10, 2012, or a waste 1283  
energy recovery system placed into service or retrofitted on or 1284  
after September 10, 2012, except that a waste energy recovery 1285  
system described in division (A) (38) (b) of section 4928.01 of 1286  
the Revised Code may be included only if it was placed into 1287  
service between January 1, 2002, and December 31, 2004. For a 1288  
waste energy recovery or combined heat and power system, the 1289  
savings shall be as estimated by the public utilities 1290  
commission. The savings requirement, using such a three-year 1291  
average, shall increase to an additional five-tenths of one per 1292  
cent in 2010, seven-tenths of one per cent in 2011, eight-tenths 1293  
of one per cent in 2012, nine-tenths of one per cent in 2013, 1294  
and one per cent in 2014. In 2015 and 2016, an electric 1295  
distribution utility shall achieve energy savings equal to the 1296  
result of subtracting the cumulative energy savings achieved 1297  
since 2009 from the product of multiplying the baseline for 1298  
energy savings, described in division (A) (2) (a) of this section, 1299  
by four and two-tenths of one per cent. If the result is zero or 1300

less for the year for which the calculation is being made, the utility shall not be required to achieve additional energy savings for that year, but may achieve additional energy savings for that year. Thereafter, the annual savings requirements shall be, for years 2017, 2018, 2019, ~~and 2020,~~ 2021, 2022, 2023, 2024, and 2025, one per cent of the baseline, and two per cent ~~each year thereafter~~ for years 2026 and 2027, achieving cumulative energy savings in excess of ~~twenty-two~~ seventeen per cent by the end of 2027. For purposes of a waste energy recovery or combined heat and power system, an electric distribution utility shall not apply more than the total annual percentage of the electric distribution utility's industrial-customer load, relative to the electric distribution utility's total load, to the annual energy savings requirement.

(b) Beginning in 2009, an electric distribution utility shall implement peak demand reduction programs designed to achieve a one per cent reduction in peak demand in 2009 and an additional seventy-five hundredths of one per cent reduction each year through 2014. In 2015 and 2016, an electric distribution utility shall achieve a reduction in peak demand equal to the result of subtracting the cumulative peak demand reductions achieved since 2009 from the product of multiplying the baseline for peak demand reduction, described in division (A) (2) (a) of this section, by four and seventy-five hundredths of one per cent. If the result is zero or less for the year for which the calculation is being made, the utility shall not be required to achieve an additional reduction in peak demand for that year, but may achieve an additional reduction in peak demand for that year. In 2017 and each year thereafter through 2020, the utility shall achieve an additional seventy-five hundredths of one per cent reduction in peak demand.

(c) Subject to section 4928.6620 of the Revised Code, 1332  
noncompliance with the provisions of division (A) (1) (a) of this 1333  
section shall be subject to forfeitures under division (B) of 1334  
this section only for the requirements for years 2016, 2019, 1335  
2022, 2025, and 2027. Subject to section 4928.6620 of the 1336  
Revised Code, noncompliance with the provisions of division (A) 1337  
(1) (b) of this section shall be subject to forfeitures under 1338  
division (B) of this section only for the requirements for years 1339  
2016, 2019, and 2020. The sole penalty for an electric 1340  
distribution utility's failure to comply with any provision of 1341  
divisions (A) (1) (a) and (b) of this section shall be the 1342  
assessment of forfeitures in accordance with division (B) of 1343  
this section. 1344

(2) For the purposes of divisions (A) (1) (a) and (b) of 1345  
this section: 1346

(a) The baseline for energy savings under division (A) (1) 1347  
(a) of this section shall be the average of the total kilowatt 1348  
hours the electric distribution utility sold in the preceding 1349  
three calendar years. The baseline for a peak demand reduction 1350  
under division (A) (1) (b) of this section shall be the average 1351  
peak demand on the utility in the preceding three calendar 1352  
years, except that the commission may reduce either baseline to 1353  
adjust for new economic growth in the utility's certified 1354  
territory. Neither baseline shall include the load and usage of 1355  
any of the following customers: 1356

(i) Beginning January 1, 2017, a customer for which a 1357  
reasonable arrangement has been approved under section 4905.31 1358  
of the Revised Code; 1359

(ii) A customer that has opted out of the utility's 1360  
portfolio plan under section 4928.6611 of the Revised Code; 1361

(iii) A customer that has opted out of the utility's 1362  
portfolio plan under Section 8 of S.B. 310 of the 130th general 1363  
assembly as that section existed prior to the effective date of 1364  
the amendments to this section by ...B... of the 132nd general 1365  
assembly. 1366

(b) The commission may amend the benchmarks set forth in 1367  
division (A)(1)(a) or (b) of this section if, after application 1368  
by the electric distribution utility, the commission determines 1369  
that the amendment is necessary because the utility cannot 1370  
reasonably achieve the benchmarks due to regulatory, economic, 1371  
or technological reasons beyond its reasonable control. 1372

(c) Compliance with divisions (A)(1)(a) and (b) of this 1373  
section shall be measured by including the effects of all 1374  
demand-response programs for mercantile customers of the subject 1375  
electric distribution utility, all waste energy recovery systems 1376  
and all combined heat and power systems, and all such mercantile 1377  
customer-sited energy efficiency, including waste energy 1378  
recovery and combined heat and power, and peak demand reduction 1379  
programs, adjusted upward by the appropriate loss factors. Any 1380  
mechanism designed to recover the cost of energy efficiency, 1381  
including waste energy recovery and combined heat and power, and 1382  
peak demand reduction programs under divisions (A)(1)(a) and (b) 1383  
of this section may exempt mercantile customers that commit 1384  
their demand-response or other customer-sited capabilities, 1385  
whether existing or new, for integration into the electric 1386  
distribution utility's demand-response, energy efficiency, 1387  
including waste energy recovery and combined heat and power, or 1388  
peak demand reduction programs, if the commission determines 1389  
that that exemption reasonably encourages such customers to 1390  
commit those capabilities to those programs. If a mercantile 1391  
customer makes such existing or new demand-response, energy 1392

efficiency, including waste energy recovery and combined heat 1393  
and power, or peak demand reduction capability available to an 1394  
electric distribution utility pursuant to division (A) (2) (c) of 1395  
this section, the electric utility's baseline under division (A) 1396  
(2) (a) of this section shall be adjusted to exclude the effects 1397  
of all such demand-response, energy efficiency, including waste 1398  
energy recovery and combined heat and power, or peak demand 1399  
reduction programs that may have existed during the period used 1400  
to establish the baseline. The baseline also shall be normalized 1401  
for changes in numbers of customers, sales, weather, peak 1402  
demand, and other appropriate factors so that the compliance 1403  
measurement is not unduly influenced by factors outside the 1404  
control of the electric distribution utility. 1405

(d) (i) Programs implemented by a utility may include the 1406  
following: 1407

(I) Demand-response programs; 1408

(II) Smart grid investment programs, provided that such 1409  
programs are demonstrated to be cost-beneficial; 1410

(III) Customer-sited programs, including waste energy 1411  
recovery and combined heat and power systems; 1412

(IV) Transmission and distribution infrastructure 1413  
improvements that reduce line losses; 1414

(V) Energy intensity reductions resulting from heat rate 1415  
improvements at electric generating plants. As used in this 1416  
division, "energy intensity" has the same meaning as in section 1417  
4928.6610 of the Revised Code. 1418

(VI) Energy efficiency savings and peak demand reduction 1419  
that are achieved, in whole or in part, as a result of funding 1420  
provided from the universal service fund established by section 1421



4928.51 of the Revised Code to benefit low-income customers 1422  
through programs that include, but are not limited to, energy 1423  
audits, the installation of energy efficiency insulation, 1424  
appliances, and windows, and other weatherization measures. 1425

(ii) No energy efficiency or peak demand reduction 1426  
achieved under divisions (A) (2) (d) (i) (IV) ~~and~~, (V), and (VI) of 1427  
this section shall qualify for shared savings. 1428

(iii) Division (A) (2) (c) of this section shall be applied 1429  
to include facilitating efforts by a mercantile customer or 1430  
group of those customers to offer customer-sited demand- 1431  
response, energy efficiency, including waste energy recovery and 1432  
combined heat and power, or peak demand reduction capabilities 1433  
to the electric distribution utility as part of a reasonable 1434  
arrangement submitted to the commission pursuant to section 1435  
4905.31 of the Revised Code. 1436

(e) No programs or improvements described in division (A) 1437  
(2) (d) of this section shall conflict with any statewide 1438  
building code adopted by the board of building standards. 1439

~~(B) In accordance with rules it shall adopt, the public- 1440  
utilities commission shall produce and docket at the commission- 1441  
an annual report containing the results of its verification of- 1442  
the annual levels of energy efficiency and of peak demand- 1443  
reductions achieved by each electric distribution utility- 1444  
pursuant to division (A) of this section. A copy of the report- 1445  
shall be provided to the consumers' counsel. 1446~~

~~(C) If the commission determines, after notice and 1447  
opportunity for hearing and based upon its report the 1448  
information reported under division ~~(B)~~ (A) of this section 1449  
4928.6620 of the Revised Code and any other information that is 1450~~

public, that an electric distribution utility has failed to 1451  
comply with an energy efficiency ~~or peak demand reduction~~ 1452  
requirement ~~of~~ under division (A) (1) (a) of this section for 1453  
years 2016, 2019, 2022, 2025, or 2027 or a peak demand reduction 1454  
requirement under division (A) (1) (b) of this section for years 1455  
2016, 2019, or 2020, the commission shall assess a forfeiture on 1456  
the utility as provided under sections 4905.55 to 4905.60 and 1457  
4905.64 of the Revised Code, either in the amount, per day per 1458  
undercompliance or noncompliance, relative to the period of the 1459  
report submitted under division (A) of section 4928.6620 of the 1460  
Revised Code, equal to that prescribed for noncompliances under 1461  
section 4905.54 of the Revised Code, or in an amount equal to 1462  
the then existing market value of one renewable energy credit 1463  
per megawatt hour of undercompliance or noncompliance. Revenue 1464  
from any forfeiture assessed under this division shall be 1465  
deposited to the credit of the advanced energy fund created 1466  
under section 4928.61 of the Revised Code. 1467

~~(D)~~ (C) The commission may establish rules regarding the 1468  
content of an application by an electric distribution utility 1469  
for commission approval of a revenue decoupling mechanism under 1470  
this division. Such an application shall not be considered an 1471  
application to increase rates and may be included as part of a 1472  
proposal to establish, continue, or expand energy efficiency or 1473  
conservation programs. The commission by order may approve an 1474  
application under this division if it determines both that the 1475  
revenue decoupling mechanism provides for the recovery of 1476  
revenue that otherwise may be forgone by the utility as a result 1477  
of or in connection with the implementation by the electric 1478  
distribution utility of any energy efficiency or energy 1479  
conservation programs and reasonably aligns the interests of the 1480  
utility and of its customers in favor of those programs. 1481

~~(E)~~—(D) The commission additionally shall adopt rules that 1482  
require an electric distribution utility to provide a customer 1483  
upon request with two years' consumption data in an accessible 1484  
form. 1485

**Sec. 4928.662.** For the purpose of measuring and 1486  
determining compliance with the energy efficiency and peak 1487  
demand reduction requirements under section 4928.66 of the 1488  
Revised Code, the public utilities commission shall count and 1489  
recognize compliance as follows: 1490

(A) Energy efficiency savings and peak demand reduction 1491  
achieved through actions taken by customers or through electric 1492  
distribution utility programs that comply with federal standards 1493  
for either or both energy efficiency and peak demand reduction 1494  
requirements, including resources associated with such savings 1495  
or reduction that are recognized as capacity resources by the 1496  
regional transmission organization operating in Ohio in 1497  
compliance with section 4928.12 of the Revised Code, shall count 1498  
toward compliance with the energy efficiency and peak demand 1499  
reduction requirements. 1500

(B) Energy efficiency savings and peak demand reduction 1501  
achieved on and after the effective date of S.B. 310 of the 1502  
130th general assembly, September 12, 2014, shall be measured on 1503  
the higher of an as found or deemed basis, except that, solely 1504  
at the option of the electric distribution utility, such savings 1505  
and reduction achieved since 2006 may also be measured using 1506  
this method. For new construction, the energy efficiency savings 1507  
and peak demand reduction shall be counted based on 2008 federal 1508  
standards, provided that when new construction replaces an 1509  
existing facility, the difference in energy consumed, energy 1510  
intensity, and peak demand between the new and replaced facility 1511

shall be counted toward meeting the energy efficiency and peak demand reduction requirements. 1512  
1513

(C) The commission shall count both the energy efficiency savings and peak demand reduction on an annualized basis. 1514  
1515

(D) The commission shall count both the energy efficiency savings and peak demand reduction on a gross savings basis. 1516  
1517

(E) The commission shall count energy efficiency savings and peak demand reductions associated with transmission and distribution infrastructure improvements that reduce line losses and with energy intensity reductions resulting from heat rate improvements at electric generating plants. No energy efficiency or peak demand reduction achieved under division (E) of this section shall qualify for shared savings. 1518  
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(F) Energy efficiency savings and peak demand reduction amounts approved by the commission shall continue to be counted toward achieving the energy efficiency and peak demand reduction requirements as long as the requirements remain in effect. 1525  
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~~(G) Any energy efficiency savings or peak demand reduction amount achieved in excess of the requirements may, at the discretion of the electric distribution utility, be banked and applied toward achieving the energy efficiency or peak demand reduction requirements in future years.~~ The commission shall recognize and count energy efficiency savings and peak demand reductions that occur as a consequence of consumer reductions in water usage or reductions and improvements in wastewater treatment. 1529  
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(H) The commission shall recognize and count, on a British-thermal-unit-equivalent basis, nonelectric energy efficiency savings or nonelectric peak demand reductions that 1538  
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1540

occur as a consequence of a portfolio plan, as defined in 1541  
section 4928.6610 of the Revised Code. 1542

(I) The commission shall recognize and count, as energy 1543  
efficiency savings and peak demand reduction, the savings and 1544  
reduction associated with heat rate improvements, other 1545  
efficiency improvements, or other energy intensity improvements, 1546  
if such savings and reduction are both of the following: 1547

(1) Proposed by an electric distribution utility in its 1548  
sole discretion; 1549

(2) Achieved since 2006 from an electric generating plant 1550  
that is either: 1551

(a) Owned by the electric distribution utility; or 1552

(b) Owned and operated by an affiliate of the electric 1553  
distribution utility provided that the generating plant was 1554  
previously owned, in whole or in part, by an electric 1555  
distribution utility located in this state. 1556

No energy efficiency savings or peak demand reduction 1557  
achieved under division (I) of this section shall qualify for 1558  
shared savings. 1559

(J) The commission shall count energy efficiency savings 1560  
associated with any plan, policy, behavior, or practice that 1561  
reduces either of the following: 1562

(1) The total energy intensity of a facility, pipeline, 1563  
building, plant, or equipment, regardless of the type of energy 1564  
intensity reduction; 1565

(2) The energy intensity of any water supply function or 1566  
water treatment function. 1567

<u>(K) As used in this section:</u>	1568
<u>(1) "Energy intensity" has the same meaning as in section 4928.6610 of the Revised Code.</u>	1569 1570
<u>(2) "Water supply function" means the functions associated with the following:</u>	1571 1572
<u>(a) Raw water collection, purification, treatment, and storage;</u>	1573 1574
<u>(b) Establishing or maintaining pressure to balance water supply and demand;</u>	1575 1576
<u>(c) Water delivery and transfer.</u>	1577
<u>(3) "Water treatment function" means any of the preliminary, secondary, tertiary, and advanced activities, whether physical, biological, or chemical, associated with the removal of contaminants from, or conditioning of, wastewater prior to its return to the environment or recycled use.</u>	1578 1579 1580 1581 1582
<b>Sec. 4928.6610.</b> As used in sections 4928.6611 to 4928.6616 of the Revised Code:	1583 1584
<u>(A) "Customer" means <del>any</del> either of the following:</u>	1585
<u>(1) A mercantile customer of an electric distribution utility;</u>	1586 1587
<u>(2) Any customer of an electric distribution utility to which either of the following applies:</u>	1588 1589
<del>(1)</del> <u>(a) The customer receives service above the primary voltage level as determined by the utility's tariff classification.</u>	1590 1591 1592
<del>(2)</del> <u>(b) The customer is a commercial or industrial customer to which both of the following apply:</u>	1593 1594

~~(a)-(i)~~ The customer receives electricity through a meter 1595  
of an end user or through more than one meter at a single 1596  
location in a quantity that exceeds forty-five million kilowatt 1597  
hours of electricity for the preceding calendar year. 1598

~~(b)-(ii)~~ The customer has made a written request for 1599  
registration as a self-assessing purchaser pursuant to section 1600  
5727.81 of the Revised Code. 1601

(B) "Energy intensity" means the amount of energy, ~~from~~ 1602  
~~electricity, used or consumed per unit of production to produce~~ 1603  
a certain level of output or activity, measured by the quantity 1604  
of energy needed to perform a particular activity, expressed as 1605  
energy per unit of output, energy per unit of gross total floor 1606  
space, or an activity measure of service. 1607

(C) "Portfolio plan" means the comprehensive energy 1608  
efficiency and peak-demand reduction program portfolio plan 1609  
required under rules adopted by the public utilities commission 1610  
and codified in Chapter 4901:1-39 of the Administrative Code or 1611  
hereafter recodified or amended. 1612

**Sec. 4928.6611.** Beginning January 1, 2017, a customer of 1613  
an electric distribution utility may opt out of the opportunity 1614  
and ability to obtain direct benefits from the utility's 1615  
portfolio plan, regardless of whether the portfolio plan has 1616  
been amended or continued under Section 4 of ...B... of the 1617  
132nd general assembly. Such an opt out shall extend to all of 1618  
the customer's accounts, irrespective of the size or service 1619  
voltage level that are associated with the activities performed 1620  
by the customer and that are located on or adjacent to the 1621  
customer's premises. 1622

**Sec. 4928.6620.** (A) Beginning in 2018, every electric 1623

distribution utility and electric services company shall submit 1624  
an annual report for the prior calendar year to the public 1625  
utilities commission not later than the first day of July of 1626  
each year. The report shall detail the amount of electricity 1627  
that the utility or company provided from qualifying renewable 1628  
energy resources during that calendar year and, in the case of a 1629  
utility, the utility's status of compliance with the provisions 1630  
of section 4928.66 of the Revised Code. The commission shall 1631  
modify its rules in accordance with this reporting requirement, 1632  
including the filing date. 1633

If an electric distribution utility reports the amount of 1634  
electricity that it provided from qualifying renewable energy 1635  
resources as a portion of the electricity supply required for 1636  
its standard service offer under section 4928.141 of the Revised 1637  
Code, or if an electric services company reports the amount of 1638  
electricity that it provided from qualifying renewable energy 1639  
resources as a portion of its electricity supply for retail 1640  
consumers in this state, those portions shall be reported as 1641  
percentages of the baseline as defined in section 4928.643 of 1642  
the Revised Code. 1643

(B) Beginning in 2018, the commission shall submit a 1644  
report to the general assembly and the Ohio consumers' counsel 1645  
not later than the first day of August of each year and in 1646  
accordance with section 101.68 of the Revised Code. The report 1647  
shall detail all of the following: 1648

(1) The compliance of electric distribution utilities with 1649  
section 4928.66 of the Revised Code, based on the information 1650  
reported under division (A) of this section and any other 1651  
information that is public; 1652

(2) The amount of electricity provided by electric 1653



distribution utilities and electric services companies from 1654  
qualifying renewable energy resources during the year covered in 1655  
the report, based on the information reported under division (A) 1656  
of this section and any other information that is public; 1657

(3) The average annual cost of renewable energy credits 1658  
purchased by utilities and companies for the year covered in the 1659  
report; 1660

(4) Any strategy for encouraging the use of qualifying 1661  
renewable energy resources in supplying this state's electricity 1662  
needs in a manner that considers available technology, costs, 1663  
job creation, and economic impacts. 1664

(C) Not later than the first day of September of each 1665  
year, the commission chairperson shall provide testimony on the 1666  
report required in that year under division (B) of this section 1667  
to the standing committees of both houses of the general 1668  
assembly that deal with public utility matters. 1669

**Sec. 4928.6621.** (A) Any energy efficiency savings or peak 1670  
demand reduction amount achieved in excess of the requirements 1671  
under section 4928.66 of the Revised Code may, at the discretion 1672  
of the electric distribution utility, be banked and applied 1673  
toward achieving the energy efficiency or peak demand reduction 1674  
requirements in future years. 1675

(B) An electric distribution utility shall be deemed in 1676  
compliance with the energy efficiency and peak demand reduction 1677  
savings requirements and shall be eligible for incentives 1678  
approved by the public utilities commission in any year in which 1679  
the utility's actual cumulative energy efficiency and peak 1680  
demand reduction savings meet or exceed the cumulative mandates 1681  
under division (A) (1) of section 4928.66 of the Revised Code. 1682

<b>Sec. 5727.75.</b> (A) For purposes of this section:	1683
(1) "Qualified energy project" means an energy project certified by the director of development services pursuant to this section.	1684 1685 1686
(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.	1687 1688 1689
(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E) (1) (b) or (c) of this section.	1690 1691 1692
(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.	1693 1694 1695 1696 1697
(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.	1698 1699 1700
(B) (1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 through 2021 if all of the following conditions are satisfied:	1701 1702 1703 1704
(a) On or before December 31, 2020, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision	1705 1706 1707 1708 1709 1710 1711

of this state for the construction or initial operation of an 1712  
energy project. 1713

(b) Construction or installation of the energy facility 1714  
begins on or after January 1, 2009, and before January 1, 2021. 1715  
For the purposes of this division, construction begins on the 1716  
earlier of the date of application for a certificate or other 1717  
approval or permit described in division (B) (1) (a) of this 1718  
section, or the date the contract for the construction or 1719  
installation of the energy facility is entered into. 1720

(c) For a qualified energy project with a nameplate 1721  
capacity of five megawatts or greater, a board of county 1722  
commissioners of a county in which property of the project is 1723  
located has adopted a resolution under division (E) (1) (b) or (c) 1724  
of this section to approve the application submitted under 1725  
division (E) of this section to exempt the property located in 1726  
that county from taxation. A board's adoption of a resolution 1727  
rejecting an application or its failure to adopt a resolution 1728  
approving the application does not affect the tax-exempt status 1729  
of the qualified energy project's property that is located in 1730  
another county. 1731

(2) If tangible personal property of a qualified energy 1732  
project using renewable energy resources was exempt from 1733  
taxation under this section beginning in any of tax years 2011 1734  
through 2021, and the certification under division (E) (2) of 1735  
this section has not been revoked, the tangible personal 1736  
property of the qualified energy project is exempt from taxation 1737  
for tax year 2022 and all ensuing tax years if the property was 1738  
placed into service before January 1, 2022, as certified in the 1739  
construction progress report required under division (F) (2) of 1740  
this section. Tangible personal property that has not been 1741

placed into service before that date is taxable property subject 1742  
to taxation. An energy project for which certification has been 1743  
revoked is ineligible for further exemption under this section. 1744  
Revocation does not affect the tax-exempt status of the 1745  
project's tangible personal property for the tax year in which 1746  
revocation occurs or any prior tax year. 1747

(C) Tangible personal property of a qualified energy 1748  
project using clean coal technology, advanced nuclear 1749  
technology, or cogeneration technology is exempt from taxation 1750  
for the first tax year that the property would be listed for 1751  
taxation and all subsequent years if all of the following 1752  
circumstances are met: 1753

(1) The property was placed into service before January 1, 1754  
2021. Tangible personal property that has not been placed into 1755  
service before that date is taxable property subject to 1756  
taxation. 1757

(2) For such a qualified energy project with a nameplate 1758  
capacity of five megawatts or greater, a board of county 1759  
commissioners of a county in which property of the qualified 1760  
energy project is located has adopted a resolution under 1761  
division (E) (1) (b) or (c) of this section to approve the 1762  
application submitted under division (E) of this section to 1763  
exempt the property located in that county from taxation. A 1764  
board's adoption of a resolution rejecting the application or 1765  
its failure to adopt a resolution approving the application does 1766  
not affect the tax-exempt status of the qualified energy 1767  
project's property that is located in another county. 1768

(3) The certification for the qualified energy project 1769  
issued under division (E) (2) of this section has not been 1770  
revoked. An energy project for which certification has been 1771

revoked is ineligible for exemption under this section. 1772  
Revocation does not affect the tax-exempt status of the 1773  
project's tangible personal property for the tax year in which 1774  
revocation occurs or any prior tax year. 1775

(D) Except as otherwise provided in this section, real 1776  
property of a qualified energy project is exempt from taxation 1777  
for any tax year for which the tangible personal property of the 1778  
qualified energy project is exempted under this section. 1779

(E) (1) (a) A person may apply to the director of 1780  
development services for certification of an energy project as a 1781  
qualified energy project on or before the following dates: 1782

(i) December 31, 2020, for an energy project using 1783  
renewable energy resources; 1784

(ii) December 31, 2017, for an energy project using clean 1785  
coal technology, advanced nuclear technology, or cogeneration 1786  
technology. 1787

(b) The director shall forward a copy of each application 1788  
for certification of an energy project with a nameplate capacity 1789  
of five megawatts or greater to the board of county 1790  
commissioners of each county in which the project is located and 1791  
to each taxing unit with territory located in each of the 1792  
affected counties. Any board that receives from the director a 1793  
copy of an application submitted under this division shall adopt 1794  
a resolution approving or rejecting the application unless it 1795  
has adopted a resolution under division (E) (1) (c) of this 1796  
section. A resolution adopted under division (E) (1) (b) or (c) of 1797  
this section may require an annual service payment to be made in 1798  
addition to the service payment required under division (G) of 1799  
this section. The sum of the service payment required in the 1800

resolution and the service payment required under division (G) 1801  
of this section shall not exceed nine thousand dollars per 1802  
megawatt of nameplate capacity located in the county. The 1803  
resolution shall specify the time and manner in which the 1804  
payments required by the resolution shall be paid to the county 1805  
treasurer. The county treasurer shall deposit the payment to the 1806  
credit of the county's general fund to be used for any purpose 1807  
for which money credited to that fund may be used. 1808

The board shall send copies of the resolution by certified 1809  
mail to the owner of the facility and the director within thirty 1810  
days after receipt of the application, or a longer period of 1811  
time if authorized by the director. 1812

(c) A board of county commissioners may adopt a resolution 1813  
declaring the county to be an alternative energy zone and 1814  
declaring all applications submitted to the director of 1815  
development services under this division after the adoption of 1816  
the resolution, and prior to its repeal, to be approved by the 1817  
board. 1818

All tangible personal property and real property of an 1819  
energy project with a nameplate capacity of five megawatts or 1820  
greater is taxable if it is located in a county in which the 1821  
board of county commissioners adopted a resolution rejecting the 1822  
application submitted under this division or failed to adopt a 1823  
resolution approving the application under division (E) (1) (b) or 1824  
(c) of this section. 1825

(2) The director shall certify an energy project if all of 1826  
the following circumstances exist: 1827

(a) The application was timely submitted. 1828

(b) For an energy project with a nameplate capacity of 1829

five megawatts or greater, a board of county commissioners of at 1830  
least one county in which the project is located has adopted a 1831  
resolution approving the application under division (E) (1) (b) or 1832  
(c) of this section. 1833

(c) No portion of the project's facility was used to 1834  
supply electricity before December 31, 2009. 1835

(3) The director shall deny a certification application if 1836  
the director determines the person has failed to comply with any 1837  
requirement under this section. The director may revoke a 1838  
certification if the director determines the person, or 1839  
subsequent owner or lessee pursuant to a sale and leaseback 1840  
transaction of the qualified energy project, has failed to 1841  
comply with any requirement under this section. Upon 1842  
certification or revocation, the director shall notify the 1843  
person, owner, or lessee, the tax commissioner, and the county 1844  
auditor of a county in which the project is located of the 1845  
certification or revocation. Notice shall be provided in a 1846  
manner convenient to the director. 1847

(F) The owner or a lessee pursuant to a sale and leaseback 1848  
transaction of a qualified energy project shall do each of the 1849  
following: 1850

(1) Comply with all applicable regulations; 1851

(2) File with the director of development services a 1852  
certified construction progress report before the first day of 1853  
March of each year during the energy facility's construction or 1854  
installation indicating the percentage of the project completed, 1855  
and the project's nameplate capacity, as of the preceding 1856  
thirty-first day of December. Unless otherwise instructed by the 1857  
director of development services, the owner or lessee of an 1858

energy project shall file a report with the director on or 1859  
before the first day of March each year after completion of the 1860  
energy facility's construction or installation indicating the 1861  
project's nameplate capacity as of the preceding thirty-first 1862  
day of December. Not later than sixty days after June 17, 2010, 1863  
the owner or lessee of an energy project, the construction of 1864  
which was completed before June 17, 2010, shall file a 1865  
certificate indicating the project's nameplate capacity. 1866

(3) File with the director of development services, in a 1867  
manner prescribed by the director, a report of the total number 1868  
of full-time equivalent employees, and the total number of full- 1869  
time equivalent employees domiciled in Ohio, who are employed in 1870  
the construction or installation of the energy facility; 1871

(4) For energy projects with a nameplate capacity of five 1872  
megawatts or greater, repair all roads, bridges, and culverts 1873  
affected by construction as reasonably required to restore them 1874  
to their preconstruction condition, as determined by the county 1875  
engineer in consultation with the local jurisdiction responsible 1876  
for the roads, bridges, and culverts. In the event that the 1877  
county engineer deems any road, bridge, or culvert to be 1878  
inadequate to support the construction or decommissioning of the 1879  
energy facility, the road, bridge, or culvert shall be rebuilt 1880  
or reinforced to the specifications established by the county 1881  
engineer prior to the construction or decommissioning of the 1882  
facility. The owner or lessee of the facility shall post a bond 1883  
in an amount established by the county engineer and to be held 1884  
by the board of county commissioners to ensure funding for 1885  
repairs of roads, bridges, and culverts affected during the 1886  
construction. The bond shall be released by the board not later 1887  
than one year after the date the repairs are completed. The 1888  
energy facility owner or lessee pursuant to a sale and leaseback 1889



transaction shall post a bond, as may be required by the Ohio 1890  
power siting board in the certificate authorizing commencement 1891  
of construction issued pursuant to section 4906.10 of the 1892  
Revised Code, to ensure funding for repairs to roads, bridges, 1893  
and culverts resulting from decommissioning of the facility. The 1894  
energy facility owner or lessee and the county engineer may 1895  
enter into an agreement regarding specific transportation plans, 1896  
reinforcements, modifications, use and repair of roads, 1897  
financial security to be provided, and any other relevant issue. 1898

(5) Provide or facilitate training for fire and emergency 1899  
responders for response to emergency situations related to the 1900  
energy project and, for energy projects with a nameplate 1901  
capacity of five megawatts or greater, at the person's expense, 1902  
equip the fire and emergency responders with proper equipment as 1903  
reasonably required to enable them to respond to such emergency 1904  
situations; 1905

(6) Maintain a ratio of Ohio-domiciled full-time 1906  
equivalent employees employed in the construction or 1907  
installation of the energy project to total full-time equivalent 1908  
employees employed in the construction or installation of the 1909  
energy project of not less than eighty per cent in the case of a 1910  
solar energy project, and not less than fifty per cent in the 1911  
case of any other energy project. In the case of an energy 1912  
project for which certification from the power siting board is 1913  
required under section 4906.20 of the Revised Code, the number 1914  
of full-time equivalent employees employed in the construction 1915  
or installation of the energy project equals the number actually 1916  
employed or the number projected to be employed in the 1917  
certificate application, if such projection is required under 1918  
regulations adopted pursuant to section 4906.03 of the Revised 1919  
Code, whichever is greater. For all other energy projects, the 1920

number of full-time equivalent employees employed in the 1921  
construction or installation of the energy project equals the 1922  
number actually employed or the number projected to be employed 1923  
by the director of development services, whichever is greater. 1924  
To estimate the number of employees to be employed in the 1925  
construction or installation of an energy project, the director 1926  
shall use a generally accepted job-estimating model in use for 1927  
renewable energy projects, including but not limited to the job 1928  
and economic development impact model. The director may adjust 1929  
an estimate produced by a model to account for variables not 1930  
accounted for by the model. 1931

(7) For energy projects with a nameplate capacity in 1932  
excess of two megawatts, establish a relationship with a member 1933  
of the university system of Ohio as defined in section 3345.011 1934  
of the Revised Code or with a person offering an apprenticeship 1935  
program registered with the employment and training 1936  
administration within the United States department of labor or 1937  
with the apprenticeship council created by section 4139.02 of 1938  
the Revised Code, to educate and train individuals for careers 1939  
in the wind or solar energy industry. The relationship may 1940  
include endowments, cooperative programs, internships, 1941  
apprenticeships, research and development projects, and 1942  
curriculum development. 1943

(8) Offer to sell power or renewable energy credits from 1944  
the energy project to electric distribution utilities or 1945  
electric service companies ~~subject to renewable energy resource~~ 1946  
~~requirements under section 4928.64 of the Revised Code~~ that have 1947  
issued requests for proposal for such power or renewable energy 1948  
credits. If no electric distribution utility or electric service 1949  
company issues a request for proposal on or before December 31, 1950  
2010, or accepts an offer for power or renewable energy credits 1951

within forty-five days after the offer is submitted, power or 1952  
renewable energy credits from the energy project may be sold to 1953  
other persons. Division (F) (8) of this section does not apply 1954  
if: 1955

(a) The owner or lessee is a rural electric company or a 1956  
municipal power agency as defined in section 3734.058 of the 1957  
Revised Code. 1958

(b) The owner or lessee is a person that, before 1959  
completion of the energy project, contracted for the sale of 1960  
power or renewable energy credits with a rural electric company 1961  
or a municipal power agency. 1962

(c) The owner or lessee contracts for the sale of power or 1963  
renewable energy credits from the energy project before June 17, 1964  
2010. 1965

(9) Make annual service payments as required by division 1966  
(G) of this section and as may be required in a resolution 1967  
adopted by a board of county commissioners under division (E) of 1968  
this section. 1969

(G) The owner or a lessee pursuant to a sale and leaseback 1970  
transaction of a qualified energy project shall make annual 1971  
service payments in lieu of taxes to the county treasurer on or 1972  
before the final dates for payments of taxes on public utility 1973  
personal property on the real and public utility personal 1974  
property tax list for each tax year for which property of the 1975  
energy project is exempt from taxation under this section. The 1976  
county treasurer shall allocate the payment on the basis of the 1977  
project's physical location. Upon receipt of a payment, or if 1978  
timely payment has not been received, the county treasurer shall 1979  
certify such receipt or non-receipt to the director of 1980

development services and tax commissioner in a form determined 1981  
by the director and commissioner, respectively. Each payment 1982  
shall be in the following amount: 1983

(1) In the case of a solar energy project, seven thousand 1984  
dollars per megawatt of nameplate capacity located in the county 1985  
as of December 31, 2010, for tax year 2011, as of December 31, 1986  
2011, for tax year 2012, as of December 31, 2012, for tax year 1987  
2013, as of December 31, 2013, for tax year 2014, as of December 1988  
31, 2014, for tax year 2015, as of December 31, 2015, for tax 1989  
year 2016, and as of December 31, 2016, for tax year 2017 and 1990  
each tax year thereafter; 1991

(2) In the case of any other energy project using 1992  
renewable energy resources, the following: 1993

(a) If the project maintains during the construction or 1994  
installation of the energy facility a ratio of Ohio-domiciled 1995  
full-time equivalent employees to total full-time equivalent 1996  
employees of not less than seventy-five per cent, six thousand 1997  
dollars per megawatt of nameplate capacity located in the county 1998  
as of the thirty-first day of December of the preceding tax 1999  
year; 2000

(b) If the project maintains during the construction or 2001  
installation of the energy facility a ratio of Ohio-domiciled 2002  
full-time equivalent employees to total full-time equivalent 2003  
employees of less than seventy-five per cent but not less than 2004  
sixty per cent, seven thousand dollars per megawatt of nameplate 2005  
capacity located in the county as of the thirty-first day of 2006  
December of the preceding tax year; 2007

(c) If the project maintains during the construction or 2008  
installation of the energy facility a ratio of Ohio-domiciled 2009

full-time equivalent employees to total full-time equivalent 2010  
employees of less than sixty per cent but not less than fifty 2011  
per cent, eight thousand dollars per megawatt of nameplate 2012  
capacity located in the county as of the thirty-first day of 2013  
December of the preceding tax year. 2014

(3) In the case of an energy project using clean coal 2015  
technology, advanced nuclear technology, or cogeneration 2016  
technology, the following: 2017

(a) If the project maintains during the construction or 2018  
installation of the energy facility a ratio of Ohio-domiciled 2019  
full-time equivalent employees to total full-time equivalent 2020  
employees of not less than seventy-five per cent, six thousand 2021  
dollars per megawatt of nameplate capacity located in the county 2022  
as of the thirty-first day of December of the preceding tax 2023  
year; 2024

(b) If the project maintains during the construction or 2025  
installation of the energy facility a ratio of Ohio-domiciled 2026  
full-time equivalent employees to total full-time equivalent 2027  
employees of less than seventy-five per cent but not less than 2028  
sixty per cent, seven thousand dollars per megawatt of nameplate 2029  
capacity located in the county as of the thirty-first day of 2030  
December of the preceding tax year; 2031

(c) If the project maintains during the construction or 2032  
installation of the energy facility a ratio of Ohio-domiciled 2033  
full-time equivalent employees to total full-time equivalent 2034  
employees of less than sixty per cent but not less than fifty 2035  
per cent, eight thousand dollars per megawatt of nameplate 2036  
capacity located in the county as of the thirty-first day of 2037  
December of the preceding tax year. 2038

(H) The director of development services in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

**Section 2.** That existing sections 4928.142, 4928.143, 4928.20, 4928.61, 4928.62, 4928.64, 4928.641, 4928.643, 4928.644, 4928.645, 4928.65, 4928.66, 4928.662, 4928.6610, 4928.6611, and 5727.75 of the Revised Code are hereby repealed.

**Section 3.** That Sections 5, 6, 7, 8, 9, 10, and 11 of Sub. S.B. 310 of the 130th General Assembly are hereby repealed.

**Section 4.** (A) As used in this section, "portfolio plan" has the same meaning as in section 4928.6610 of the Revised Code.

(B) (1) If an electric distribution utility has a portfolio plan that is in effect on the effective date of this section, the utility may file an application with the Public Utilities Commission not later than thirty days after the effective date of this section to amend the plan. The Commission shall review the application in accordance with its rules as if the application were for a new portfolio plan. The Commission shall review and approve, or modify and approve, the application not later than sixty days after the date the application is filed. If the Commission fails to review and approve, or modify and approve, the application within those sixty days, the plan shall be deemed approved as amended in the application and shall take effect on the sixty-first day after the application was filed.

(2) A portfolio plan that is amended under division (B) (1) of this section shall accord with Chapter 4928. of the Revised Code as amended by this act.

(C) If an electric distribution utility has a portfolio

plan that is in effect on the effective date of this section and 2068  
the utility does not apply to amend the plan within the thirty 2069  
days required by division (B)(1) of this section, the utility 2070  
shall continue to implement the portfolio plan with no 2071  
amendments to the plan, for the duration that the Commission 2072  
originally approved, regardless of whether the portfolio plan 2073  
accords with Chapter 4928. of the Revised Code as amended by 2074  
this act. 2075

**Section 5.** (A) In 2017, the Public Utilities Commission 2076  
shall review an electric distribution utility's or electric 2077  
services company's compliance with the benchmarks for 2016 under 2078  
division (B)(2) of section 4928.64 of the Revised Code as that 2079  
division existed prior to the effective date of this section, 2080  
and in the course of that review, shall identify any 2081  
undercompliance or noncompliance of the utility or company that 2082  
it determines is weather-related, related to equipment or 2083  
resource shortages for qualifying renewable energy resources as 2084  
applicable, or is otherwise outside the utility's or company's 2085  
control. 2086

(B) Subject to the cost cap provisions of division (C)(3) 2087  
of section 4928.64 of the Revised Code as that division existed 2088  
prior to the effective date of this section, if the Commission 2089  
determines, after notice and opportunity for hearing, and based 2090  
upon its findings in the review under division (A) of this 2091  
section regarding avoidable undercompliance or noncompliance, 2092  
but subject to the force-majeure provisions of division (C)(4) 2093  
(a) of section 4928.64 of the Revised Code as that division 2094  
existed prior to the effective date of this section, that the 2095  
utility or company has failed to comply with the benchmarks for 2096  
2016, the commission shall impose a renewable energy compliance 2097  
payment on the utility or company. 2098

(1) The compliance payment pertaining to the solar energy resource benchmark for 2016 shall be three hundred dollars per megawatt hour of undercompliance or noncompliance in the period under review.

(2) The compliance payment pertaining to the renewable energy resource benchmark for 2016 shall be assessed in accordance with division (C) (2) (b) of section 4928.64 of the Revised Code as that division existed prior to the effective date of this section.

(C) Division (C) (2) (c) of section 4928.64 of the Revised Code as that division existed prior to the effective date of this section applies to compliance payments imposed under this section.

**Section 6.** The amendments to division (A) of section 4928.6610 of the Revised Code by this act take effect January 1, 2019.

**Section 7.** That Section 257.80 of Am. Sub. H.B. 64 of the 131st General Assembly be amended to read as follows:

**Sec. 257.80.** HEAP WEATHERIZATION

~~Up to twenty-five~~ Twenty-five per cent of the federal funds deposited to the credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) ~~may~~ shall be expended from appropriation item 195614, HEAP Weatherization, to provide home weatherization services in the state as determined by the Director of Development Services. ~~Any transfers or increases in appropriation for the foregoing appropriation items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.~~

The Director of Development Services shall, in good faith,



take all necessary steps, including, but not limited to, 2128  
applying for any waivers that are needed from the United States 2129  
Department of Health and Human Services and any other applicable 2130  
federal agencies to secure and execute this allocation. 2131

**Section 8.** That existing Section 257.80 of Am. Sub. H.B. 2132  
64 of the 131st General Assembly is hereby repealed. 2133

**Section 9.** Sections 7 and 8 of this act take effect June 2134  
30, 2017. 2135