

As Reported by the Senate Energy and Public Utilities Committee

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Sub. S. B. No. 232

Senator Widener

Cosponsors: Senators Goodman, Jones, Wagoner

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A B I L L

To amend sections 717.25, 1710.01, 1710.02, 1710.06,	1
1710.07, 4928.64, 5709.53, 5713.30, 5713.34,	2
5727.01, 5727.02, 5727.06, 5727.11, 5727.111,	3
5727.15, 5727.30, and 5739.02 and to enact	4
sections 1710.061, 4935.10, and 5727.75 of the	5
Revised Code to expand special improvement	6
district energy improvement projects and the	7
municipal solar energy revolving loan program law	8
to include alternative energy, to address the	9
treatment of energy efficiency savings and	10
reductions in demand regarding certain energy	11
projects, to exempt qualifying energy facilities	12
from property taxation upon county approval, to	13
require payments in lieu of taxes on the basis of	14
each megawatt of production capacity of such	15
facilities, to prohibit the use of the exemption	16
to determine the cost of compliance for the	17
state's alternative energy portfolio standard, to	18
clarify the sales and use tax treatment of related	19
energy conversion equipment purchases, to specify	20
that operators of such facilities are subject to	21
the commercial activity tax, and to require the	22
Public Utilities Commission to study reactive	23

power in the state.

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

Section 1. That sections 717.25, 1710.01, 1710.02, 1710.06,
1710.07, 4928.64, 5709.53, 5713.30, 5713.34, 5727.01, 5727.02,
5727.06, 5727.11, 5727.111, 5727.15, 5727.30, and 5739.02 be
amended and sections 1710.061, 4935.10, and 5727.75 of the Revised
Code be enacted to read as follows:

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Sec. 717.25. (A)(1) As used in this section,
"customer-generated energy project" means a wind, biomass, or
gasification facility for the generation of electricity that meets
either of the following requirements:

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(a) The facility is designed to have a generating capacity of
two hundred fifty kilowatts of electricity or less.

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(b) The facility is:

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(i) Designed to have a generating capacity of more than two
hundred fifty kilowatts of electricity;

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(ii) Operated in parallel with electric transmission and
distribution facilities serving the real property at the site of
the customer-generated energy project;

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(iii) Intended primarily to offset part or all of the
facility owner's requirements for electricity at the site of the
customer-generated energy project and is located on the facility
owner's real property; and

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(iv) Not producing energy for direct sale by the facility
owner to the public.

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(2) "Electric distribution utility" and "mercantile customer"
have the same meanings as in section 4928.01 of the Revised Code.

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(3) "Reduction in demand" has the same meaning as in section 50
1710.01 of the Revised Code. 51

(B) The legislative authority of a municipal corporation may 52
establish a low-cost ~~solar panel~~ alternative energy revolving loan 53
program to assist ~~residents of~~ owners of real property within the 54
municipal corporation to install solar panels at their residences. 55
If with installing and implementing either of the following on 56
their real property: 57

(1) Alternative energy technologies limited to solar 58
photovoltaic projects, solar thermal energy projects, geothermal 59
energy projects, and customer-generated energy projects; 60

(2) Energy efficiency technologies, products, and activities 61
that reduce or support the reduction of energy consumption, allow 62
for the reduction in demand, or support the production of clean, 63
renewable energy. 64

(C) If the legislative authority decides to establish such a 65
program, the legislative authority shall adopt an ordinance that 66
provides for the following: 67

~~(A)~~(1) Creation in the municipal treasury of a ~~residential~~ 68
~~solar panel~~ an alternative energy revolving loan fund; 69

~~(B)~~(2) A source of money, such as gifts, bond issues, real 70
property assessments, or federal subsidies, to seed the 71
~~residential solar panel~~ alternative energy revolving loan fund; 72

~~(C)~~(3) Facilities for making loans from the ~~residential solar~~ 73
~~panel~~ alternative energy revolving loan fund, including an 74
explanation of how ~~residents of~~ owners of real property within the 75
municipal corporation may qualify for loans from the fund, a 76
description of the ~~solar panels~~ alternative energy and energy 77
efficiency technologies and related equipment for which a loan can 78
be made from the fund, authorization of a municipal agency to 79
process applications for loans and otherwise to administer the 80

low-cost ~~solar panel~~ alternative energy revolving loan program, a 81
procedure whereby loans can be applied for, criteria for reviewing 82
and accepting or denying applications for loans, criteria for 83
determining the appropriate amount of a loan, the interest rate to 84
be charged, the repayment schedule, and other terms and conditions 85
of a loan, and procedures for collecting loans that are not repaid 86
according to the repayment schedule; 87

~~(D)~~(4) A specification that repayments of loans from the 88
~~residential solar panel~~ alternative energy revolving loan fund may 89
be made in installments and, at the option of the ~~resident~~ real 90
property owner repaying the loan, the installments may be paid and 91
collected as if they were special assessments paid and collected 92
in the manner specified in Chapter 727. of the Revised Code and as 93
specified in the ordinance; 94

~~(E)~~(5) A specification that repayments of loans from the 95
~~residential solar panel~~ alternative energy revolving loan fund are 96
to be credited to the fund, that the money in the fund is to be 97
invested pending its being lent out, and that investment earnings 98
on the money in the fund ~~is~~ are to be credited to the fund; and 99

~~(F)~~(6) Other matters necessary and proper for efficient 100
operation of the low-cost ~~solar panel~~ alternative energy revolving 101
loan program as a means of encouraging use of ~~renewable~~ 102
alternative energy and energy efficiency technologies. 103

The interest rate charged on a loan from the ~~residential~~ 104
~~solar panel~~ alternative energy revolving loan fund shall be below 105
prevailing market rates. The legislative authority may specify the 106
interest rate in the ordinance or may, after establishing a 107
standard in the ordinance whereby the interest rate can be 108
specified, delegate authority to specify the interest rate to the 109
administrator of loans from the ~~residential solar panel~~ 110
alternative energy revolving loan fund. 111

The ~~residential solar panel~~ alternative energy revolving loan 112
fund shall be seeded with sufficient money to enable loans to be 113
made until the fund accumulates sufficient reserves through 114
investment and repayment of loans for revolving operation. 115

(D) Except as provided in division (E) of this section, an 116
electric distribution utility may count toward its compliance with 117
the energy efficiency and peak demand reduction requirements of 118
section 4928.66 of the Revised Code any energy efficiency savings 119
or any reduction in demand that is produced by projects utilizing 120
alternative energy technologies or energy efficiency technologies, 121
products, and activities that are located in its certified 122
territory and for which a loan has been made under this section. 123

(E) A mercantile customer that realizes energy efficiency 124
savings or reduction in demand produced by alternative energy 125
technologies or energy efficiency technologies, products, or 126
activities that it owns and for which a loan has been made under 127
this section may elect to commit the savings or reduction to the 128
electric distribution utility in exchange for an exemption from 129
either an energy efficiency cost recovery mechanism permitted 130
under section 4928.66 of the Revised Code, or any other utility 131
charges, as part of a reasonable arrangement approved by the 132
public utilities commission of this state under section 4905.31 of 133
the Revised Code. 134

(F) The legislative authority shall submit a quarterly report 135
to the electric distribution utility that includes, but is not 136
limited to, both of the following: 137

(1) The number and a description of each new and ongoing 138
project utilizing alternative energy technologies or energy 139
efficiency technologies, products, or activities located in the 140
utility's certified territory that produces energy efficiency 141
savings or reduction in demand and for which a loan has been made 142
under this section; 143

(2) Any additional information that the electric distribution 144
utility needs in order to obtain credit under section 4928.66 of 145
the Revised Code for energy efficiency savings or reduction in 146
demand from such projects. 147

Sec. 1710.01. As used in this chapter: 148

(A) "Special improvement district" means a special 149
improvement district organized under this chapter. 150

(B) "Church" means a fellowship of believers, congregation, 151
society, corporation, convention, or association that is formed 152
primarily or exclusively for religious purposes and that is not 153
formed for the private profit of any person. 154

(C) "Church property" means property that is described as 155
being exempt from taxation under division (A)(2) of section 156
5709.07 of the Revised Code and that the county auditor has 157
entered on the exempt list compiled under section 5713.07 of the 158
Revised Code. 159

(D) "Municipal executive" means the mayor, city manager, or 160
other chief executive officer of the municipal corporation in 161
which a special improvement district is located. 162

(E) "Participating political subdivision" means the municipal 163
corporation or township, or each of the municipal corporations or 164
townships, that has territory within the boundaries of a special 165
improvement district created under this chapter. 166

(F) "Legislative authority of a participating political 167
subdivision" means, with reference to a township, the board of 168
township trustees. 169

(G) "Public improvement" means the planning, design, 170
construction, reconstruction, enlargement, or alteration of any 171
facility or improvement, including the acquisition of land, for 172
which a special assessment may be levied under Chapter 727. of the 173

Revised Code, and includes any special energy improvement project. 174

(H) "Public service" means any service that can be provided 175
by a municipal corporation or any service for which a special 176
assessment may be levied under Chapter 727. of the Revised Code. 177

(I) "Special energy improvement project" means any property, 178
device, structure, or equipment necessary for the acquisition, 179
installation, equipping, and improvement of any real or personal 180
property used for the purpose of creating a solar ~~photo-voltaic~~ 181
photovoltaic project ~~or~~, a solar thermal energy project, a 182
geothermal energy project, a customer-generated energy project, or 183
an energy efficiency improvement, whether such real or personal 184
property is publicly or privately owned. 185

(J) "Existing qualified nonprofit corporation" means a 186
nonprofit corporation that existed before the creation of the 187
corresponding district under this chapter, that is composed of 188
members located within or adjacent to the district, that has 189
established a police department under section 1702.80 of the 190
Revised Code, and that is organized for purposes that include 191
acquisition of real property within an area specified by its 192
articles for the subsequent transfer of such property to its 193
members exclusively for charitable, scientific, literary, or 194
educational purposes, or holding and maintaining and leasing such 195
property; planning for and assisting in the development of its 196
members; providing for the relief of the poor and distressed or 197
underprivileged in the area and adjacent areas; combating 198
community deterioration and lessening the burdens of government; 199
providing or assisting others in providing housing for low- or 200
moderate-income persons; and assisting its members by the 201
provision of public safety and security services, parking 202
facilities, transit service, landscaping, and parks. 203

(K) "Energy efficiency improvement" means energy efficiency 204
technologies, products, and activities that reduce or support the 205

reduction of energy consumption, allow for the reduction in 206
demand, or support the production of clean, renewable energy and 207
that are or will be permanently fixed to real property. 208

(L) "Customer-generated energy project" means a wind, 209
biomass, or gasification facility for the production of 210
electricity that meets either of the following requirements: 211

(1) The facility is designed to have a generating capacity of 212
two hundred fifty kilowatts of electricity or less. 213

(2) The facility is: 214

(a) Designed to have a generating capacity of more than two 215
hundred fifty kilowatts of electricity; 216

(b) Operated in parallel with electric transmission and 217
distribution facilities serving the real property at the site of 218
the customer-generated energy project; 219

(c) Intended primarily to offset part or all of the facility 220
owner's requirements for electricity at the site of the 221
customer-generated energy project and is located on the facility 222
owner's real property; and 223

(d) Not producing energy for direct sale by the facility 224
owner to the public. 225

(M) "Reduction in demand" means a change in customer behavior 226
or a change in customer-owned or operated assets that reduces or 227
has the capability to reduce the demand for electricity as a 228
result of price signals or other incentives. 229

(N) "Electric distribution utility" and "mercantile customer" 230
have the same meanings as in section 4928.01 of the Revised Code. 231

Sec. 1710.02. (A) A special improvement district may be 232
created within the boundaries of any one municipal corporation, 233
any one township, or any combination of contiguous municipal 234

corporations and townships for the purpose of developing and 235
implementing plans for public improvements and public services 236
that benefit the district. A district may be created by petition 237
of the owners of real property within the proposed district, or by 238
an existing qualified nonprofit corporation. If the district is 239
created by an existing qualified nonprofit corporation, the 240
purposes for which the district is created may be supplemental to 241
the other purposes for which the corporation is organized. All 242
territory in a special improvement district shall be contiguous; 243
except that the territory in a special improvement district may be 244
noncontiguous if at least one special energy improvement project 245
is designated for each parcel of real property included within the 246
special improvement district. Additional territory may be added to 247
a special improvement district created under this chapter for the 248
purpose of developing and implementing plans for special energy 249
improvement projects if at least one special energy improvement 250
project is designated for each parcel of real property included 251
within such additional territory and the addition of territory is 252
authorized by the initial plan proposed under division (F) of this 253
section or a plan adopted by the board of directors of the special 254
improvement district under section 1710.06 of the Revised Code. 255

The district shall be governed by the board of trustees of a 256
nonprofit corporation. This board shall be known as the board of 257
directors of the special improvement district. No special 258
improvement district shall include any church property, or 259
property of the federal or state government or a county, township, 260
or municipal corporation, unless the church or the county, 261
township, or municipal corporation specifically requests in 262
writing that the property be included within the district, or 263
unless the church is a member of the existing qualified nonprofit 264
corporation creating the district at the time the district is 265
created. More than one district may be created within a 266
participating political subdivision, but no real property may be 267

included within more than one district unless the owner of the 268
property files a written consent with the clerk of the legislative 269
authority, the township fiscal officer, or the village clerk, as 270
appropriate. The area of each district shall be contiguous; except 271
that the area of a special improvement district may be 272
noncontiguous if all parcels of real property included within such 273
area contain at least one special energy improvement thereon. 274

(B) Except as provided in division (C) of this section, a 275
district created under this chapter is not a political 276
subdivision. A district created under this chapter shall be 277
considered a public agency under section 102.01 and a public 278
authority under section 4115.03 of the Revised Code. Each member 279
of the board of directors of a district, each member's designee or 280
proxy, and each officer and employee of a district shall be 281
considered a public official or employee under section 102.01 of 282
the Revised Code and a public official and public servant under 283
section 2921.42 of the Revised Code. Districts created under this 284
chapter are not subject to section 121.251 of the Revised Code. 285
Districts created under this chapter are subject to sections 286
121.22 and 121.23 of the Revised Code. 287

(C) Each district created under this chapter shall be 288
considered a political subdivision for purposes of section 4905.34 289
of the Revised Code. 290

Membership on the board of directors of the district shall 291
not be considered as holding a public office. Directors and their 292
designees shall be entitled to the immunities provided by Chapter 293
1702. and to the same immunity as an employee under division 294
(A)(6) of section 2744.03 of the Revised Code, except that 295
directors and their designees shall not be entitled to the 296
indemnification provided in section 2744.07 of the Revised Code 297
unless the director or designee is an employee or official of a 298
participating political subdivision of the district and is acting 299

within the scope of the director's or designee's employment or 300
official responsibilities. 301

District officers and district members and directors and 302
their designees or proxies shall not be required to file a 303
statement with the Ohio ethics commission under section 102.02 of 304
the Revised Code. All records of the district shall be treated as 305
public records under section 149.43 of the Revised Code, except 306
that records of organizations contracting with a district shall 307
not be considered to be public records under section 149.43 or 308
section 149.431 of the Revised Code solely by reason of any 309
contract with a district. 310

(D) Except as otherwise provided in this section, the 311
nonprofit corporation that governs a district shall be organized 312
in the manner described in Chapter 1702. of the Revised Code. 313
Except in the case of a district created by an existing qualified 314
nonprofit corporation, the corporation's articles of incorporation 315
are required to be approved, as provided in division (E) of this 316
section, by resolution of the legislative authority of each 317
participating political subdivision of the district. A copy of 318
that resolution shall be filed along with the articles of 319
incorporation in the secretary of state's office. 320

In addition to meeting the requirements for articles of 321
incorporation set forth in Chapter 1702. of the Revised Code, the 322
articles of incorporation for the nonprofit corporation governing 323
a district formed under this chapter shall provide all the 324
following: 325

(1) The name for the district, which shall include the name 326
of each participating political subdivision of the district; 327

(2) A description of the territory within the district, which 328
may be all or part of each participating political subdivision. 329
The description shall be specific enough to enable real property 330

owners to determine if their property is located within the 331
district. 332

(3) A description of the procedure by which the articles of 333
incorporation may be amended. The procedure shall include 334
receiving approval of the amendment, by resolution, from the 335
legislative authority of each participating political subdivision 336
and filing the approved amendment and resolution with the 337
secretary of state. 338

(4) The reasons for creating the district, plus an 339
explanation of how the district will be conducive to the public 340
health, safety, peace, convenience, and welfare of the district. 341

(E) The articles of incorporation for a nonprofit corporation 342
governing a district created under this chapter and amendments to 343
them shall be submitted to the municipal executive, if any, and 344
the legislative authority of each municipal corporation or 345
township in which the proposed district is to be located. Except 346
in the case of a district created by an existing qualified 347
nonprofit corporation, the articles or amendments shall be 348
accompanied by a petition signed either by the owners of at least 349
sixty per cent of the front footage of all real property located 350
in the proposed district that abuts upon any street, alley, public 351
road, place, boulevard, parkway, park entrance, easement, or other 352
existing public improvement within the proposed district, 353
excluding church property or property owned by the state, county, 354
township, municipal, or federal government, unless a church, 355
county, township, or municipal corporation has specifically 356
requested in writing that the property be included in the 357
district, or by the owners of at least seventy-five per cent of 358
the area of all real property located within the proposed 359
district, excluding church property or property owned by the 360
state, county, township, municipal, or federal government, unless 361
a church, county, township, or municipal corporation has 362

specifically requested in writing that the property be included in 363
the district. Pursuant to Section 2o of Article VIII, Ohio 364
Constitution, the petition required under this division may be for 365
the purpose of developing and implementing plans for special 366
energy improvement projects, and, in such case, is determined to 367
be in furtherance of the purposes set forth in Section 2o of 368
Article VIII, Ohio Constitution. If a special improvement district 369
is being created under this chapter for the purpose of developing 370
and implementing plans for special energy improvement projects, 371
the petition required under this division shall be signed by one 372
hundred per cent of the owners of the area of all real property 373
located within the proposed special improvement district, at least 374
one special energy improvement project shall be designated for 375
each parcel of real property within the special improvement 376
district, and the special improvement district may include any 377
number of parcels of real property as determined by the 378
legislative authority of each participating political subdivision 379
in which the proposed special improvement district is to be 380
located. For purposes of determining compliance with these 381
requirements, the area of the district, or the front footage and 382
ownership of property, shall be as shown in the most current 383
records available at the county recorder's office and the county 384
engineer's office sixty days prior to the date on which the 385
petition is filed. 386

Each municipal corporation or township with which the 387
petition is filed has sixty days to approve or disapprove, by 388
resolution, the petition, including the articles of incorporation. 389
In the case of a district created by an existing qualified 390
nonprofit corporation, each municipal corporation or township has 391
sixty days to approve or disapprove the creation of the district 392
after the corporation submits the articles of incorporation or 393
amendments thereto. This chapter does not prohibit or restrict the 394
rights of municipal corporations under Article XVIII of the Ohio 395

Constitution or the right of the municipal legislative authority 396
to impose reasonable conditions in a resolution of approval. The 397
acquisition, installation, equipping, and improvement of a special 398
energy improvement project under this chapter shall not supersede 399
any local zoning, environmental, or similar law or regulation. 400

(F) Persons proposing creation and operation of the district 401
may propose an initial plan for public services or public 402
improvements that benefit all or any part of the district. Any 403
initial plan shall be submitted as part of the petition proposing 404
creation of the district or, in the case of a district created by 405
an existing qualified nonprofit corporation, shall be submitted 406
with the articles of incorporation or amendments thereto. 407

An initial plan may include provisions for the following: 408

(1) Creation and operation of the district and of the 409
nonprofit corporation to govern the district under this chapter; 410

(2) Hiring employees and professional services; 411

(3) Contracting for insurance; 412

(4) Purchasing or leasing office space and office equipment; 413

(5) Other actions necessary initially to form, operate, or 414
organize the district and the nonprofit corporation to govern the 415
district; 416

(6) A plan for public improvements or public services that 417
benefit all or part of the district, which plan shall comply with 418
the requirements of division (A) of section 1710.06 of the Revised 419
Code and may include, but is not limited to, any of the permissive 420
provisions described in the fourth sentence of that division or 421
listed in divisions (A)(1) to ~~(6)~~(7) of that section; 422

(7) If the special improvement district is being created 423
under this chapter for the purpose of developing and implementing 424
plans for special energy improvement projects, provision for the 425

addition of territory to the special improvement district. 426

After the initial plan is approved by all municipal 427
corporations and townships to which it is submitted for approval 428
and the district is created, each participating subdivision shall 429
levy a special assessment within its boundaries to pay for the 430
costs of the initial plan. The levy shall be for no more than ten 431
years from the date of the approval of the initial plan; except 432
that if the proceeds of the levy are to be used to pay the costs 433
of a special energy improvement project, the levy of a special 434
assessment shall be for no more than ~~twenty-five~~ thirty years from 435
the date of approval of the initial plan. In the event that 436
additional territory is added to a special improvement district, 437
the special assessment to be levied with respect to such 438
additional territory shall commence not earlier than the date such 439
territory is added and shall be for no more than ~~twenty-five~~ 440
thirty years from such date. For purposes of levying an assessment 441
for this initial plan, the services or improvements included in 442
the initial plan shall be deemed a special benefit to property 443
owners within the district. 444

(G) Each nonprofit corporation governing a district under 445
this chapter may do the following: 446

(1) Exercise all powers of nonprofit corporations granted 447
under Chapter 1702. of the Revised Code that do not conflict with 448
this chapter; 449

(2) Develop, adopt, revise, implement, and repeal plans for 450
public improvements and public services for all or any part of the 451
district; 452

(3) Contract with any person, political subdivision as 453
defined in section 2744.01 of the Revised Code, or state agency as 454
defined in section 1.60 of the Revised Code to develop and 455
implement plans for public improvements or public services within 456

the district; 457

(4) Contract and pay for insurance for the district and for 458
directors, officers, agents, contractors, employees, or members of 459
the district for any consequences of the implementation of any 460
plan adopted by the district or any actions of the district. 461

The board of directors of a special improvement district may, 462
acting as agent and on behalf of a participating political 463
subdivision, sell, transfer, lease, or convey any special energy 464
improvement project owned by the participating political 465
subdivision upon a determination by the legislative authority 466
thereof that the project is not required to be owned exclusively 467
by the participating political subdivision for its purposes, for 468
uses determined by the legislative authority thereof as those that 469
will promote the welfare of the people of such participating 470
political subdivision; to improve the quality of life and the 471
general and economic well-being of the people of the participating 472
political subdivision; better ensure the public health, safety, 473
and welfare; protect water and other natural resources; provide 474
for the conservation and preservation of natural and open areas 475
and farmlands, including by making urban areas more desirable or 476
suitable for development and revitalization; control, prevent, 477
minimize, clean up, or mediate certain contamination of or 478
pollution from lands in the state and water contamination or 479
pollution; or provide for safe and natural areas and resources. 480
The legislative authority of each participating political 481
subdivision shall specify the consideration for such sale, 482
transfer, lease, or conveyance and any other terms thereof. Any 483
determinations made by a legislative authority of a participating 484
political subdivision under this division shall be conclusive. 485

Any sale, transfer, lease, or conveyance of a special energy 486
improvement project by a participating political subdivision or 487
the board of directors of the special improvement district may be 488

made without advertising, receipt of bids, or other competitive 489
bidding procedures applicable to the participating political 490
subdivision or the special improvement district under Chapter 153. 491
or 735. or section 1710.11 of the Revised Code or other 492
representative provisions of the Revised Code. 493

Sec. 1710.06. (A) The board of directors of a special 494
improvement district may develop and adopt one or more written 495
plans for public improvements or public services that benefit all 496
or any part of the district. Each plan shall set forth the 497
specific public improvements or public services that are to be 498
provided, identify the area in which they will be provided, and 499
specify the method of assessment to be used. Each plan for public 500
improvements or public services shall indicate the period of time 501
the assessments are to be levied for the improvements and services 502
and, if public services are included in the plan, the period of 503
time the services are to remain in effect. Plans for public 504
improvements may include the planning, design, construction, 505
reconstruction, enlargement, or alteration of any public 506
improvements and the acquisition of land for the improvements. 507
Plans for public improvements or public services may also include, 508
but are not limited to, provisions for the following: 509

(1) Creating and operating the district and the nonprofit 510
corporation under this chapter, including hiring employees and 511
professional services, contracting for insurance, and purchasing 512
or leasing office space and office equipment and other 513
requirements of the district; 514

(2) Planning, designing, and implementing a public 515
improvements or public services plan, including hiring 516
architectural, engineering, legal, appraisal, insurance, 517
consulting, energy auditing, and planning services, and, for 518
public services, managing, protecting, and maintaining public and 519

private facilities, including public improvements; 520

(3) Conducting court proceedings to carry out this chapter; 521

(4) Paying damages resulting from the provision of public 522
improvements or public services and implementing the plans; 523

(5) Paying the costs of issuing, paying interest on, and 524
redeeming notes and bonds issued for funding public improvements 525
and public services plans; ~~and~~ 526

(6) Sale, lease, lease with an option to purchase, conveyance 527
of other interests in, or other contracts for the acquisition, 528
construction, maintenance, repair, furnishing, equipping, 529
operation, or improvement of any special energy improvement 530
project by the special improvement district, between a 531
participating political subdivision and the special improvement 532
district, and between the special improvement district and any 533
owner of real property in the special improvement district on 534
which a special energy improvement project has been acquired, 535
installed, equipped, or improved; and 536

(7) Aggregating the renewable energy credits generated by one 537
or more special energy improvement projects within a special 538
improvement district, upon the consent of the owners of the 539
credits and for the purpose of negotiating and completing the sale 540
of such credits. 541

(B) Once the board of directors of the special improvement 542
district adopts a plan, it shall submit the plan to the 543
legislative authority of each participating political subdivision 544
and the municipal executive of each municipal corporation in which 545
the district is located, if any. The legislative authorities and 546
municipal executives shall review the plan and, within sixty days 547
after receiving it, may submit their comments and recommendations 548
about it to the district. After reviewing these comments and 549
recommendations, the board of directors may amend the plan. It may 550

then submit the plan, amended or otherwise, in the form of a 551
petition to members of the district whose property may be assessed 552
for the plan. Once the petition is signed by those members who own 553
at least sixty per cent of the front footage of property that is 554
to be assessed and that abuts upon a street, alley, public road, 555
place, boulevard, parkway, park entrance, easement, or other 556
public improvement, or those members who own at least seventy-five 557
per cent of the area to be assessed for the improvement or 558
service, the petition may be submitted to each legislative 559
authority for approval. If the special improvement district was 560
created for the purpose of developing and implementing plans for 561
special energy improvement projects, the petition required under 562
this division shall be signed by one hundred per cent of the 563
owners of the area of all real property located within the area to 564
be assessed for the special energy improvement project. 565

Each legislative authority shall, by resolution, approve or 566
reject the petition within sixty days after receiving it. If the 567
petition is approved by the legislative authority of each 568
participating political subdivision, the plan contained in the 569
petition shall be effective at the earliest date on which a 570
nonemergency resolution of the legislative authority with the 571
latest effective date may become effective. A plan may not be 572
resubmitted to the legislative authorities and municipal 573
executives more than three times in any twelve-month period. 574

(C) Each participating political subdivision shall levy, by 575
special assessment upon specially benefited property located 576
within the district, the costs of any public improvements or 577
public services plan contained in a petition approved by the 578
participating political subdivisions under this section or 579
division (F) of section 1710.02 of the Revised Code. The levy 580
shall be made in accordance with the procedures set forth in 581
Chapter 727. of the Revised Code, except that: 582

(1) The assessment for each improvements or services plan may 583
be levied by any one or any combination of the methods of 584
assessment listed in section 727.01 of the Revised Code, provided 585
that the assessment is uniformly applied. 586

(2) For the purpose of levying an assessment, the board of 587
directors may combine one or more improvements or services plans 588
or parts of plans and levy a single assessment against specially 589
benefited property. 590

(3) For purposes of special assessments levied by a township 591
pursuant to this chapter, references in Chapter 727. of the 592
Revised Code to the municipal corporation shall be deemed to refer 593
to the township, and references to the legislative authority of 594
the municipal corporation shall be deemed to refer to the board of 595
township trustees. 596

Church property or property owned by a political subdivision, 597
including any participating political subdivision in which a 598
special improvement district is located, shall be included in and 599
be subject to special assessments made pursuant to a plan adopted 600
under this section or division (F) of section 1710.02 of the 601
Revised Code, if the church or political subdivision has 602
specifically requested in writing that its property be included 603
within the special improvement district and the church or 604
political subdivision is a member of the district or, in the case 605
of a district created by an existing qualified nonprofit 606
corporation, if the church is a member of the corporation. 607

(D) All rights and privileges of property owners who are 608
assessed under Chapter 727. of the Revised Code shall be granted 609
to property owners assessed under this chapter, including those 610
rights and privileges specified in sections 727.15 to 727.17 and 611
727.18 to 727.22 of the Revised Code and the right to notice of 612
the resolution of necessity and the filing of the estimated 613
assessment under section 727.13 of the Revised Code. Property 614

owners assessed for public services under this chapter shall have 615
the same rights and privileges as property owners assessed for 616
public improvements under this chapter. 617

Sec. 1710.061. (A) Except as provided in division (B) of this 618
section, an electric distribution utility may count toward its 619
compliance with the energy efficiency and peak demand reduction 620
requirements of section 4928.66 of the Revised Code any efficiency 621
savings or reduction in demand produced by a special energy 622
improvement project located in its certified territory. 623

(B) A mercantile customer that realizes energy efficiency 624
savings or reduction in demand produced by a special energy 625
improvement project that it owns may elect to commit the savings 626
or reduction to the electric distribution utility in exchange for 627
an exemption from either an energy efficiency cost recovery 628
mechanism permitted under section 4928.66 of the Revised Code, or 629
any other utility charges, as part of a reasonable arrangement 630
approved by the public utilities commission of this state under 631
section 4905.31 of the Revised Code. 632

(C) The board of directors of a special improvement district 633
shall submit a quarterly report to the electric distribution 634
utility that includes, but is not limited to, both of the 635
following: 636

(1) The total number and a description of each new and 637
ongoing special energy improvement project located within the 638
special improvement district that produces energy efficiency 639
savings or reduction in demand; 640

(2) Any additional information that the electric distribution 641
utility needs in order to obtain credit under section 4928.66 of 642
the Revised Code for energy efficiency savings or reduction in 643
demand from such projects. 644

Sec. 1710.07. The cost of any public improvements or public 645
services plan of a special improvement district may include, but 646
is not limited to, the following: 647

(A) The cost of creating and operating the district under 648
this chapter, including creating and operating a nonprofit 649
organization organized under this chapter, hiring employees and 650
professional services, contracting for insurance, and purchasing 651
or leasing office space or office equipment; 652

(B) The cost of planning, designing, and implementing the 653
public improvements or public services plan, including payment of 654
architectural, engineering, legal, appraisal, insurance, 655
consulting, energy auditing, and planning fees and expenses, and, 656
for public services, the management, protection, and maintenance 657
costs of public or private facilities; 658

(C) Any court costs incurred by the district in implementing 659
the public improvements or public services plan; 660

(D) Any damages resulting from implementing the public 661
improvements or public services plan; 662

(E) The costs of issuing, paying interest on, and redeeming 663
notes and bonds issued for funding the public improvements or 664
public services plan; and 665

(F) The costs associated with the sale, lease, lease with an 666
option to purchase, conveyance of other interests in, or other 667
contracts for the acquisition, construction, maintenance, repair, 668
furnishing, equipping, operation, or improvement of any special 669
energy improvement project by the district, between a 670
participating political subdivision and the special improvement 671
district, or between the special improvement district and any 672
owner of real property in the special improvement district on 673
which a special energy improvement project has been acquired, 674

installed, equipped, or improved. 675

Sec. 4928.64. (A)(1) As used in sections 4928.64 and 4928.65 676
of the Revised Code, "alternative energy resource" means an 677
advanced energy resource or renewable energy resource, as defined 678
in section 4928.01 of the Revised Code that has a 679
placed-in-service date of January 1, 1998, or after; a renewable 680
energy resource created on or after January 1, 1998, by the 681
modification or retrofit of any facility placed in service prior 682
to January 1, 1998; or a mercantile customer-sited advanced energy 683
resource or renewable energy resource, whether new or existing, 684
that the mercantile customer commits for integration into the 685
electric distribution utility's demand-response, energy 686
efficiency, or peak demand reduction programs as provided under 687
division (A)(2)(c) of section 4928.66 of the Revised Code, 688
including, but not limited to, any of the following: 689

(a) A resource that has the effect of improving the 690
relationship between real and reactive power; 691

(b) A resource that makes efficient use of waste heat or 692
other thermal capabilities owned or controlled by a mercantile 693
customer; 694

(c) Storage technology that allows a mercantile customer more 695
flexibility to modify its demand or load and usage 696
characteristics; 697

(d) Electric generation equipment owned or controlled by a 698
mercantile customer that uses an advanced energy resource or 699
renewable energy resource; 700

(e) Any advanced energy resource or renewable energy resource 701
of the mercantile customer that can be utilized effectively as 702
part of any advanced energy resource plan of an electric 703
distribution utility and would otherwise qualify as an alternative 704

energy resource if it were utilized directly by an electric 705
distribution utility. 706

(2) For the purpose of this section and as it considers 707
appropriate, the public utilities commission may classify any new 708
technology as such an advanced energy resource or a renewable 709
energy resource. 710

(B) By 2025 and thereafter, an electric distribution utility 711
shall provide from alternative energy resources, including, at its 712
discretion, alternative energy resources obtained pursuant to an 713
electricity supply contract, a portion of the electricity supply 714
required for its standard service offer under section 4928.141 of 715
the Revised Code, and an electric services company shall provide a 716
portion of its electricity supply for retail consumers in this 717
state from alternative energy resources, including, at its 718
discretion, alternative energy resources obtained pursuant to an 719
electricity supply contract. That portion shall equal twenty-five 720
per cent of the total number of kilowatt hours of electricity sold 721
by the subject utility or company to any and all retail electric 722
consumers whose electric load centers are served by that utility 723
and are located within the utility's certified territory or, in 724
the case of an electric services company, are served by the 725
company and are located within this state. However, nothing in 726
this section precludes a utility or company from providing a 727
greater percentage. The baseline for a utility's or company's 728
compliance with the alternative energy resource requirements of 729
this section shall be the average of such total kilowatt hours it 730
sold in the preceding three calendar years, except that the 731
commission may reduce a utility's or company's baseline to adjust 732
for new economic growth in the utility's certified territory or, 733
in the case of an electric services company, in the company's 734
service area in this state. 735

Of the alternative energy resources implemented by the 736

subject utility or company by 2025 and thereafter:			737
(1) Half may be generated from advanced energy resources;			738
(2) At least half shall be generated from renewable energy			739
resources, including one-half per cent from solar energy			740
resources, in accordance with the following benchmarks:			741
By end of year	Renewable energy	Solar energy	742
	resources	resources	
2009	0.25%	0.004%	743
2010	0.50%	0.010%	744
2011	1%	0.030%	745
2012	1.5%	0.060%	746
2013	2%	0.090%	747
2014	2.5%	0.12%	748
2015	3.5%	0.15%	749
2016	4.5%	0.18%	750
2017	5.5%	0.22%	751
2018	6.5%	0.26%	752
2019	7.5%	0.3%	753
2020	8.5%	0.34%	754
2021	9.5%	0.38%	755
2022	10.5%	0.42%	756
2023	11.5%	0.46%	757
2024 and each calendar	12.5%	0.5%	758
year thereafter			
(3) At least one-half of the renewable energy resources			759
implemented by the utility or company shall be met through			760
facilities located in this state; the remainder shall be met with			761
resources that can be shown to be deliverable into this state.			762
(C)(1) The commission annually shall review an electric			763
distribution utility's or electric services company's compliance			764
with the most recent applicable benchmark under division (B)(2) of			765
this section and, in the course of that review, shall identify any			766

undercompliance or noncompliance of the utility or company that it 767
determines is weather-related, related to equipment or resource 768
shortages for advanced energy or renewable energy resources as 769
applicable, or is otherwise outside the utility's or company's 770
control. 771

(2) Subject to the cost cap provisions of division (C)(3) of 772
this section, if the commission determines, after notice and 773
opportunity for hearing, and based upon its findings in that 774
review regarding avoidable undercompliance or noncompliance, but 775
subject to division (C)(4) of this section, that the utility or 776
company has failed to comply with any such benchmark, the 777
commission shall impose a renewable energy compliance payment on 778
the utility or company. 779

(a) The compliance payment pertaining to the solar energy 780
resource benchmarks under division (B)(2) of this section shall be 781
an amount per megawatt hour of undercompliance or noncompliance in 782
the period under review, starting at four hundred fifty dollars 783
for 2009, four hundred dollars for 2010 and 2011, and similarly 784
reduced every two years thereafter through 2024 by fifty dollars, 785
to a minimum of fifty dollars. 786

(b) The compliance payment pertaining to the renewable energy 787
resource benchmarks under division (B)(2) of this section shall 788
equal the number of additional renewable energy credits that the 789
electric distribution utility or electric services company would 790
have needed to comply with the applicable benchmark in the period 791
under review times an amount that shall begin at forty-five 792
dollars and shall be adjusted annually by the commission to 793
reflect any change in the consumer price index as defined in 794
section 101.27 of the Revised Code, but shall not be less than 795
forty-five dollars. 796

(c) The compliance payment shall not be passed through by the 797
electric distribution utility or electric services company to 798

consumers. The compliance payment shall be remitted to the 799
commission, for deposit to the credit of the advanced energy fund 800
created under section 4928.61 of the Revised Code. Payment of the 801
compliance payment shall be subject to such collection and 802
enforcement procedures as apply to the collection of a forfeiture 803
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 804

(3) An electric distribution utility or an electric services 805
company need not comply with a benchmark under division (B)(1) or 806
(2) of this section to the extent that its reasonably expected 807
cost of that compliance exceeds its reasonably expected cost of 808
otherwise producing or acquiring the requisite electricity by 809
three per cent or more. The cost of compliance shall be calculated 810
as though any exemption from taxes and assessments had not been 811
granted under section 5727.75 of the Revised Code. 812

(4)(a) An electric distribution utility or electric services 813
company may request the commission to make a force majeure 814
determination pursuant to this division regarding all or part of 815
the utility's or company's compliance with any minimum benchmark 816
under division (B)(2) of this section during the period of review 817
occurring pursuant to division (C)(2) of this section. The 818
commission may require the electric distribution utility or 819
electric services company to make solicitations for renewable 820
energy resource credits as part of its default service before the 821
utility's or company's request of force majeure under this 822
division can be made. 823

(b) Within ninety days after the filing of a request by an 824
electric distribution utility or electric services company under 825
division (C)(4)(a) of this section, the commission shall determine 826
if renewable energy resources are reasonably available in the 827
marketplace in sufficient quantities for the utility or company to 828
comply with the subject minimum benchmark during the review 829
period. In making this determination, the commission shall 830

consider whether the electric distribution utility or electric 831
services company has made a good faith effort to acquire 832
sufficient renewable energy or, as applicable, solar energy 833
resources to so comply, including, but not limited to, by banking 834
or seeking renewable energy resource credits or by seeking the 835
resources through long-term contracts. Additionally, the 836
commission shall consider the availability of renewable energy or 837
solar energy resources in this state and other jurisdictions in 838
the PJM interconnection regional transmission organization or its 839
successor and the midwest system operator or its successor. 840

(c) If, pursuant to division (C)(4)(b) of this section, the 841
commission determines that renewable energy or solar energy 842
resources are not reasonably available to permit the electric 843
distribution utility or electric services company to comply, 844
during the period of review, with the subject minimum benchmark 845
prescribed under division (B)(2) of this section, the commission 846
shall modify that compliance obligation of the utility or company 847
as it determines appropriate to accommodate the finding. 848
Commission modification shall not automatically reduce the 849
obligation for the electric distribution utility's or electric 850
services company's compliance in subsequent years. If it modifies 851
the electric distribution utility or electric services company 852
obligation under division (C)(4)(c) of this section, the 853
commission may require the utility or company, if sufficient 854
renewable energy resource credits exist in the marketplace, to 855
acquire additional renewable energy resource credits in subsequent 856
years equivalent to the utility's or company's modified obligation 857
under division (C)(4)(c) of this section. 858

(5) The commission shall establish a process to provide for 859
at least an annual review of the alternative energy resource 860
market in this state and in the service territories of the 861
regional transmission organizations that manage transmission 862

systems located in this state. The commission shall use the 863
results of this study to identify any needed changes to the amount 864
of the renewable energy compliance payment specified under 865
divisions (C)(2)(a) and (b) of this section. Specifically, the 866
commission may increase the amount to ensure that payment of 867
compliance payments is not used to achieve compliance with this 868
section in lieu of actually acquiring or realizing energy derived 869
from renewable energy resources. However, if the commission finds 870
that the amount of the compliance payment should be otherwise 871
changed, the commission shall present this finding to the general 872
assembly for legislative enactment. 873

(D)(1) The commission annually shall submit to the general 874
assembly in accordance with section 101.68 of the Revised Code a 875
report describing the compliance of electric distribution 876
utilities and electric services companies with division (B) of 877
this section and any strategy for utility and company compliance 878
or for encouraging the use of alternative energy resources in 879
supplying this state's electricity needs in a manner that 880
considers available technology, costs, job creation, and economic 881
impacts. The commission shall allow and consider public comments 882
on the report prior to its submission to the general assembly. 883
Nothing in the report shall be binding on any person, including 884
any utility or company for the purpose of its compliance with any 885
benchmark under division (B) of this section, or the enforcement 886
of that provision under division (C) of this section. 887

(2) The governor, in consultation with the commission 888
chairperson, shall appoint an alternative energy advisory 889
committee. The committee shall examine available technology for 890
and related timetables, goals, and costs of the alternative energy 891
resource requirements under division (B) of this section and shall 892
submit to the commission a semiannual report of its 893
recommendations. 894

(E) All costs incurred by an electric distribution utility in 895
complying with the requirements of this section shall be 896
bypassable by any consumer that has exercised choice of supplier 897
under section 4928.03 of the Revised Code. 898

Sec. 4935.10. The public utilities commission shall conduct a 899
study to review the condition of reactive power in the state. The 900
commission shall issue a report of its findings to the general 901
assembly not later than one year after the effective date of this 902
section. 903

Sec. 5709.53. (A) A solar, wind, or hydrothermal energy 904
system on which construction or installation is completed during 905
the period from the effective date of this section through 906
December 31, 1985, that meets the guidelines established under 907
division (B) of section 1551.20 of the Revised Code is exempt from 908
real property taxation. 909

(B) Any fixture or other real property included in an energy 910
facility with an aggregate nameplate capacity of two hundred fifty 911
kilowatts or less is exempt from taxation if construction or 912
installation is completed on or after the effective date of this 913
section. 914

As used in division (B) of this section, "energy facility" 915
and "nameplate capacity" have the same meanings as in section 916
5727.01 of the Revised Code. 917

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 918
5715.01 of the Revised Code: 919

(A) "Land devoted exclusively to agricultural use" means: 920

(1) Tracts, lots, or parcels of land totaling not less than 921
ten acres that, during the three calendar years prior to the year 922
in which application is filed under section 5713.31 of the Revised 923

Code, and through the last day of May of such year, were devoted 924
exclusively to commercial animal or poultry husbandry, 925
aquaculture, apiculture, the production for a commercial purpose 926
of timber, field crops, tobacco, fruits, vegetables, nursery 927
stock, ornamental trees, sod, or flowers, or the growth of timber 928
for a noncommercial purpose, if the land on which the timber is 929
grown is contiguous to or part of a parcel of land under common 930
ownership that is otherwise devoted exclusively to agricultural 931
use, or were devoted to and qualified for payments or other 932
compensation under a land retirement or conservation program under 933
an agreement with an agency of the federal government; 934

(2) Tracts, lots, or parcels of land totaling less than ten 935
acres that, during the three calendar years prior to the year in 936
which application is filed under section 5713.31 of the Revised 937
Code and through the last day of May of such year, were devoted 938
exclusively to commercial animal or poultry husbandry, 939
aquaculture, apiculture, the production for a commercial purpose 940
of field crops, tobacco, fruits, vegetables, timber, nursery 941
stock, ornamental trees, sod, or flowers where such activities 942
produced an average yearly gross income of at least twenty-five 943
hundred dollars during such three-year period or where there is 944
evidence of an anticipated gross income of such amount from such 945
activities during the tax year in which application is made, or 946
were devoted to and qualified for payments or other compensation 947
under a land retirement or conservation program under an agreement 948
with an agency of the federal government; 949

(3) A tract, lot, or parcel of land taxed under sections 950
5713.22 to 5713.26 of the Revised Code is not land devoted 951
exclusively to agricultural use; 952

(4) Tracts, lots, or parcels of land, or portions thereof 953
that, during the previous three consecutive calendar years have 954
been designated as land devoted exclusively to agricultural use, 955

but such land has been lying idle or fallow for up to one year and 956
no action has occurred to such land that is either inconsistent 957
with the return of it to agricultural production or converts the 958
land devoted exclusively to agricultural use as defined in this 959
section. Such land shall remain designated as land devoted 960
exclusively to agricultural use provided that beyond one year, but 961
less than three years, the landowner proves good cause as 962
determined by the board of revision. 963

"Land devoted exclusively to agricultural use" includes 964
tracts, lots, or parcels of land or portions thereof that are used 965
for conservation practices, provided that the tracts, lots, or 966
parcels of land or portions thereof comprise twenty-five per cent 967
or less of the total of the tracts, lots, or parcels of land that 968
satisfy the criteria established in division (A)(1), (2), or (4) 969
of this section together with the tracts, lots, or parcels of land 970
or portions thereof that are used for conservation practices. 971

(B) "Conversion of land devoted exclusively to agricultural 972
use" means any of the following: 973

(1) The failure of the owner of land devoted exclusively to 974
agricultural use during the next preceding calendar year to file a 975
renewal application under section 5713.31 of the Revised Code 976
without good cause as determined by the board of revision; 977

(2) The failure of the new owner of such land to file an 978
initial application under that section without good cause as 979
determined by the board of revision; 980

(3) The failure of such land or portion thereof to qualify as 981
land devoted exclusively to agricultural use for the current 982
calendar year as requested by an application filed under such 983
section; 984

(4) The failure of the owner of the land described in 985
division (A)(4) of this section to act on such land in a manner 986

that is consistent with the return of the land to agricultural 987
production after three years. 988

The construction or installation of an energy facility, as 989
defined in section 5727.01 of the Revised Code, on a portion of a 990
tract, lot, or parcel of land devoted exclusively to agricultural 991
use shall not cause the remaining portion of the tract, lot, or 992
parcel to be regarded as a conversion of land devoted exclusively 993
to agricultural use if the remaining portion of the tract, lot, or 994
parcel continues to be devoted exclusively to agricultural use. 995

(C) "Tax savings" means the difference between the dollar 996
amount of real property taxes levied in any year on land valued 997
and assessed in accordance with its current agricultural use value 998
and the dollar amount of real property taxes that would have been 999
levied upon such land if it had been valued and assessed for such 1000
year in accordance with Section 2 of Article XII, Ohio 1001
Constitution. 1002

(D) "Owner" includes, but is not limited to, any person 1003
owning a fee simple, fee tail, or life estate or a buyer on a land 1004
installment contract. 1005

(E) "Conservation practices" are practices used to abate soil 1006
erosion as required in the management of the farming operation, 1007
and include, but are not limited to, the installation, 1008
construction, development, planting, or use of grass waterways, 1009
terraces, diversions, filter strips, field borders, windbreaks, 1010
riparian buffers, wetlands, ponds, and cover crops for that 1011
purpose. 1012

(F) "Wetlands" has the same meaning as in section 6111.02 of 1013
the Revised Code. 1014

Sec. 5713.34. (A)(1) Upon the conversion of all or any 1015
portion of a tract, lot, or parcel of land devoted exclusively to 1016

agricultural use a portion of the tax savings upon such converted 1017
land shall be recouped as provided for by Section 36, Article II, 1018
Ohio Constitution by levying a charge on such land in an amount 1019
equal to the amount of the tax savings on the converted land 1020
during the three tax years immediately preceding the year in which 1021
the conversion occurs. The charge shall constitute a lien of the 1022
state upon such converted land as of the first day of January of 1023
the tax year in which the charge is levied and shall continue 1024
until discharged as provided by law. 1025

(2) Upon the conversion of an adequately described portion of 1026
a tract, lot, or parcel of land, the county auditor shall divide 1027
any numbered permanent parcel into economic units and value each 1028
unit individually for the purpose of levying the charge under 1029
division (A)(1) of this section against only the converted 1030
portion. 1031

(3) A charge shall not be levied under this section for the 1032
conversion of a portion of a tract, lot, or parcel of land devoted 1033
exclusively to agricultural use if the conversion is incident to 1034
the construction or installation of an energy facility, as defined 1035
in section 5727.01 of the Revised Code, and if the remaining 1036
portion of the tract, lot, or parcel continues to be devoted 1037
exclusively to agricultural use. 1038

(B) Except as otherwise provided in division (C) or (D) of 1039
this section, a public entity that acquires by any means and 1040
converts land devoted exclusively to agricultural use and a 1041
private entity granted the power of eminent domain that acquires 1042
by any means and converts land devoted exclusively to agricultural 1043
use shall pay the charge levied by division (A) of this section 1044
and shall not, directly or indirectly, transfer the charge to the 1045
person from whom the land is acquired. A person injured by a 1046
violation of this division may recover, in a civil action, any 1047
damages resulting from the violation. 1048

(C) The charge levied by division (A)(1) of this section does 1049
not apply to the conversion of land acquired by a public entity by 1050
means other than eminent domain and thereafter used exclusively 1051
for a public purpose that leaves the land principally undeveloped 1052
when either of the following conditions applies: 1053

(1) In the case of land so acquired and converted by a park 1054
district created under Chapter 1545. of the Revised Code, the land 1055
is located within the boundaries of the park district. 1056

(2) In the case of land so acquired and converted by a public 1057
entity other than a park district created under Chapter 1545. of 1058
the Revised Code, the land is located within the boundaries of any 1059
city, local, exempted village, or joint vocational school district 1060
that is wholly or partially located within the boundaries of the 1061
public entity that so acquired and converted the land. 1062

If all or any portion of a tract, lot, or parcel of such land 1063
is later developed or otherwise converted to a purpose other than 1064
one of the purposes enumerated under division (E)(1) of this 1065
section, the charge levied by division (A)(1) of this section 1066
shall be levied against such developed or converted land as 1067
otherwise required by that division. 1068

The county auditor of the county in which the land is located 1069
shall determine annually whether all or any portion of a tract, 1070
lot, or parcel of land formerly converted to a purpose enumerated 1071
under division (E)(1) of this section has been developed in such a 1072
way or converted to such a purpose as to require the charge levied 1073
by division (A)(1) of this section to be levied against the land 1074
so developed or converted. 1075

(D) Division (B) of this section does not apply to a public 1076
entity that acquires by means other than eminent domain and 1077
converts land devoted exclusively to agricultural use to use for 1078
public, active or passive, outdoor education, recreation, or 1079

similar open space uses when either of the following conditions 1080
applies: 1081

(1) In the case of land so acquired and converted by a park 1082
district created under Chapter 1545. of the Revised Code, the land 1083
is located outside the boundaries of the park district. 1084

(2) In the case of land so acquired and converted by a public 1085
entity other than a park district created under Chapter 1545. of 1086
the Revised Code, the land is located outside the boundaries of 1087
any city, local, exempted village, or joint vocational school 1088
district that is wholly or partially located within the boundaries 1089
of the public entity that so acquired and converted the land. 1090

(E) As used in divisions (C) and (D) of this section: 1091

(1) "Principally undeveloped" means a parcel of real property 1092
that is used for public, active or passive, outdoor education, 1093
recreation, or similar open space uses and contains only the 1094
structures, roadways, and other facilities that are necessary for 1095
such uses. 1096

(2) "Public entity" means any political subdivision of this 1097
state or any agency or instrumentality of a political subdivision. 1098

Sec. 5727.01. As used in this chapter: 1099

(A) "Public utility" means each person referred to as a 1100
telephone company, telegraph company, electric company, natural 1101
gas company, pipe-line company, water-works company, water 1102
transportation company, heating company, rural electric company, 1103
railroad company, ~~or~~ combined company, or energy company. 1104

(B) "Gross receipts" means the entire receipts for business 1105
done by any person from operations as a public utility, or 1106
incidental thereto, or in connection therewith, including any 1107
receipts received under Chapter 4928. of the Revised Code. The 1108
gross receipts for business done by an incorporated company 1109

engaged in operation as a public utility includes the entire 1110
receipts for business done by such company under the exercise of 1111
its corporate powers, whether from the operation as a public 1112
utility or from any other business. 1113

(C) "Rural electric company" means any nonprofit corporation, 1114
organization, association, or cooperative engaged in the business 1115
of supplying electricity to its members or persons owning an 1116
interest therein in an area the major portion of which is rural. 1117

(D) Any person: 1118

(1) Is a telegraph company when engaged in the business of 1119
transmitting telegraphic messages to, from, through, or in this 1120
state; 1121

(2) Is a telephone company when primarily engaged in the 1122
business of providing local exchange telephone service, excluding 1123
cellular radio service, in this state; 1124

(3) Is an electric company when engaged in the business of 1125
generating, transmitting, or distributing electricity within this 1126
state for use by others, but excludes a rural electric company; 1127

(4) Is a natural gas company when engaged in the business of 1128
supplying or distributing natural gas for lighting, power, or 1129
heating purposes to consumers within this state, excluding a 1130
person that is a governmental aggregator or retail natural gas 1131
supplier as defined in section 4929.01 of the Revised Code; 1132

(5) Is a pipe-line company when engaged in the business of 1133
transporting natural gas, oil, or coal or its derivatives through 1134
pipes or tubing, either wholly or partially within this state; 1135

(6) Is a water-works company when engaged in the business of 1136
supplying water through pipes or tubing, or in a similar manner, 1137
to consumers within this state; 1138

(7) Is a water transportation company when engaged in the 1139

transportation of passengers or property, by boat or other 1140
watercraft, over any waterway, whether natural or artificial, from 1141
one point within this state to another point within this state, or 1142
between points within this state and points without this state; 1143

(8) Is a heating company when engaged in the business of 1144
supplying water, steam, or air through pipes or tubing to 1145
consumers within this state for heating purposes; 1146

(9) Is a railroad company when engaged in the business of 1147
owning or operating a railroad either wholly or partially within 1148
this state on rights-of-way acquired and held exclusively by such 1149
company, or otherwise, and includes a passenger, street, suburban, 1150
or interurban railroad company; 1151

(10) Is an energy company when engaged in the business of 1152
generating, transmitting, or distributing electricity within this 1153
state for use by others from an energy facility with an aggregate 1154
nameplate capacity in excess of two hundred fifty kilowatts. 1155

As used in division (D)(2) of this section, "local exchange 1156
telephone service" means making available or furnishing access and 1157
a dial tone to all persons within a local calling area for use in 1158
originating and receiving voice grade communications over a 1159
switched network operated by the provider of the service within 1160
the area and for gaining access to other telecommunication 1161
services. 1162

(E) "Taxable property" means the property required by section 1163
5727.06 of the Revised Code to be assessed by the tax 1164
commissioner, but does not include either of the following: 1165

(1) An item of tangible personal property that for the period 1166
subsequent to the effective date of an air, water, or noise 1167
pollution control certificate and continuing so long as the 1168
certificate is in force, has been certified as part of the 1169
pollution control facility with respect to which the certificate 1170

has been issued; 1171

(2) An item of tangible personal property that during the 1172
construction of a plant or facility and until the item is first 1173
capable of operation, whether actually used in operation or not, 1174
is incorporated in or being held exclusively for incorporation in 1175
that plant or facility. 1176

Notwithstanding section 5701.03 of the Revised Code, for tax 1177
year 2006 and thereafter, "taxable property" includes patterns, 1178
jigs, dies, and drawings of an electric company or a combined 1179
company for use in the activity of an electric company. 1180

(F) "Taxing district" means a municipal corporation ~~of~~ or 1181
township, or part thereof, in which the aggregate rate of taxation 1182
is uniform. 1183

(G) "Telecommunications service" has the same meaning as in 1184
division (AA) of section 5739.01 of the Revised Code. 1185

(H) "Interexchange telecommunications company" means a person 1186
that is engaged in the business of transmitting telephonic 1187
messages to, from, through, or in this state, but that is not a 1188
telephone company. 1189

(I) "Sale and leaseback transaction" means a transaction in 1190
which a public utility or interexchange telecommunications company 1191
sells any tangible personal property to a person other than a 1192
public utility or interexchange telecommunications company and 1193
leases that property back from the buyer. 1194

(J) "Production equipment" means all taxable steam, nuclear, 1195
hydraulic, renewable resource, clean coal technology, and other 1196
production plant equipment used to generate electricity. For tax 1197
years prior to 2001, "production equipment" includes taxable 1198
station equipment that is located at a production plant. 1199

(K) "Tax year" means the year for which property or gross 1200

receipts are subject to assessment under this chapter. This 1201
division does not limit the tax commissioner's ability to assess 1202
and value property or gross receipts outside the tax year. 1203

(L) "Combined company" means any person engaged in the 1204
activity of an electric company or rural electric company that is 1205
also engaged in the activity of a heating company or a natural gas 1206
company, or any combination thereof. 1207

(M) "Public utility property lessor" means any person, other 1208
than a public utility or an interexchange telecommunications 1209
company, that leases personal property, other than in a sale and 1210
leaseback transaction, to a public utility, other than a railroad, 1211
water transportation, telephone, or telegraph company if the 1212
property would be taxable property if owned by the public utility. 1213
A public utility property lessor is subject to this chapter only 1214
for the purposes of reporting and paying tax on taxable property 1215
it leases to a public utility other than a telephone or telegraph 1216
company. A public utility property lessor that leases property to 1217
a public utility other than a telephone or telegraph company is 1218
not a public utility, but it shall report its property and be 1219
assessed in the same manner as the utility to which it leases the 1220
property. 1221

(N) "Energy resource" means any of the following: 1222

(1) "Renewable energy resource" as defined in section 4928.01 1223
of the Revised Code; 1224

(2) "Clean coal technology" as described in division 1225
(A)(34)(c) of section 4928.01 of the Revised Code; 1226

(3) "Advanced nuclear technology" as described in division 1227
(A)(34)(d) of section 4928.01 of the Revised Code; 1228

(4) "Cogeneration technology" as described in division 1229
(A)(34)(b) of section 4928.01 of the Revised Code. 1230

(O) "Energy conversion equipment" means tangible personal 1231
property connected to a wind turbine tower, connected to and 1232
behind solar radiation collector areas and designed to convert the 1233
radiant energy of the sun into electricity or heat, or connected 1234
to any other property used to generate electricity from an energy 1235
resource, through which electricity is transferred to controls, 1236
transformers, or power electronics and to the transmission 1237
interconnection point. 1238

"Energy conversion equipment" includes, but is not limited 1239
to, inverters, batteries, switch gears, wiring, collection lines, 1240
substations, ancillary tangible personal property, or any lines 1241
and associated tangible personal property located between 1242
substations and the transmission interconnection point. 1243

(P) "Energy facility" means one or more interconnected wind 1244
turbines, solar panels, or other tangible personal property used 1245
to generate electricity from an energy resource owned by the same 1246
person, including: 1247

(1) All interconnection equipment, devices, and related 1248
apparatus connected to such tangible personal property; 1249

(2) All cables, equipment, devices, and related apparatus 1250
that connect the generators to an electricity grid or to a 1251
building or facility that directly consumes the electricity 1252
produced, that facilitate the transmission of electrical energy 1253
from the generators to the grid, building, or facility, and, where 1254
applicable, that transform voltage before ultimate delivery of 1255
electricity to the grid, building, or facility. 1256

"Energy facility" includes buildings, structures, 1257
improvements, or fixtures exclusively used to house, support, or 1258
stabilize tangible personal property constituting the facility or 1259
that are otherwise necessary for the operation of that property; 1260
and so much of the land on which such tangible personal property 1261

is situated as is required for operation of the facility and is 1262
not devoted to some other use, not to exceed, in the case of wind 1263
turbines, one-half acre for each wind turbine, and regardless of 1264
whether the land is owned by the owner or lessee of the tangible 1265
personal property or by another person. 1266

(O) "Nameplate capacity" means the original maximum rated 1267
output of a generator or other electric production equipment under 1268
specific conditions designated by the manufacturer, expressed in 1269
the number of kilowatts or megawatts. 1270

Sec. 5727.02. As used in this chapter, "public utility," 1271
"electric company," "natural gas company," "pipe-line company," 1272
"water-works company," "water transportation company" or "heating 1273
company" does not include any of the following: 1274

(A)(1) Except as provided in division (A)(2) of this section, 1275
any person that is engaged in some other primary business to which 1276
the supplying of electricity, heat, natural gas, water, water 1277
transportation, steam, or air to others is incidental. ~~As used in~~ 1278
~~division (A) of this section and in section 5727.031 of the~~ 1279
~~Revised Code, "supplying of electricity" means generating,~~ 1280
~~transmitting, or distributing electricity.~~ 1281

(2) For tax year 2009 and each tax year thereafter, a person 1282
that is engaged in some other primary business to which the 1283
supplying of electricity to others is incidental shall be treated 1284
as an "electric company" and a "public utility" for purposes of 1285
this chapter solely to the extent required by section 5727.031 of 1286
the Revised Code. 1287

(3) For purposes of division (A) of this section and section 1288
5727.031 of the Revised Code: 1289

(a) "Supplying of electricity" means generating, 1290
transmitting, or distributing electricity. 1291

(b) A person that leases to others energy facilities with an 1292
aggregate nameplate capacity in this state of two hundred fifty 1293
kilowatts or less per lease is not supplying electricity to 1294
others. 1295

(c) A person that owns, or leases from another person, energy 1296
facilities with an aggregate nameplate capacity in this state of 1297
two hundred fifty kilowatts or less is not supplying electricity 1298
to others, regardless of whether the owner or lessee engages in 1299
net metering as defined in section 4928.01 of the Revised Code. 1300

(d) A political subdivision of this state that owns an energy 1301
facility is not supplying electricity to others regardless of the 1302
nameplate capacity of the facility if the primary purpose of the 1303
facility is to supply electricity for the political subdivision's 1304
own use. As used in this division, "political subdivision" means a 1305
county, township, municipal corporation, or any other body 1306
corporate and politic that is responsible for government 1307
activities in a geographic area smaller than that of the state. 1308

(B) Any person that supplies electricity, natural gas, water, 1309
water transportation, steam, or air to its tenants, whether for a 1310
separate charge or otherwise; 1311

(C) Any person whose primary business in this state consists 1312
of producing, refining, or marketing petroleum or its products. 1313

(D) Any person whose primary business in this state consists 1314
of producing or gathering natural gas rather than supplying or 1315
distributing natural gas to consumers. 1316

Sec. 5727.06. (A) Except as otherwise provided by law, the 1317
following constitutes the taxable property of a public utility, 1318
interexchange telecommunications company, or public utility 1319
property lessor that shall be assessed by the tax commissioner: 1320

(1) For tax years before tax year 2006: 1321

(a) In the case of a railroad company, all real property and 1322
tangible personal property owned or operated by the railroad 1323
company in this state on the thirty-first day of December of the 1324
preceding year; 1325

(b) In the case of a water transportation company, all 1326
tangible personal property, except watercraft, owned or operated 1327
by the water transportation company in this state on the 1328
thirty-first day of December of the preceding year and all 1329
watercraft owned or operated by the water transportation company 1330
in this state during the preceding calendar year; 1331

(c) In the case of all other public utilities and 1332
interexchange telecommunications companies, all tangible personal 1333
property that on the thirty-first day of December of the preceding 1334
year was both located in this state and: 1335

(i) Owned by the public utility or interexchange 1336
telecommunications company; or 1337

(ii) Leased by the public utility or interexchange 1338
telecommunications company under a sale and leaseback transaction. 1339

(2) For tax years 2006, 2007, and 2008: 1340

(a) In the case of a railroad company, all real property used 1341
in railroad operations and tangible personal property owned or 1342
operated by the railroad company in this state on the thirty-first 1343
day of December of the preceding year; 1344

(b) In the case of a water transportation company, all 1345
tangible personal property, except watercraft, owned or operated 1346
by the water transportation company in this state on the 1347
thirty-first day of December of the preceding year and all 1348
watercraft owned or operated by the water transportation company 1349
in this state during the preceding calendar year; 1350

(c) In the case of all other public utilities except 1351

telephone and telegraph companies, all tangible personal property 1352
that on the thirty-first day of December of the preceding year was 1353
both located in this state and either owned by the public utility 1354
or leased by the public utility under a sale and leaseback 1355
transaction. 1356

(3) For tax year 2009 and each tax year thereafter: 1357

(a) In the case of a railroad company, all real property used 1358
in railroad operations and tangible personal property owned or 1359
operated by the railroad company in this state on the thirty-first 1360
day of December of the preceding year; 1361

(b) In the case of a water transportation company, all 1362
tangible personal property, except watercraft, owned or operated 1363
by the water transportation company in this state on the 1364
thirty-first day of December of the preceding year and all 1365
watercraft owned or operated by the water transportation company 1366
in this state during the preceding calendar year; 1367

(c) In the case of all other public utilities except 1368
telephone and telegraph companies, all tangible personal property 1369
that on the thirty-first day of December of the preceding year was 1370
both located in this state and either owned by the public utility 1371
or leased by the public utility under a sale and leaseback 1372
transaction; 1373

(d) In the case of a public utility property lessor, all 1374
personal property that on the thirty-first day of December of the 1375
preceding year was both located in this state and leased, in other 1376
than a sale and leaseback transaction, to a public utility other 1377
than a railroad, telephone, telegraph, or water transportation 1378
company. The assessment rate used under section 5727.111 of the 1379
Revised Code shall be based on the assessment rate that would 1380
apply if the public utility owned the property. 1381

(4) For tax years 2005 and 2006, in the case of telephone, 1382

telegraph, or interexchange telecommunications companies, all 1383
tangible personal property that on the thirty-first day of 1384
December of the preceding year was both located in this state and 1385
either owned by the telephone, telegraph, or interexchange 1386
telecommunications company or leased by the telephone, telegraph, 1387
or interexchange telecommunications company under a sale and 1388
leaseback transaction. 1389

(5)(a) For tax year 2007 and thereafter, in the case of 1390
telephone, telegraph, or interexchange telecommunications 1391
companies, all tangible personal property shall be listed and 1392
assessed for taxation under Chapter 5711. of the Revised Code, but 1393
the tangible personal property shall be valued in accordance with 1394
this chapter using the composite annual allowances and other 1395
valuation procedures prescribed under section 5727.11 of the 1396
Revised Code by the tax commissioner for such property for tax 1397
year 2006, notwithstanding any section of Chapter 5711. of the 1398
Revised Code to the contrary. 1399

(b) A telephone, telegraph, or interexchange 1400
telecommunications company subject to division (A)(5)(a) of this 1401
section shall file a combined return with the tax commissioner in 1402
accordance with section 5711.13 of the Revised Code even if the 1403
company has tangible personal property in only one county. Such a 1404
company also is subject to the issuance of a preliminary 1405
assessment certificate by the tax commissioner under section 1406
5711.25 of the Revised Code. Such a company is not required to 1407
file a county supplemental return under section 5711.131 of the 1408
Revised Code. 1409

(6) In the case of an energy company, for tax year 2011 and 1410
each tax year thereafter, all tangible personal property that on 1411
the thirty-first day of December of the preceding year was both 1412
located in this state and either owned by the company or leased by 1413
the company under a sale and leaseback transaction, and that is 1414

not exempted from taxation under section 5727.75 of the Revised 1415
Code. 1416

(B) This division applies to tax years before tax year 2007. 1417

In the case of an interexchange telecommunications company, 1418
all taxable property shall be subject to the provisions of this 1419
chapter and shall be valued by the commissioner in accordance with 1420
division (A) of section 5727.11 of the Revised Code. A person 1421
described by this division shall file the report required by 1422
section 5727.08 of the Revised Code. Persons described in this 1423
division shall not be considered taxpayers, as defined in division 1424
(B) of section 5711.01 of the Revised Code, and shall not be 1425
required to file a return and list their taxable property under 1426
any provision of Chapter 5711. of the Revised Code. 1427

(C) The lien of the state for taxes levied each year on the 1428
real and personal property of public utilities and interexchange 1429
telecommunications companies and on the personal property of 1430
public utility property lessors shall attach thereto on the 1431
thirty-first day of December of the preceding year. 1432

(D) Property that is required by division (A)(3)(b) of this 1433
section to be assessed by the tax commissioner under this chapter 1434
shall not be listed by the owner of the property under Chapter 1435
5711. of the Revised Code. 1436

(E) The ten-thousand-dollar exemption provided for in 1437
division (C)(3) of section 5709.01 of the Revised Code does not 1438
apply to any personal property that is valued under this chapter. 1439

(F) The tax commissioner may adopt rules governing the 1440
listing of the taxable property of public utilities and 1441
interexchange telecommunications companies and the determination 1442
of true value. 1443

Sec. 5727.11. (A) Except as otherwise provided in this 1444

section, the true value of all taxable property, except property 1445
of a railroad company, required by section 5727.06 of the Revised 1446
Code to be assessed by the tax commissioner shall be determined by 1447
a method of valuation using cost as capitalized on the public 1448
utility's books and records less composite annual allowances as 1449
prescribed by the commissioner. If the commissioner finds that 1450
application of this method will not result in the determination of 1451
true value of the public utility's taxable property, the 1452
commissioner may use another method of valuation. 1453

(B)(1) Except as provided in division (B)(2) of this section, 1454
the true value of current gas stored underground is the cost of 1455
that gas shown on the books and records of the public utility on 1456
the thirty-first day of December of the preceding year. 1457

(2) For tax year 2001 and thereafter, the true value of 1458
current gas stored underground is the quotient obtained by 1459
dividing (a) the average value of the current gas stored 1460
underground, which shall be determined by adding the value of the 1461
gas on hand at the end of each calendar month in the calendar year 1462
preceding the tax year, or, if applicable, the last day of 1463
business of each month for a partial month, divided by (b) the 1464
total number of months the natural gas company was in business 1465
during the calendar year prior to the beginning of the tax year. 1466
with the approval of the tax commissioner, a natural gas company 1467
may use a date other than the end of a calendar month to value its 1468
current gas stored underground. 1469

(C) The true value of noncurrent gas stored underground is 1470
thirty-five per cent of the cost of that gas shown on the books 1471
and records of the public utility on the thirty-first day of 1472
December of the preceding year. 1473

(D)(1) Except as provided in division (D)(2) of this section, 1474
the true value of the production equipment of an electric company 1475

and the true value of all taxable property of a rural electric 1476
company is the equipment's or property's cost as capitalized on 1477
the company's books and records less fifty per cent of that cost 1478
as an allowance for depreciation and obsolescence. 1479

(2) The true value of the production equipment or energy 1480
conversion equipment of an electric company ~~or~~, rural electric 1481
company, or energy company purchased, transferred, or placed into 1482
service after ~~the effective date of this amendment~~ October 5, 1483
1999, is the purchase price of the equipment as capitalized on the 1484
company's books and records less composite annual allowances as 1485
prescribed by the tax commissioner. 1486

(E) The true value of taxable property, except property of a 1487
railroad company, required by section 5727.06 of the Revised Code 1488
to be assessed by the tax commissioner shall not include the 1489
allowance for funds used during construction or interest during 1490
construction that has been capitalized on the public utility's 1491
books and records as part of the total cost of the taxable 1492
property. This division shall not apply to the taxable property of 1493
an electric company or a rural electric company, excluding 1494
transmission and distribution property, first placed into service 1495
after December 31, 2000, or to the taxable property a person 1496
purchases, which includes transfers, if that property was used in 1497
business by the seller prior to the purchase. 1498

(F) The true value of watercraft owned or operated by a water 1499
transportation company shall be determined by multiplying the true 1500
value of the watercraft as determined under division (A) of this 1501
section by a fraction, the numerator of which is the number of 1502
revenue-earning miles traveled by the watercraft in the waters of 1503
this state and the denominator of which is the number of 1504
revenue-earning miles traveled by the watercraft in all waters. 1505

(G) The cost of property subject to a sale and leaseback 1506
transaction is the cost of the property as capitalized on the 1507

books and records of the public utility owning the property 1508
immediately prior to the sale and leaseback transaction. 1509

(H) The cost as capitalized on the books and records of a 1510
public utility includes amounts capitalized that represent 1511
regulatory assets, if such amounts previously were included on the 1512
company's books and records as capitalized costs of taxable 1513
personal property. 1514

(I) Any change in the composite annual allowances as 1515
prescribed by the commissioner on a prospective basis shall not be 1516
admissible in any judicial or administrative action or proceeding 1517
as evidence of value with regard to prior years' taxes. 1518
Information about the business, property, or transactions of any 1519
taxpayer obtained by the commissioner for the purpose of adopting 1520
or modifying the composite annual allowances shall not be subject 1521
to discovery or disclosure. 1522

Sec. 5727.111. The taxable property of each public utility, 1523
except a railroad company, and of each interexchange 1524
telecommunications company shall be assessed at the following 1525
percentages of true value: 1526

(A) ~~Fifty~~ In the case of a rural electric company, fifty per 1527
cent in the case of ~~the~~ its taxable transmission and distribution 1528
property ~~of a rural electric company, eighty-five per cent in the~~ 1529
case of its energy conversion equipment, and twenty-five per cent 1530
for all its other taxable property; 1531

(B) In the case of a telephone or telegraph company, 1532
twenty-five per cent for taxable property first subject to 1533
taxation in this state for tax year 1995 or thereafter for tax 1534
years before tax year 2007, and pursuant to division (H) of 1535
section 5711.22 of the Revised Code for tax year 2007 and 1536
thereafter, and the following for all other taxable property: 1537

(1) For tax years prior to 2005, eighty-eight per cent;	1538
(2) For tax year 2005, sixty-seven per cent;	1539
(3) For tax year 2006, forty-six per cent;	1540
(4) For tax year 2007 and thereafter, pursuant to division	1541
(H) of section 5711.22 of the Revised Code.	1542
(C) Twenty-five per cent in the case of a natural gas	1543
company.	1544
(D) Eighty-eight per cent in the case of a pipe-line,	1545
water-works, or heating company;	1546
(E)(1) For tax year 2005, eighty-eight per cent in the case	1547
of the taxable transmission and distribution property of an	1548
electric company, and twenty-five per cent for all its other	1549
taxable property;	1550
(2) For tax year 2006 and each tax year thereafter,	1551
eighty-five per cent in the case of the taxable transmission and	1552
distribution property of an electric company, and twenty-four per	1553
cent for all its other taxable property.	1554
(F)(1) Twenty-five per cent in the case of an interexchange	1555
telecommunications company for tax years before tax year 2007;	1556
(2) Pursuant to division (H) of section 5711.22 of the	1557
Revised Code for tax year 2007 and thereafter.	1558
(G) Twenty-five per cent in the case of a water	1559
transportation company;	1560
<u>(H) For tax year 2011 and each tax year thereafter in the</u>	1561
<u>case of an energy company, twenty-four per cent in the case of the</u>	1562
<u>taxable production equipment, and eighty-five per cent for all its</u>	1563
<u>other taxable property.</u>	1564
Sec. 5727.15. When all the taxable property of a public	1565
utility is located in one taxing district, the tax commissioner	1566

shall apportion the total taxable value thereof to that taxing
district. 1567
1568

When taxable property of a public utility is located in more 1569
than one taxing district, the commissioner shall apportion the 1570
total taxable value thereof among the taxing districts as follows: 1571

(A)(1) In the case of a telegraph, interexchange 1572
telecommunications, or telephone company that owns miles of wire 1573
in this state, the value apportioned to each taxing district shall 1574
be the same percentage of the total value apportioned to all 1575
taxing districts as the miles of wire owned by the company within 1576
the taxing district are to the total miles of wire owned by the 1577
company within this state; 1578

(2) In the case of a telegraph, interexchange 1579
telecommunications, or telephone company that does not own miles 1580
of wire in this state, the value apportioned to each taxing 1581
district shall be the same percentage of the total value 1582
apportioned to all taxing districts as the cost of the taxable 1583
property physically located in the taxing district is of the total 1584
cost of all taxable property physically located in this state. 1585

(B) In the case of a railroad company: 1586

(1) The taxable value of real and personal property not used 1587
in railroad operations shall be apportioned according to its 1588
situs; 1589

(2) The taxable value of personal property used in railroad 1590
operations shall be apportioned to each taxing district in 1591
proportion to the miles of track and trackage rights, weighted to 1592
reflect the relative use of such personal property in each taxing 1593
district; 1594

(3) The taxable value of real property used in railroad 1595
operations shall be apportioned to each taxing district in 1596
proportion to its relative value in each taxing district. 1597

(C)(1) Prior to tax year 2001, in the case of an electric 1598
company: 1599

(a) Seventy per cent of the taxable value of all production 1600
equipment and of all station equipment that is not production 1601
equipment shall be apportioned to the taxing district in which 1602
such property is physically located; and 1603

(b) The remaining value of such property, together with the 1604
value of all other taxable personal property, shall be apportioned 1605
to each taxing district in the per cent that the cost of all 1606
transmission and distribution property physically located in the 1607
taxing district is of the total cost of all transmission and 1608
distribution property physically located in this state. 1609

(c) If an electric company's taxable value for the current 1610
year includes the value of any production equipment at a plant at 1611
which the initial cost of the plant's production equipment 1612
exceeded one billion dollars, then prior to making the 1613
apportionments required for that company by division (C)(1)(a) and 1614
(b) of this section, the tax commissioner shall do the following: 1615

(i) Subtract four hundred twenty million dollars from the 1616
total taxable value of the production equipment at that plant for 1617
the current tax year. 1618

(ii) Multiply the difference thus obtained by a fraction, the 1619
numerator of which is the portion of the taxable value of that 1620
plant's production equipment included in the company's total value 1621
for the current tax year, and the denominator of which is the 1622
total taxable value of such equipment included in the total 1623
taxable value of all electric companies for such year; 1624

(iii) Apportion the product thus obtained to taxing districts 1625
in the manner prescribed in division (C)(1)(b) of this section. 1626

(iv) Deduct the amounts so apportioned from the taxable value 1627
of the company's production equipment at the plant, prior to 1628

making the apportionments required by divisions (C)(1)(a) and (b) 1629
of this section. 1630

For purposes of division (C)(1)(c) of this section, "initial 1631
cost" applies only to production equipment of plants placed in 1632
commercial operation on or after January 1, 1987, and means the 1633
cost of all production equipment at a plant for the first year the 1634
plant's equipment was subject to taxation. 1635

(2) For tax year 2001 and thereafter, in the case of an 1636
electric company: 1637

(a) The taxable value of all production equipment shall be 1638
apportioned to the taxing district in which such property is 1639
physically located; and 1640

(b) The value of taxable personal property, ~~other than~~ 1641
including energy conversion equipment but excluding production 1642
equipment, shall be apportioned to each taxing district in the 1643
proportion that the cost of such other taxable personal property 1644
physically located in each taxing district is of the total cost of 1645
such other taxable personal property physically located in this 1646
state. 1647

(D) For tax year 2011 and thereafter, in the case of the 1648
taxable property of an energy company: 1649

(1) The taxable value of all production equipment shall be 1650
apportioned to the taxing district in which such property is 1651
physically located. 1652

(2) The taxable value of all other taxable property, 1653
including energy conversion equipment, shall be apportioned to 1654
each taxing district in the proportion that the cost of such other 1655
taxable property physically located in each taxing district is of 1656
the total cost of such other taxable property physically located 1657
in this state. 1658

(E) For tax year 2011 and thereafter, in the case of the 1659
taxable property of a rural electric company: 1660

(1) The taxable value of all production equipment shall be 1661
apportioned to the taxing district in which such property is 1662
physically located. 1663

(2) The taxable value of all its other taxable property, 1664
including energy conversion equipment and excluding production 1665
equipment, shall be apportioned to each taxing district in the 1666
proportion that the cost of such other taxable property physically 1667
located in each taxing district is of the total cost of such other 1668
taxable property physically located in this state. 1669

(F) In the case of all other public utilities, the value of 1670
the property to be apportioned shall be apportioned to each taxing 1671
district in proportion to the entire value of such property within 1672
this state. 1673

Sec. 5727.30. (A) Except as provided in divisions (B), (C), 1674
and (D) of this section, each public utility, except railroad 1675
companies, shall be subject to an annual excise tax, as provided 1676
by sections 5727.31 to 5727.62 of the Revised Code, for the 1677
privilege of owning property in this state or doing business in 1678
this state during the twelve-month period next succeeding the 1679
period upon which the tax is based. The tax shall be imposed 1680
against each such public utility that, on the first day of such 1681
twelve-month period, owns property in this state or is doing 1682
business in this state, and the lien for the tax, including any 1683
penalties and interest accruing thereon, shall attach on such day 1684
to the property of the public utility in this state. 1685

(B) ~~An electric company's or a rural electric company's gross~~ 1686
Gross receipts of an electric company, rural electric company, or 1687
energy company received after April 30, 2001, are not subject to 1688
the annual excise tax imposed by this section. 1689

(C) A natural gas company's gross receipts received after 1690
April 30, 2000, are not subject to the annual excise tax imposed 1691
by this section. 1692

(D) A telephone company's gross receipts derived from amounts 1693
billed to customers after June 30, 2004, are not subject to the 1694
annual excise tax imposed by this section. Notwithstanding any 1695
other provision of law, gross receipts derived from amounts billed 1696
by a telephone company to customers prior to July 1, 2004, shall 1697
be included in the telephone company's annual statement filed on 1698
or before August 1, 2004, which shall be the last statement or 1699
report filed under section 5727.31 of the Revised Code by a 1700
telephone company. A telephone company shall not deduct from its 1701
gross receipts included in that last statement any receipts it was 1702
unable to collect from its customers for the period of July 1, 1703
2003, to June 30, 2004. 1704

Sec. 5727.75. (A) For purposes of this section: 1705

(1) "Qualified energy project" means an energy project 1706
certified by the director of development pursuant to this section. 1707
"Qualified energy project" does not include any facility if the 1708
facility or any portion of the facility was used to supply 1709
electricity before January 1, 2010. 1710

(2) "Energy project" means a project to provide electric 1711
power through the construction, installation, and use of an energy 1712
facility. 1713

(3) "Job and economic development impact model" means the job 1714
and economic development impact model published by the national 1715
renewable energy laboratory of the United States department of 1716
energy. "Job and economic development impact model" includes 1717
economic models that project job creation and that are approved by 1718
the department of development for technologies for which the 1719
national renewable energy laboratory has not developed an 1720

applicable model. 1721

(4) "Full-time equivalent employee" means the total number of 1722
hours for which compensation was paid to individuals employed at a 1723
qualified energy project for services performed at the project 1724
during the calendar year divided by two thousand eighty. 1725

(B)(1) Tangible personal property of a qualified energy 1726
project is exempt from taxation for tax years 2011 and 2012 if all 1727
of the following circumstances exist: 1728

(a) On or before December 31, 2011, the owner or a lessee 1729
pursuant to a sale and leaseback transaction of the project has 1730
obtained a certificate from the power siting board if required 1731
under Chapter 4906. of the Revised Code, or if that chapter does 1732
not apply, has obtained any approval, consent, permit, or 1733
certificate or has satisfied any condition required by a public 1734
agency or political subdivision of this state for the construction 1735
or initial operation of an energy project. 1736

(b) Project construction has begun on or after January 1, 1737
2009, and before January 1, 2012. For the purposes of this 1738
division, construction begins on the earlier of the date of 1739
application for a certificate or other approval or permit 1740
described in division (B)(1)(a) of this section, or the date the 1741
construction contract is entered into. 1742

(c) A board of county commissioners of a county in which 1743
property of the qualified energy project is located has adopted a 1744
resolution to approve an application to exempt the property 1745
located in that county from taxation. A board's rejection of an 1746
application or failure to adopt a resolution to approve or reject 1747
the tax exemption does not affect the tax-exempt status of 1748
property of a qualified energy project located in another county. 1749

(2) If tangible personal property of a qualified energy 1750
project was exempt from taxation under this section for tax years 1751

2011 and 2012 and the certification under division (C)(2) of this 1752
section has not been revoked, the tangible personal property of 1753
the qualified energy project is exempt from taxation for tax year 1754
2013 and all ensuing tax years if the property was placed into 1755
service before January 1, 2013. Tangible personal property not 1756
placed into service on that date is taxable property subject to 1757
taxation. An energy project for which certification has been 1758
revoked is ineligible for further exemption under this section. 1759
Revocation does not affect the tax-exempt status of the project's 1760
tangible personal property for the tax year in which revocation 1761
occurs or any prior tax year. 1762

(3) Except as otherwise provided in this division, real 1763
property included in an energy facility that is a qualified energy 1764
project is exempt from taxation for any tax year for which the 1765
tangible personal property that is part of the same qualified 1766
energy project is exempted under this section. Real property 1767
included in an energy facility that is an energy project is not 1768
exempt from taxation if it is located in a county in which the 1769
board of county commissioners has adopted a resolution to reject 1770
the exemption or has failed to adopt a resolution to approve or 1771
reject the tax exemption. 1772

(C)(1) On or before September 30, 2010, a person may apply to 1773
the director of development for certification of an energy project 1774
as a qualified energy project. The director shall forward a copy 1775
of the application to the board of county commissioners of each 1776
county in which the project is located and to each taxing unit 1777
with territory located in each of the affected counties. Any board 1778
that receives from the director a copy of an application for an 1779
exemption from taxes and assessments under division (B) of this 1780
section shall adopt a resolution to approve or reject the 1781
exemption. A resolution to approve the exemption may specify 1782
additional requirements that a project shall meet in order to be 1783

eligible for the exemption under this section. Additional 1784
requirements may include, but are not limited to, a modification 1785
to the service payment required under division (E) of this 1786
section. The board shall adopt the resolution within thirty days 1787
after the board receives the copy of the application, or a longer 1788
period of time if authorized by the director, after which the 1789
board shall send, by certified mail, copies of the resolution to 1790
the owner of the facility and the director. All tangible personal 1791
property and real property included in an energy facility that is 1792
an energy project is taxable if it is located in a county in which 1793
the board of county commissioners rejected the exemption or failed 1794
to adopt a resolution to approve or reject the tax exemption. 1795

(2) The director shall certify an energy project if the 1796
application was timely submitted, approved by a resolution of a 1797
board of county commissioners of at least one county in which the 1798
project is located, and the director determines that the person, 1799
upon placement of the facility into service, would be an energy 1800
company. 1801

(3) The director shall deny a certification application or 1802
revoke a certification if the director determines the person, or 1803
subsequent owner or lessee pursuant to a sale and leaseback 1804
transaction of the qualified energy project, has failed to comply 1805
with any requirement under this section. Upon certification or 1806
revocation, the director shall notify the person, owner, or 1807
lessee, the tax commissioner, and the county auditor of a county 1808
in which the project is located of the certification or 1809
revocation. Notice shall be provided in a manner convenient to the 1810
director. 1811

(4) If a qualified energy project that is certified by the 1812
director is located in more than one county and the board of 1813
county commissioners of one or more of the counties adopts a 1814
resolution rejecting a tax exemption for the project or fails to 1815

adopt a resolution to approve or reject the tax exemption, the 1816
exemption under this section shall apply only to that part of the 1817
project that is physically located in a county whose board adopts 1818
a resolution approving the exemption and shall not apply to any 1819
part of the project that is physically located in a county whose 1820
board adopts a resolution rejecting the exemption or fails to 1821
adopt a resolution to approve or reject the tax exemption. 1822

(D) The owner or a lessee pursuant to a sale and leaseback 1823
transaction of a qualified energy project shall do each of the 1824
following: 1825

(1) Comply with all applicable regulations; 1826

(2)(a) File with the director of development a certificate of 1827
completion not later than sixty days after completion of the 1828
energy facility's construction and, if applicable, file a 1829
certificate of partial completion on or before March 1, 2013. A 1830
certificate of partial completion shall state the nameplate 1831
capacity of the facility as of January 1, 2013. 1832

(b) For facilities placed in service before the effective 1833
date of this section, file with the director a certificate of 1834
completion not later than sixty days after the effective date of 1835
this section. 1836

(3) Employ in the construction, installation, and operation 1837
of the project full-time equivalent employees in such number as 1838
projected by the job and economic development impact model, of 1839
whom a majority are domiciled in this state, provided that the 1840
director of development, for good cause, may permit departures 1841
from the total employment level or the number of Ohio-domiciled 1842
employees; 1843

(4) File with the director of development, at the time and in 1844
the manner prescribed by the director, a report of the total 1845
number of full-time equivalent employees and of Ohio-domiciled 1846

full-time equivalent employees employed in the construction and 1847
installation of the facility, and, annually, a report of the 1848
number of such employees employed in the operation of the 1849
facility; 1850

(5) Repair all roads, bridges, and culverts affected by the 1851
construction as reasonably required to restore them to their 1852
preconstruction condition, as estimated by the county engineer in 1853
consultation with the local jurisdiction responsible for the 1854
roads, bridges, or culverts; 1855

(6) Provide or facilitate training for fire and emergency 1856
responders for response to emergency situations related to the 1857
qualified energy project and, at the person's expense, equip the 1858
fire and emergency responders with proper equipment as reasonably 1859
required to enable them to respond to such emergency situations; 1860

(7) Offer to sell power or renewable energy credits from the 1861
qualified energy project to electric distribution utilities or 1862
electric services companies subject to renewable energy resource 1863
requirements under section 4928.64 of the Revised Code that have 1864
issued requests for proposal for such power or renewable energy 1865
credits. If no electric distribution utility or electric services 1866
company issues a request for proposal on or before December 31, 1867
2010, or accepts an offer for power or renewable energy credits 1868
within forty-five days after the offer is submitted, power or 1869
renewable energy credits from the qualified energy project may be 1870
sold to other persons. Division (D)(7) of this section does not 1871
apply if: 1872

(a) The owner or lessee is a rural electric company or a 1873
municipal power agency as defined in section 3734.058 of the 1874
Revised Code; 1875

(b) The owner or lessee is a person that, before completion 1876
of the qualified energy project, contracted for the sale of power 1877

or renewable energy credits with a rural electric company or a 1878
municipal power agency; 1879

(c) The owner or lessee contracts for the sale of power or 1880
renewable energy credits from the project before the effective 1881
date of this section as enacted by this act. 1882

(8) Make annual service payments as required by division (E) 1883
of this section. 1884

(E) The owner or lessee of a qualified energy project that is 1885
exempted from taxes and assessments under this section shall make 1886
annual service payments in lieu of taxes to the county treasurer 1887
of any county in which exempted property is located. Service 1888
payments shall be required for each tax year for which the 1889
property is exempt. The payment shall equal seven thousand dollars 1890
for each megawatt of nameplate capacity of the energy facility. 1891
The payment shall be charged, collected, and distributed at the 1892
same time and in the same manner as the taxes imposed on taxable 1893
property subject to assessment under Chapter 5727. of the Revised 1894
Code. 1895

(F) Within ninety days after the effective date of this 1896
section, the director of development, in consultation with the tax 1897
commissioner, shall adopt rules pursuant to Chapter 119. of the 1898
Revised Code to implement and enforce this section. 1899

Sec. 5739.02. For the purpose of providing revenue with which 1900
to meet the needs of the state, for the use of the general revenue 1901
fund of the state, for the purpose of securing a thorough and 1902
efficient system of common schools throughout the state, for the 1903
purpose of affording revenues, in addition to those from general 1904
property taxes, permitted under constitutional limitations, and 1905
from other sources, for the support of local governmental 1906
functions, and for the purpose of reimbursing the state for the 1907
expense of administering this chapter, an excise tax is hereby 1908

levied on each retail sale made in this state. 1909

(A)(1) The tax shall be collected as provided in section 1910
5739.025 of the Revised Code. The rate of the tax shall be five 1911
and one-half per cent. The tax applies and is collectible when the 1912
sale is made, regardless of the time when the price is paid or 1913
delivered. 1914

(2) In the case of the lease or rental, with a fixed term of 1915
more than thirty days or an indefinite term with a minimum period 1916
of more than thirty days, of any motor vehicles designed by the 1917
manufacturer to carry a load of not more than one ton, watercraft, 1918
outboard motor, or aircraft, or of any tangible personal property, 1919
other than motor vehicles designed by the manufacturer to carry a 1920
load of more than one ton, to be used by the lessee or renter 1921
primarily for business purposes, the tax shall be collected by the 1922
vendor at the time the lease or rental is consummated and shall be 1923
calculated by the vendor on the basis of the total amount to be 1924
paid by the lessee or renter under the lease agreement. If the 1925
total amount of the consideration for the lease or rental includes 1926
amounts that are not calculated at the time the lease or rental is 1927
executed, the tax shall be calculated and collected by the vendor 1928
at the time such amounts are billed to the lessee or renter. In 1929
the case of an open-end lease or rental, the tax shall be 1930
calculated by the vendor on the basis of the total amount to be 1931
paid during the initial fixed term of the lease or rental, and for 1932
each subsequent renewal period as it comes due. As used in this 1933
division, "motor vehicle" has the same meaning as in section 1934
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1935
unit attached to the watercraft. 1936

A lease with a renewal clause and a termination penalty or 1937
similar provision that applies if the renewal clause is not 1938
exercised is presumed to be a sham transaction. In such a case, 1939
the tax shall be calculated and paid on the basis of the entire 1940

length of the lease period, including any renewal periods, until 1941
the termination penalty or similar provision no longer applies. 1942
The taxpayer shall bear the burden, by a preponderance of the 1943
evidence, that the transaction or series of transactions is not a 1944
sham transaction. 1945

(3) Except as provided in division (A)(2) of this section, in 1946
the case of a sale, the price of which consists in whole or in 1947
part of the lease or rental of tangible personal property, the tax 1948
shall be measured by the installments of that lease or rental. 1949

(4) In the case of a sale of a physical fitness facility 1950
service or recreation and sports club service, the price of which 1951
consists in whole or in part of a membership for the receipt of 1952
the benefit of the service, the tax applicable to the sale shall 1953
be measured by the installments thereof. 1954

(B) The tax does not apply to the following: 1955

(1) Sales to the state or any of its political subdivisions, 1956
or to any other state or its political subdivisions if the laws of 1957
that state exempt from taxation sales made to this state and its 1958
political subdivisions; 1959

(2) Sales of food for human consumption off the premises 1960
where sold; 1961

(3) Sales of food sold to students only in a cafeteria, 1962
dormitory, fraternity, or sorority maintained in a private, 1963
public, or parochial school, college, or university; 1964

(4) Sales of newspapers and of magazine subscriptions and 1965
sales or transfers of magazines distributed as controlled 1966
circulation publications; 1967

(5) The furnishing, preparing, or serving of meals without 1968
charge by an employer to an employee provided the employer records 1969
the meals as part compensation for services performed or work 1970

done; 1971

(6) Sales of motor fuel upon receipt, use, distribution, or 1972
sale of which in this state a tax is imposed by the law of this 1973
state, but this exemption shall not apply to the sale of motor 1974
fuel on which a refund of the tax is allowable under division (A) 1975
of section 5735.14 of the Revised Code; and the tax commissioner 1976
may deduct the amount of tax levied by this section applicable to 1977
the price of motor fuel when granting a refund of motor fuel tax 1978
pursuant to division (A) of section 5735.14 of the Revised Code 1979
and shall cause the amount deducted to be paid into the general 1980
revenue fund of this state; 1981

(7) Sales of natural gas by a natural gas company, of water 1982
by a water-works company, or of steam by a heating company, if in 1983
each case the thing sold is delivered to consumers through pipes 1984
or conduits, and all sales of communications services by a 1985
telegraph company, all terms as defined in section 5727.01 of the 1986
Revised Code, and sales of electricity delivered through wires; 1987

(8) Casual sales by a person, or auctioneer employed directly 1988
by the person to conduct such sales, except as to such sales of 1989
motor vehicles, watercraft or outboard motors required to be 1990
titled under section 1548.06 of the Revised Code, watercraft 1991
documented with the United States coast guard, snowmobiles, and 1992
all-purpose vehicles as defined in section 4519.01 of the Revised 1993
Code; 1994

(9)(a) Sales of services or tangible personal property, other 1995
than motor vehicles, mobile homes, and manufactured homes, by 1996
churches, organizations exempt from taxation under section 1997
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1998
organizations operated exclusively for charitable purposes as 1999
defined in division (B)(12) of this section, provided that the 2000
number of days on which such tangible personal property or 2001
services, other than items never subject to the tax, are sold does 2002

not exceed six in any calendar year, except as otherwise provided 2003
in division (B)(9)(b) of this section. If the number of days on 2004
which such sales are made exceeds six in any calendar year, the 2005
church or organization shall be considered to be engaged in 2006
business and all subsequent sales by it shall be subject to the 2007
tax. In counting the number of days, all sales by groups within a 2008
church or within an organization shall be considered to be sales 2009
of that church or organization. 2010

(b) The limitation on the number of days on which tax-exempt 2011
sales may be made by a church or organization under division 2012
(B)(9)(a) of this section does not apply to sales made by student 2013
clubs and other groups of students of a primary or secondary 2014
school, or a parent-teacher association, booster group, or similar 2015
organization that raises money to support or fund curricular or 2016
extracurricular activities of a primary or secondary school. 2017

(c) Divisions (B)(9)(a) and (b) of this section do not apply 2018
to sales by a noncommercial educational radio or television 2019
broadcasting station. 2020

(10) Sales not within the taxing power of this state under 2021
the Constitution of the United States; 2022

(11) Except for transactions that are sales under division 2023
(B)(3)(r) of section 5739.01 of the Revised Code, the 2024
transportation of persons or property, unless the transportation 2025
is by a private investigation and security service; 2026

(12) Sales of tangible personal property or services to 2027
churches, to organizations exempt from taxation under section 2028
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2029
nonprofit organizations operated exclusively for charitable 2030
purposes in this state, no part of the net income of which inures 2031
to the benefit of any private shareholder or individual, and no 2032
substantial part of the activities of which consists of carrying 2033

on propaganda or otherwise attempting to influence legislation; 2034
sales to offices administering one or more homes for the aged or 2035
one or more hospital facilities exempt under section 140.08 of the 2036
Revised Code; and sales to organizations described in division (D) 2037
of section 5709.12 of the Revised Code. 2038

"Charitable purposes" means the relief of poverty; the 2039
improvement of health through the alleviation of illness, disease, 2040
or injury; the operation of an organization exclusively for the 2041
provision of professional, laundry, printing, and purchasing 2042
services to hospitals or charitable institutions; the operation of 2043
a home for the aged, as defined in section 5701.13 of the Revised 2044
Code; the operation of a radio or television broadcasting station 2045
that is licensed by the federal communications commission as a 2046
noncommercial educational radio or television station; the 2047
operation of a nonprofit animal adoption service or a county 2048
humane society; the promotion of education by an institution of 2049
learning that maintains a faculty of qualified instructors, 2050
teaches regular continuous courses of study, and confers a 2051
recognized diploma upon completion of a specific curriculum; the 2052
operation of a parent-teacher association, booster group, or 2053
similar organization primarily engaged in the promotion and 2054
support of the curricular or extracurricular activities of a 2055
primary or secondary school; the operation of a community or area 2056
center in which presentations in music, dramatics, the arts, and 2057
related fields are made in order to foster public interest and 2058
education therein; the production of performances in music, 2059
dramatics, and the arts; or the promotion of education by an 2060
organization engaged in carrying on research in, or the 2061
dissemination of, scientific and technological knowledge and 2062
information primarily for the public. 2063

Nothing in this division shall be deemed to exempt sales to 2064
any organization for use in the operation or carrying on of a 2065

trade or business, or sales to a home for the aged for use in the 2066
operation of independent living facilities as defined in division 2067
(A) of section 5709.12 of the Revised Code. 2068

(13) Building and construction materials and services sold to 2069
construction contractors for incorporation into a structure or 2070
improvement to real property under a construction contract with 2071
this state or a political subdivision of this state, or with the 2072
United States government or any of its agencies; building and 2073
construction materials and services sold to construction 2074
contractors for incorporation into a structure or improvement to 2075
real property that are accepted for ownership by this state or any 2076
of its political subdivisions, or by the United States government 2077
or any of its agencies at the time of completion of the structures 2078
or improvements; building and construction materials sold to 2079
construction contractors for incorporation into a horticulture 2080
structure or livestock structure for a person engaged in the 2081
business of horticulture or producing livestock; building 2082
materials and services sold to a construction contractor for 2083
incorporation into a house of public worship or religious 2084
education, or a building used exclusively for charitable purposes 2085
under a construction contract with an organization whose purpose 2086
is as described in division (B)(12) of this section; building 2087
materials and services sold to a construction contractor for 2088
incorporation into a building under a construction contract with 2089
an organization exempt from taxation under section 501(c)(3) of 2090
the Internal Revenue Code of 1986 when the building is to be used 2091
exclusively for the organization's exempt purposes; building and 2092
construction materials sold for incorporation into the original 2093
construction of a sports facility under section 307.696 of the 2094
Revised Code; and building and construction materials and services 2095
sold to a construction contractor for incorporation into real 2096
property outside this state if such materials and services, when 2097
sold to a construction contractor in the state in which the real 2098

property is located for incorporation into real property in that 2099
state, would be exempt from a tax on sales levied by that state; 2100

(14) Sales of ships or vessels or rail rolling stock used or 2101
to be used principally in interstate or foreign commerce, and 2102
repairs, alterations, fuel, and lubricants for such ships or 2103
vessels or rail rolling stock; 2104

(15) Sales to persons primarily engaged in any of the 2105
activities mentioned in division (B)(42)(a) or (g) of this 2106
section, to persons engaged in making retail sales, or to persons 2107
who purchase for sale from a manufacturer tangible personal 2108
property that was produced by the manufacturer in accordance with 2109
specific designs provided by the purchaser, of packages, including 2110
material, labels, and parts for packages, and of machinery, 2111
equipment, and material for use primarily in packaging tangible 2112
personal property produced for sale, including any machinery, 2113
equipment, and supplies used to make labels or packages, to 2114
prepare packages or products for labeling, or to label packages or 2115
products, by or on the order of the person doing the packaging, or 2116
sold at retail. "Packages" includes bags, baskets, cartons, 2117
crates, boxes, cans, bottles, bindings, wrappings, and other 2118
similar devices and containers, but does not include motor 2119
vehicles or bulk tanks, trailers, or similar devices attached to 2120
motor vehicles. "Packaging" means placing in a package. Division 2121
(B)(15) of this section does not apply to persons engaged in 2122
highway transportation for hire. 2123

(16) Sales of food to persons using supplemental nutrition 2124
assistance program benefits to purchase the food. As used in this 2125
division, "food" has the same meaning as in 7 U.S.C. 2012 and 2126
federal regulations adopted pursuant to the Food and Nutrition Act 2127
of 2008. 2128

(17) Sales to persons engaged in farming, agriculture, 2129
horticulture, or floriculture, of tangible personal property for 2130

use or consumption directly in the production by farming, 2131
agriculture, horticulture, or floriculture of other tangible 2132
personal property for use or consumption directly in the 2133
production of tangible personal property for sale by farming, 2134
agriculture, horticulture, or floriculture; or material and parts 2135
for incorporation into any such tangible personal property for use 2136
or consumption in production; and of tangible personal property 2137
for such use or consumption in the conditioning or holding of 2138
products produced by and for such use, consumption, or sale by 2139
persons engaged in farming, agriculture, horticulture, or 2140
floriculture, except where such property is incorporated into real 2141
property; 2142

(18) Sales of drugs for a human being that may be dispensed 2143
only pursuant to a prescription; insulin as recognized in the 2144
official United States pharmacopoeia; urine and blood testing 2145
materials when used by diabetics or persons with hypoglycemia to 2146
test for glucose or acetone; hypodermic syringes and needles when 2147
used by diabetics for insulin injections; epoetin alfa when 2148
purchased for use in the treatment of persons with medical 2149
disease; hospital beds when purchased by hospitals, nursing homes, 2150
or other medical facilities; and medical oxygen and medical 2151
oxygen-dispensing equipment when purchased by hospitals, nursing 2152
homes, or other medical facilities; 2153

(19) Sales of prosthetic devices, durable medical equipment 2154
for home use, or mobility enhancing equipment, when made pursuant 2155
to a prescription and when such devices or equipment are for use 2156
by a human being. 2157

(20) Sales of emergency and fire protection vehicles and 2158
equipment to nonprofit organizations for use solely in providing 2159
fire protection and emergency services, including trauma care and 2160
emergency medical services, for political subdivisions of the 2161
state; 2162

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged	2195
exclusively in the treatment, distribution, and sale of water to	2196
consumers, if such water is delivered to consumers through pipes	2197
or tubing.	2198
(26) Fees charged for inspection or reinspection of motor	2199
vehicles under section 3704.14 of the Revised Code;	2200
(27) Sales to persons licensed to conduct a food service	2201
operation pursuant to section 3717.43 of the Revised Code, of	2202
tangible personal property primarily used directly for the	2203
following:	2204
(a) To prepare food for human consumption for sale;	2205
(b) To preserve food that has been or will be prepared for	2206
human consumption for sale by the food service operator, not	2207
including tangible personal property used to display food for	2208
selection by the consumer;	2209
(c) To clean tangible personal property used to prepare or	2210
serve food for human consumption for sale.	2211
(28) Sales of animals by nonprofit animal adoption services	2212
or county humane societies;	2213
(29) Sales of services to a corporation described in division	2214
(A) of section 5709.72 of the Revised Code, and sales of tangible	2215
personal property that qualifies for exemption from taxation under	2216
section 5709.72 of the Revised Code;	2217
(30) Sales and installation of agricultural land tile, as	2218
defined in division (B)(5)(a) of section 5739.01 of the Revised	2219
Code;	2220
(31) Sales and erection or installation of portable grain	2221
bins, as defined in division (B)(5)(b) of section 5739.01 of the	2222
Revised Code;	2223
(32) The sale, lease, repair, and maintenance of, parts for,	2224

or items attached to or incorporated in, motor vehicles that are 2225
primarily used for transporting tangible personal property 2226
belonging to others by a person engaged in highway transportation 2227
for hire, except for packages and packaging used for the 2228
transportation of tangible personal property; 2229

(33) Sales to the state headquarters of any veterans' 2230
organization in this state that is either incorporated and issued 2231
a charter by the congress of the United States or is recognized by 2232
the United States veterans administration, for use by the 2233
headquarters; 2234

(34) Sales to a telecommunications service vendor, mobile 2235
telecommunications service vendor, or satellite broadcasting 2236
service vendor of tangible personal property and services used 2237
directly and primarily in transmitting, receiving, switching, or 2238
recording any interactive, one- or two-way electromagnetic 2239
communications, including voice, image, data, and information, 2240
through the use of any medium, including, but not limited to, 2241
poles, wires, cables, switching equipment, computers, and record 2242
storage devices and media, and component parts for the tangible 2243
personal property. The exemption provided in this division shall 2244
be in lieu of all other exemptions under division (B)(42)(a) of 2245
this section to which the vendor may otherwise be entitled, based 2246
upon the use of the thing purchased in providing the 2247
telecommunications, mobile telecommunications, or satellite 2248
broadcasting service. 2249

(35)(a) Sales where the purpose of the consumer is to use or 2250
consume the things transferred in making retail sales and 2251
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2252
certificates, or other advertising material that prices and 2253
describes tangible personal property offered for retail sale. 2254

(b) Sales to direct marketing vendors of preliminary 2255
materials such as photographs, artwork, and typesetting that will 2256

be used in printing advertising material; of printed matter that 2257
offers free merchandise or chances to win sweepstake prizes and 2258
that is mailed to potential customers with advertising material 2259
described in division (B)(35)(a) of this section; and of equipment 2260
such as telephones, computers, facsimile machines, and similar 2261
tangible personal property primarily used to accept orders for 2262
direct marketing retail sales. 2263

(c) Sales of automatic food vending machines that preserve 2264
food with a shelf life of forty-five days or less by refrigeration 2265
and dispense it to the consumer. 2266

For purposes of division (B)(35) of this section, "direct 2267
marketing" means the method of selling where consumers order 2268
tangible personal property by United States mail, delivery 2269
service, or telecommunication and the vendor delivers or ships the 2270
tangible personal property sold to the consumer from a warehouse, 2271
catalogue distribution center, or similar fulfillment facility by 2272
means of the United States mail, delivery service, or common 2273
carrier. 2274

(36) Sales to a person engaged in the business of 2275
horticulture or producing livestock of materials to be 2276
incorporated into a horticulture structure or livestock structure; 2277

(37) Sales of personal computers, computer monitors, computer 2278
keyboards, modems, and other peripheral computer equipment to an 2279
individual who is licensed or certified to teach in an elementary 2280
or a secondary school in this state for use by that individual in 2281
preparation for teaching elementary or secondary school students; 2282

(38) Sales to a professional racing team of any of the 2283
following: 2284

(a) Motor racing vehicles; 2285

(b) Repair services for motor racing vehicles; 2286

(c) Items of property that are attached to or incorporated in 2287
motor racing vehicles, including engines, chassis, and all other 2288
components of the vehicles, and all spare, replacement, and 2289
rebuilt parts or components of the vehicles; except not including 2290
tires, consumable fluids, paint, and accessories consisting of 2291
instrumentation sensors and related items added to the vehicle to 2292
collect and transmit data by means of telemetry and other forms of 2293
communication. 2294

(39) Sales of used manufactured homes and used mobile homes, 2295
as defined in section 5739.0210 of the Revised Code, made on or 2296
after January 1, 2000; 2297

(40) Sales of tangible personal property and services to a 2298
provider of electricity used or consumed directly and primarily in 2299
generating, transmitting, or distributing electricity for use by 2300
others, including property that is or is to be incorporated into 2301
and will become a part of the consumer's production, transmission, 2302
or distribution system and that retains its classification as 2303
tangible personal property after incorporation; fuel or power used 2304
in the production, transmission, or distribution of electricity; 2305
energy conversion equipment as defined in section 5727.01 of the 2306
Revised Code; and tangible personal property and services used in 2307
the repair and maintenance of the production, transmission, or 2308
distribution system, including only those motor vehicles as are 2309
specially designed and equipped for such use. The exemption 2310
provided in this division shall be in lieu of all other exemptions 2311
in division (B)(42)(a) of this section to which a provider of 2312
electricity may otherwise be entitled based on the use of the 2313
tangible personal property or service purchased in generating, 2314
transmitting, or distributing electricity. 2315

(41) Sales to a person providing services under division 2316
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 2317
personal property and services used directly and primarily in 2318

providing taxable services under that section. 2319

(42) Sales where the purpose of the purchaser is to do any of 2320
the following: 2321

(a) To incorporate the thing transferred as a material or a 2322
part into tangible personal property to be produced for sale by 2323
manufacturing, assembling, processing, or refining; or to use or 2324
consume the thing transferred directly in producing tangible 2325
personal property for sale by mining, including, without 2326
limitation, the extraction from the earth of all substances that 2327
are classed geologically as minerals, production of crude oil and 2328
natural gas, farming, agriculture, horticulture, or floriculture, 2329
or directly in the rendition of a public utility service, except 2330
that the sales tax levied by this section shall be collected upon 2331
all meals, drinks, and food for human consumption sold when 2332
transporting persons. Persons engaged in rendering farming, 2333
agricultural, horticultural, or floricultural services, and 2334
services in the exploration for, and production of, crude oil and 2335
natural gas, for others are deemed engaged directly in farming, 2336
agriculture, horticulture, and floriculture, or exploration for, 2337
and production of, crude oil and natural gas. This paragraph does 2338
not exempt from "retail sale" or "sales at retail" the sale of 2339
tangible personal property that is to be incorporated into a 2340
structure or improvement to real property. 2341

(b) To hold the thing transferred as security for the 2342
performance of an obligation of the vendor; 2343

(c) To resell, hold, use, or consume the thing transferred as 2344
evidence of a contract of insurance; 2345

(d) To use or consume the thing directly in commercial 2346
fishing; 2347

(e) To incorporate the thing transferred as a material or a 2348
part into, or to use or consume the thing transferred directly in 2349

the production of, magazines distributed as controlled circulation 2350
publications; 2351

(f) To use or consume the thing transferred in the production 2352
and preparation in suitable condition for market and sale of 2353
printed, imprinted, overprinted, lithographic, multilithic, 2354
blueprinted, photostatic, or other productions or reproductions of 2355
written or graphic matter; 2356

(g) To use the thing transferred, as described in section 2357
5739.011 of the Revised Code, primarily in a manufacturing 2358
operation to produce tangible personal property for sale; 2359

(h) To use the benefit of a warranty, maintenance or service 2360
contract, or similar agreement, as described in division (B)(7) of 2361
section 5739.01 of the Revised Code, to repair or maintain 2362
tangible personal property, if all of the property that is the 2363
subject of the warranty, contract, or agreement would not be 2364
subject to the tax imposed by this section; 2365

(i) To use the thing transferred as qualified research and 2366
development equipment; 2367

(j) To use or consume the thing transferred primarily in 2368
storing, transporting, mailing, or otherwise handling purchased 2369
sales inventory in a warehouse, distribution center, or similar 2370
facility when the inventory is primarily distributed outside this 2371
state to retail stores of the person who owns or controls the 2372
warehouse, distribution center, or similar facility, to retail 2373
stores of an affiliated group of which that person is a member, or 2374
by means of direct marketing. This division does not apply to 2375
motor vehicles registered for operation on the public highways. As 2376
used in this division, "affiliated group" has the same meaning as 2377
in division (B)(3)(e) of section 5739.01 of the Revised Code and 2378
"direct marketing" has the same meaning as in division (B)(35) of 2379
this section. 2380

(k) To use or consume the thing transferred to fulfill a 2381
contractual obligation incurred by a warrantor pursuant to a 2382
warranty provided as a part of the price of the tangible personal 2383
property sold or by a vendor of a warranty, maintenance or service 2384
contract, or similar agreement the provision of which is defined 2385
as a sale under division (B)(7) of section 5739.01 of the Revised 2386
Code; 2387

(l) To use or consume the thing transferred in the production 2388
of a newspaper for distribution to the public; 2389

(m) To use tangible personal property to perform a service 2390
listed in division (B)(3) of section 5739.01 of the Revised Code, 2391
if the property is or is to be permanently transferred to the 2392
consumer of the service as an integral part of the performance of 2393
the service; 2394

(n) To use or consume the thing transferred in acquiring, 2395
formatting, editing, storing, and disseminating data or 2396
information by electronic publishing. 2397

As used in division (B)(42) of this section, "thing" includes 2398
all transactions included in divisions (B)(3)(a), (b), and (e) of 2399
section 5739.01 of the Revised Code. 2400

(43) Sales conducted through a coin operated device that 2401
activates vacuum equipment or equipment that dispenses water, 2402
whether or not in combination with soap or other cleaning agents 2403
or wax, to the consumer for the consumer's use on the premises in 2404
washing, cleaning, or waxing a motor vehicle, provided no other 2405
personal property or personal service is provided as part of the 2406
transaction. 2407

(44) Sales of replacement and modification parts for engines, 2408
airframes, instruments, and interiors in, and paint for, aircraft 2409
used primarily in a fractional aircraft ownership program, and 2410
sales of services for the repair, modification, and maintenance of 2411

such aircraft, and machinery, equipment, and supplies primarily 2412
used to provide those services. 2413

(45) Sales of telecommunications service that is used 2414
directly and primarily to perform the functions of a call center. 2415
As used in this division, "call center" means any physical 2416
location where telephone calls are placed or received in high 2417
volume for the purpose of making sales, marketing, customer 2418
service, technical support, or other specialized business 2419
activity, and that employs at least fifty individuals that engage 2420
in call center activities on a full-time basis, or sufficient 2421
individuals to fill fifty full-time equivalent positions. 2422

(46) Sales by a telecommunications service vendor of 900 2423
service to a subscriber. This division does not apply to 2424
information services, as defined in division (FF) of section 2425
5739.01 of the Revised Code. 2426

(47) Sales of value-added non-voice data service. This 2427
division does not apply to any similar service that is not 2428
otherwise a telecommunications service. 2429

(48)(a) Sales of machinery, equipment, and software to a 2430
qualified direct selling entity for use in a warehouse or 2431
distribution center primarily for storing, transporting, or 2432
otherwise handling inventory that is held for sale to independent 2433
salespersons who operate as direct sellers and that is held 2434
primarily for distribution outside this state; 2435

(b) As used in division (B)(48)(a) of this section: 2436

(i) "Direct seller" means a person selling consumer products 2437
to individuals for personal or household use and not from a fixed 2438
retail location, including selling such product at in-home product 2439
demonstrations, parties, and other one-on-one selling. 2440

(ii) "Qualified direct selling entity" means an entity 2441
selling to direct sellers at the time the entity enters into a tax 2442

credit agreement with the tax credit authority pursuant to section 2443
122.17 of the Revised Code, provided that the agreement was 2444
entered into on or after January 1, 2007. Neither contingencies 2445
relevant to the granting of, nor later developments with respect 2446
to, the tax credit shall impair the status of the qualified direct 2447
selling entity under division (B)(48) of this section after 2448
execution of the tax credit agreement by the tax credit authority. 2449

(c) Division (B)(48) of this section is limited to machinery, 2450
equipment, and software first stored, used, or consumed in this 2451
state within the period commencing June 24, 2008, and ending on 2452
the date that is five years after that date. 2453

(49) Sales of materials, parts, equipment, or engines used in 2454
the repair or maintenance of aircraft or avionics systems of such 2455
aircraft, and sales of repair, remodeling, replacement, or 2456
maintenance services in this state performed on aircraft or on an 2457
aircraft's avionics, engine, or component materials or parts. As 2458
used in division (B)(49) of this section, "aircraft" means 2459
aircraft of more than six thousand pounds maximum certified 2460
takeoff weight or used exclusively in general aviation. 2461

(50) Sales of full flight simulators that are used for pilot 2462
or flight-crew training, sales of repair or replacement parts or 2463
components, and sales of repair or maintenance services for such 2464
full flight simulators. "Full flight simulator" means a replica of 2465
a specific type, or make, model, and series of aircraft cockpit. 2466
It includes the assemblage of equipment and computer programs 2467
necessary to represent aircraft operations in ground and flight 2468
conditions, a visual system providing an out-of-the-cockpit view, 2469
and a system that provides cues at least equivalent to those of a 2470
three-degree-of-freedom motion system, and has the full range of 2471
capabilities of the systems installed in the device as described 2472
in appendices A and B of part 60 of chapter 1 of title 14 of the 2473
Code of Federal Regulations. 2474

(C) For the purpose of the proper administration of this 2475
chapter, and to prevent the evasion of the tax, it is presumed 2476
that all sales made in this state are subject to the tax until the 2477
contrary is established. 2478

(D) The levy of this tax on retail sales of recreation and 2479
sports club service shall not prevent a municipal corporation from 2480
levying any tax on recreation and sports club dues or on any 2481
income generated by recreation and sports club dues. 2482

(E) The tax collected by the vendor from the consumer under 2483
this chapter is not part of the price, but is a tax collection for 2484
the benefit of the state, and of counties levying an additional 2485
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 2486
Code and of transit authorities levying an additional sales tax 2487
pursuant to section 5739.023 of the Revised Code. Except for the 2488
discount authorized under section 5739.12 of the Revised Code and 2489
the effects of any rounding pursuant to section 5703.055 of the 2490
Revised Code, no person other than the state or such a county or 2491
transit authority shall derive any benefit from the collection or 2492
payment of the tax levied by this section or section 5739.021, 2493
5739.023, or 5739.026 of the Revised Code. 2494

Section 2. That existing sections 717.25, 1710.01, 1710.02, 2495
1710.06, 1710.07, 4928.64, 5709.53, 5713.30, 5713.34, 5727.01, 2496
5727.02, 5727.06, 5727.11, 5727.111, 5727.15, 5727.30, and 5739.02 2497
of the Revised Code are hereby repealed. 2498