

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 118**

**Senator Romanchuk**

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**A BILL**

To amend sections 3706.40, 3706.41, 3706.43, 1  
3706.45, 3706.46, 3706.49, 3706.55, 3706.59, 2  
3706.61, 4928.64, and 4928.645 and to repeal 3  
sections 3706.53 and 4928.642 of the Revised 4  
Code to repeal the renewable resource credit 5  
payment provisions enacted under H.B. 6 of the 6  
133rd General Assembly. 7

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

**Section 1.** That sections 3706.40, 3706.41, 3706.43, 8  
3706.45, 3706.46, 3706.49, 3706.55, 3706.59, 3706.61, 4928.64, 9  
and 4928.645 of the Revised Code be amended to read as follows: 10

**Sec. 3706.40.** As used in sections 3706.40 to 3706.65 of 11  
the Revised Code: 12

(A) "Qualifying nuclear resource" means an electric 13  
generating facility in this state fueled by nuclear power. 14

(B) ~~"Qualifying renewable resource" means an electric~~ 15  
~~generating facility in this state to which all of the following~~ 16  
~~apply:~~ 17

~~(1) The facility uses or will use solar energy as the~~ 18

~~primary energy source.~~ 19

~~(2) The facility obtained a certificate for construction  
of a major utility facility from the power siting board prior to  
June 1, 2019.~~ 20  
21  
22

~~(3) The facility is interconnected with the transmission  
grid that is subject to the operational control of PJM  
interconnection, L.L.C., or its successor organization.~~ 23  
24  
25

~~(C)~~—"Credit price adjustment" means a reduction to the 26  
price for each nuclear resource credit equal to the market price 27  
index minus the strike price. 28

~~(D)~~ (C) "Strike price" means forty-six dollars per 29  
megawatt hour. 30

~~(E)~~ (D) "Market price index" means the sum, expressed in 31  
dollars per megawatt hour, of both of the following for the 32  
upcoming twelve-month period that begins the first day of June 33  
and ends the thirty-first day of May: 34

(1) Projected energy prices, determined using futures 35  
contracts for the PJM AEP-Dayton hub; 36

(2) Projected capacity prices, determined using PJM's 37  
rest-of-RTO market clearing price. 38

~~(F)~~ (E) "Electric distribution utility" has the same 39  
meaning as in section 4928.01 of the Revised Code. 40

**Sec. 3706.41.** (A) Not later than February 1, 2020, the 41  
owner or operator of a qualifying nuclear resource ~~or qualifying~~ 42  
~~renewable resource~~ may apply to the Ohio air quality development 43  
authority to receive payments for nuclear resource credits ~~or~~ 44  
~~renewable energy credits, as applicable,~~ under section 3706.55 45  
of the Revised Code. 46

(B) An application submitted under division (A) of this section ~~for a qualifying nuclear resource~~ shall include all of the following information pertaining to the resource:

(1) Financial information;

(2) Certified cost and revenue projections through December 31, 2026;

(3) Operation and maintenance expenses;

(4) Fuel expenses, including spent-fuel expenses;

(5) Nonfuel capital expenses;

(6) Fully allocated overhead costs;

(7) The cost of operational risks and market risks that would be avoided by ceasing operation of the resource;

(8) Any other information, financial or otherwise, that demonstrates that the resource is projected not to continue being operational.

(C) As used in this section:

(1) "Operational risks" include the risk that operating costs will be higher than anticipated because of new regulatory mandates or equipment failures and the risk that per-megawatt-hour costs will be higher than anticipated because of a lower than expected capacity factor.

(2) "Market risks" include the risk of a forced outage and the associated costs arising from contractual obligations, and the risk that output from the resource may not be able to be sold at projected levels.

**Sec. 3706.43.** After receiving an application under section 3706.41 of the Revised Code, the Ohio air quality development

authority shall review and approve the application, not later 74  
than March 31, 2020, if all of the following apply, ~~as~~ 75  
~~applicable:~~ 76

(A) The resource meets the definition of a qualifying 77  
nuclear resource ~~or qualifying renewable resource~~ in section 78  
3706.40 of the Revised Code. 79

~~(B) For a qualifying nuclear resource only, both of the~~ 80  
~~following apply:~~ 81

~~(1) (B)~~ The application meets the requirements of section 82  
3706.41 of the Revised Code. 83

~~(2) (C)~~ The resource's operator maintains both a principal 84  
place of business in this state and a substantial presence in 85  
this state with regard to its business operations, offices, and 86  
transactions. 87

**Sec. 3706.45.** (A) An owner or operator of a qualifying 88  
nuclear resource ~~or qualifying renewable resource~~ whose 89  
application was approved under section 3706.43 of the Revised 90  
Code shall report to the Ohio air quality development authority, 91  
not later than seven days after the close of each quarter, the 92  
number of megawatt hours the resource produced, if any, in the 93  
previous quarter. The first report shall be made not later than 94  
April 7, 2020, and the last report shall be made not later than 95  
January 7, 2027. The information reported shall be in accordance 96  
with data from the generation attribute tracking designated by 97  
the authority. 98

(B) The authority shall issue one nuclear resource credit 99  
to a qualifying nuclear resource for each megawatt hour of 100  
electricity that is both reported under division (A) of this 101  
section and approved by the authority. ~~The authority shall issue~~ 102

~~one renewable energy credit to a qualifying renewable resource— 103  
for each megawatt hour of electricity that is both reported— 104  
under division (A) of this section and approved by the— 105  
authority. 106~~

(C) Except as provided in section 3706.61 of the Revised 107  
Code, the price for a nuclear resource credit paid under section 108  
3706.55 of the Revised Code shall be nine dollars. 109

~~(D) The price for a renewable energy credit paid under— 110  
section 3706.55 of the Revised Code shall be nine dollars. 111~~

**Sec. 3706.46.** (A) (1) Beginning for all bills rendered on 112  
or after January 1, 2021, by an electric distribution utility in 113  
this state, such electric distribution utility shall collect 114  
from all of its retail electric customers in this state, each 115  
month, a charge ~~or charges~~ which, in the aggregate, ~~are~~ is 116  
sufficient to produce ~~the following a~~ revenue requirements. 117

~~(a) One requirement of one hundred fifty million dollars 118  
annually for total disbursements required under section 3706.55 119  
of the Revised Code from the nuclear generation fund. 120~~

~~(b) Twenty million dollars annually for total— 121  
disbursements required under section 3706.55 of the Revised Code— 122  
from the renewable generation fund. 123~~

(2) The public utilities commission shall determine the 124  
method by which the revenue is allocated or assigned to each 125  
electric distribution utility for billing and collection, 126  
provided that the method of allocation shall be based on the 127  
relative number of customers, relative quantity of kilowatt hour 128  
sales, or a combination of the two. The level and structure of 129  
the charge shall be authorized by the commission through a 130  
process that the commission shall determine is not for an 131

increase in any rate, joint rate, toll, classification, charge, 132  
or rental, notwithstanding anything to the contrary in Title 133  
XLIX of the Revised Code. 134

(B) In authorizing the level and structure of any charge 135  
~~or charges~~ to be billed and collected by each electric 136  
distribution utility, the commission shall ensure that the per- 137  
customer monthly charge for residential customers does not 138  
exceed ~~eighty-five~~ seventy-five cents and that the per-customer 139  
monthly charge for industrial customers eligible to become self- 140  
assessing purchasers pursuant to division (C) of section 5727.81 141  
of the Revised Code does not exceed two thousand ~~four-one~~ 142  
hundred fifty-eight dollars. For nonresidential customers that 143  
are not self-assessing purchasers, the level and design of the 144  
charge ~~or charges~~ shall be established in a manner that avoids 145  
abrupt or excessive total net electric bill impacts for typical 146  
customers. 147

(C) Each charge authorized by the commission under this 148  
section shall be subject to adjustment so as to reconcile actual 149  
revenue collected with the revenue needed to meet the revenue 150  
~~requirements~~ requirement under division (A) (1) of this section. 151  
The commission shall authorize each electric distribution 152  
utility to adopt accounting practices to facilitate such 153  
reconciliation. Notwithstanding any other provisions of the 154  
Revised Code, the charge ~~or charges~~ authorized by the commission 155  
may continue beyond December 31, 2027, only if it is necessary 156  
to reconcile actual revenue collected under this section during 157  
the period ending on December 31, 2027, with the actual revenue 158  
needed to meet the revenue ~~requirements~~ requirement under 159  
division (A) (1) of this section for required disbursements under 160  
section 3706.55 of the Revised Code that may be due and owing 161  
during the same period. Such continuation shall be authorized 162

only for such period of time beyond December 31, 2027, as may be 163  
reasonably necessary to complete the reconciliation. 164

**Sec. 3706.49.** (A) There is hereby created the nuclear 165  
generation fund ~~and the renewable generation fund~~. ~~Each~~The fund 166  
shall be in the custody of the treasurer of state but shall not 167  
be part of the state treasury. ~~Each~~The fund shall consist of 168  
the charges collected under section 3706.46 of the Revised Code 169  
~~and deposited in accordance with section 3706.53 of the Revised~~ 170  
~~Code~~. The interest generated by ~~each~~the fund shall be retained 171  
~~by each respective~~in the fund and used for the purposes set 172  
forth in sections 3706.40 to 3706.65 of the Revised Code. 173

(B) The treasurer of state shall distribute the moneys in 174  
the ~~funds~~fund in accordance with directions provided by the 175  
Ohio air quality development authority. Before giving directions 176  
under this division, the authority shall consult with the public 177  
utilities commission. 178

**Sec. 3706.55.** (A) For the period beginning with April of 179  
2021 and ending with January of 2028, the Ohio air quality 180  
development authority shall, in April of 2021 and every three 181  
months thereafter through the end of the period, and not later 182  
than the twenty-first day of the month, direct the treasurer of 183  
state to remit money from the ~~funds~~nuclear generation fund 184  
created under section 3706.49 of the Revised Code ~~as follows:~~ 185

~~(1)~~. Subject to sections 3706.59 and 3706.61 of the 186  
Revised Code, ~~from the nuclear generation fund~~the moneys from 187  
the fund shall be remitted to the owner or operator of a 188  
qualifying nuclear resource, in the amount equivalent to the 189  
number of credits earned by the resource during the quarter that 190  
ended twelve months prior to the last day of the previous 191  
quarter multiplied by the credit price, and as directed by the 192

authority in accordance with section 3706.61 of the Revised Code 193  
Code 194

~~(2) Subject to section 3706.59 of the Revised Code, from 195  
the renewable generation fund to the owners or operators of 196  
qualifying renewable resources, in the amount equivalent to the 197  
number of credits earned by the resources during the quarter 198  
that ended twelve months prior to the last day of the previous 199  
quarter multiplied by the credit price. 200~~

(B) Notwithstanding section 4905.32 of the Revised Code, 201  
any amounts remaining in the ~~nuclear generation fund and the 202  
renewable generation fund~~ as of December 31, 2027, minus the 203  
remittances that are required to be made between that date and 204  
January 21, 2028, shall be refunded to customers in a manner 205  
that shall be determined by the authority in consultation with 206  
the public utilities commission. 207

**Sec. 3706.59.** ~~(A)~~ If the money in the nuclear generation 208  
fund is insufficient in a particular quarter to make the 209  
payments in the amount required under division ~~(A) (1)~~ (A) of 210  
section 3706.55 of the Revised Code, then the Ohio air quality 211  
development authority shall, not later than twenty-one days 212  
after the close of any quarter in which the owner or operator 213  
was not fully compensated, direct the treasurer of state to 214  
remit money from the nuclear generation fund to pay for the 215  
unpaid credits. 216

~~(B) If the money in the renewable generation fund is 217  
insufficient to make the payments in the amounts required under 218  
division (A) (2) of section 3706.55 of the Revised Code for all 219  
owners and operators of qualifying renewable resources, then the 220  
authority shall do both of the following: 221~~



~~(1) Not later than twenty one days after the close of the~~ 222  
~~quarter in which the charges collected were insufficient, direct~~ 223  
~~the treasurer to prorate payments from the total amount~~ 224  
~~available in the renewable generation fund, based on the number~~ 225  
~~of each resource's credits earned during the quarter that ended~~ 226  
~~twelve months prior to the last day of the previous quarter;~~ 227

~~(2) Not later than twenty one days after the close of any~~ 228  
~~quarter in which the owners or operators received prorated~~ 229  
~~payments under division (B) (1) of this section, direct the~~ 230  
~~treasurer of state to remit money from the renewable generation~~ 231  
~~fund to pay for the unpaid credits. Unpaid credits paid for~~ 232  
~~under division (B) (2) of this section shall be paid before any~~ 233  
~~other remittances are made under division (A) (2) of section~~ 234  
~~3706.55 of the Revised Code.~~ 235

**Sec. 3706.61.** (A) In each year beginning in 2021 and 236  
ending in 2027, the public utilities commission shall, not later 237  
than the first day of May of each of those years, conduct a 238  
retrospective management and financial review of the owner or 239  
operator of a qualifying nuclear resource and any such resource 240  
that receives payments for nuclear resource credits under 241  
section 3706.55 of the Revised Code. In doing so, the commission 242  
may retain consultants and advisors to perform all or any 243  
portion of the annual reviews, the cost of which shall be paid, 244  
at the direction of the Ohio air quality development authority, 245  
by the treasurer of state from the nuclear generation fund in 246  
accordance with section 3706.55 of the Revised Code. 247

(B) Any owner or operator subject to a review under 248  
division (A) of this section may, for purposes of the review, 249  
provide the commission or the commission's consultants or 250  
advisors with any information the owner or operator chooses. The 251

owner or operator shall promptly and fully respond to any 252  
document, information, data, or other request that may be 253  
directed to its attention by the commission or the commission's 254  
consultants or advisors for the purpose of the review. Any 255  
material failure to timely and fully respond shall result in 256  
suspension of further receipt of payments for nuclear resource 257  
credits under section 3706.55 of the Revised Code until the 258  
failure is cured to the satisfaction of the commission. 259

(C) The commission shall submit a report summarizing the 260  
findings of each annual review to the president and minority 261  
leader of the senate, the speaker and minority leader of the 262  
house of representatives, and the Ohio air quality development 263  
authority, and shall make the report publicly available, 264  
provided that the report shall not reveal any confidential or 265  
proprietary information. The submission shall include a copy of 266  
the owner's or operator's own certified annual audit that was 267  
obtained during the review performed under this section. 268

(D) In consultation with the commission, the Ohio air 269  
quality development authority shall consider the findings of the 270  
review and may cease or reduce payments for nuclear resource 271  
credits under section 3706.55 of the Revised Code if the 272  
authority determines any of the following: 273

(1) That the federal energy regulatory commission or the 274  
nuclear regulatory commission has established a monetary benefit 275  
or other incentive payment to continue the resource's commercial 276  
operation; 277

(2) That either requirement under the resource either does 278  
not meet the definition of a qualifying nuclear resource under 279  
section 3706.40 of the Revised Code or either requirement stated 280  
in division (A) or ~~(B)~~ ~~(2)~~ ~~(C)~~ of section 3706.43 of the Revised 281

<del>Code is no longer being met;</del>	282
(3) That the resource's owner or operator applies, before	283
May 1, 2027, to decommission the resource;	284
(4) That, for the purpose of ensuring that the funding for	285
nuclear resource credits remains reasonable, the market price	286
index exceeds the strike price on the first day of June in the	287
year in which the report is submitted, in which case the	288
authority shall apply the credit price adjustment for the	289
twelve-month period that begins on that day and ends the thirty-	290
first day of May, or, for 2027, for the seven-month period that	291
begins on that day and ends the thirty-first day of December.	292
(E) (1) If the authority determines it necessary to make	293
reductions under division (D) of this section, the commission	294
shall do all of the following, as necessary:	295
(a) Reduce the revenue requirement under division <del>(A) (1)</del>	296
<del>(a) (A) (1)</del> of section 3706.46 of the Revised Code;	297
(b) Except when the authority has applied the credit price	298
adjustment under division (D) (4) of this section, reduce the	299
price of a nuclear resource credit under section 3706.45 of the	300
Revised Code, in accordance with a reduced revenue requirement;	301
(c) Reduce the charge <del>or charges</del> under section 3706.46 of	302
the Revised Code, to conform with a reduced revenue requirement;	303
<del>(d) Adjust the percentages under section 3706.53 of the</del>	304
<del>Revised Code in accordance with a reduced revenue requirement.</del>	305
(2) Any revisions made by the commission under division	306
(E) (1) of this section shall be made through a process that the	307
commission shall determine is not for an increase in any rate,	308
joint rate, toll, classification, charge, or rental,	309

notwithstanding anything to the contrary in Title XLIX of the Revised Code.

(F) If the payments for nuclear resource credits are suspended or ceased under this section, the commission shall instruct the electric distribution utilities to accordingly suspend or cease billing and collecting customer charges under section 3706.46 of the Revised Code.

(G) Chapter 4903. of the Revised Code shall not apply to this section.

**Sec. 4928.64.** (A) (1) As used in this section, "qualifying renewable energy resource" means a renewable energy resource, as defined in section 4928.01 of the Revised Code that:

(a) Has a placed-in-service date on or after January 1, 1998;

(b) Is any run-of-the-river hydroelectric facility that has an in-service date on or after January 1, 1980;

(c) Is a small hydroelectric facility;

(d) Is created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or

(e) Is a mercantile customer-sited renewable energy resource, whether new or existing, that the mercantile customer commits for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs as provided under division (A) (2) (c) of section 4928.66 of the Revised Code, including, but not limited to, any of the following:

(i) A resource that has the effect of improving the

relationship between real and reactive power;	338
(ii) A resource that makes efficient use of waste heat or other thermal capabilities owned or controlled by a mercantile customer;	339 340 341
(iii) Storage technology that allows a mercantile customer more flexibility to modify its demand or load and usage characteristics;	342 343 344
(iv) Electric generation equipment owned or controlled by a mercantile customer that uses a renewable energy resource.	345 346
(2) For the purpose of this section and as it considers appropriate, the public utilities commission may classify any new technology as such a qualifying renewable energy resource.	347 348 349
(B) (1) By the end of 2026, an electric distribution utility shall have provided from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract, a portion of the electricity supply required for its standard service offer under section 4928.141 of the Revised Code, and an electric services company shall have provided a portion of its electricity supply for retail consumers in this state from qualifying renewable energy resources, including, at its discretion, qualifying renewable energy resources obtained pursuant to an electricity supply contract. That portion shall equal eight and one-half per cent of the total number of kilowatt hours of electricity sold by the subject utility or company to any and all retail electric consumers whose electric load centers are served by that utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located	350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366

within this state. However, nothing in this section precludes a 367  
utility or company from providing a greater percentage. 368

(2) ~~Subject to section 4928.642 of the Revised Code, the~~ 369  
The portion required under division (B)(1) of this section shall 370  
be generated from renewable energy resources in accordance with 371  
the following benchmarks: 372

373

	1	2	3
A	By end of year	Renewable energy resources	Solar energy resources
B	2009	0.25%	0.004%
C	2010	0.50%	0.010%
D	2011	1%	0.030%
E	2012	1.5%	0.060%
F	2013	2%	0.090%
G	2014	2.5%	0.12%
H	2015	2.5%	0.12%
I	2016	2.5%	0.12%
J	2017	3.5%	0.15%
K	2018	4.5%	0.18%
L	2019	5.5%	0.22%

M	2020	5.5%	0%
N	2021	6%	0%
O	2022	6.5%	0%
P	2023	7%	0%
Q	2024	7.5%	0%
R	2025	8%	0%
S	2026	8.5%	0%

(3) The qualifying renewable energy resources implemented 374  
by the utility or company shall be met either: 375

(a) Through facilities located in this state; or 376

(b) With resources that can be shown to be deliverable 377  
into this state. 378

(C) (1) The commission annually shall review an electric 379  
distribution utility's or electric services company's compliance 380  
with the most recent applicable benchmark under division (B) (2) 381  
of this section and, in the course of that review, shall 382  
identify any undercompliance or noncompliance of the utility or 383  
company that it determines is weather-related, related to 384  
equipment or resource shortages for qualifying renewable energy 385  
resources as applicable, or is otherwise outside the utility's 386  
or company's control. 387

(2) Subject to the cost cap provisions of division (C) (3) 388  
of this section, if the commission determines, after notice and 389  
opportunity for hearing, and based upon its findings in that 390

review regarding avoidable undercompliance or noncompliance, but 391  
subject to division (C) (4) of this section, that the utility or 392  
company has failed to comply with any such benchmark, the 393  
commission shall impose a renewable energy compliance payment on 394  
the utility or company. 395

(a) The compliance payment pertaining to the solar energy 396  
resource benchmarks under division (B) (2) of this section shall 397  
be an amount per megawatt hour of undercompliance or 398  
noncompliance in the period under review, as follows: 399

(i) Three hundred dollars for 2014, 2015, and 2016; 400

(ii) Two hundred fifty dollars for 2017 and 2018; 401

(iii) Two hundred dollars for 2019. 402

(b) The compliance payment pertaining to the renewable 403  
energy resource benchmarks under division (B) (2) of this section 404  
shall equal the number of additional renewable energy credits 405  
that the electric distribution utility or electric services 406  
company would have needed to comply with the applicable 407  
benchmark in the period under review times an amount that shall 408  
begin at forty-five dollars and shall be adjusted annually by 409  
the commission to reflect any change in the consumer price index 410  
as defined in section 101.27 of the Revised Code, but shall not 411  
be less than forty-five dollars. 412

(c) The compliance payment shall not be passed through by 413  
the electric distribution utility or electric services company 414  
to consumers. The compliance payment shall be remitted to the 415  
commission, for deposit to the credit of the advanced energy 416  
fund created under section 4928.61 of the Revised Code. Payment 417  
of the compliance payment shall be subject to such collection 418  
and enforcement procedures as apply to the collection of a 419



forfeiture under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code.

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

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

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

electric distribution utility or electric services company has 450  
made a good faith effort to acquire sufficient qualifying 451  
renewable energy or, as applicable, solar energy resources to so 452  
comply, including, but not limited to, by banking or seeking 453  
renewable energy resource credits or by seeking the resources 454  
through long-term contracts. Additionally, the commission shall 455  
consider the availability of qualifying renewable energy or 456  
solar energy resources in this state and other jurisdictions in 457  
the PJM interconnection regional transmission organization, 458  
L.L.C., or its successor and the midcontinent independent system 459  
operator or its successor. 460

(c) If, pursuant to division (C) (4) (b) of this section, 461  
the commission determines that qualifying renewable energy or 462  
solar energy resources are not reasonably available to permit 463  
the electric distribution utility or electric services company 464  
to comply, during the period of review, with the subject minimum 465  
benchmark prescribed under division (B) (2) of this section, the 466  
commission shall modify that compliance obligation of the 467  
utility or company as it determines appropriate to accommodate 468  
the finding. Commission modification shall not automatically 469  
reduce the obligation for the electric distribution utility's or 470  
electric services company's compliance in subsequent years. If 471  
it modifies the electric distribution utility or electric 472  
services company obligation under division (C) (4) (c) of this 473  
section, the commission may require the utility or company, if 474  
sufficient renewable energy resource credits exist in the 475  
marketplace, to acquire additional renewable energy resource 476  
credits in subsequent years equivalent to the utility's or 477  
company's modified obligation under division (C) (4) (c) of this 478  
section. 479

(5) The commission shall establish a process to provide 480

for at least an annual review of the renewable energy resource 481  
market in this state and in the service territories of the 482  
regional transmission organizations that manage transmission 483  
systems located in this state. The commission shall use the 484  
results of this study to identify any needed changes to the 485  
amount of the renewable energy compliance payment specified 486  
under divisions (C) (2) (a) and (b) of this section. Specifically, 487  
the commission may increase the amount to ensure that payment of 488  
compliance payments is not used to achieve compliance with this 489  
section in lieu of actually acquiring or realizing energy 490  
derived from qualifying renewable energy resources. However, if 491  
the commission finds that the amount of the compliance payment 492  
should be otherwise changed, the commission shall present this 493  
finding to the general assembly for legislative enactment. 494

(D) The commission annually shall submit to the general 495  
assembly in accordance with section 101.68 of the Revised Code a 496  
report describing all of the following: 497

(1) The compliance of electric distribution utilities and 498  
electric services companies with division (B) of this section; 499

(2) The average annual cost of renewable energy credits 500  
purchased by utilities and companies for the year covered in the 501  
report; 502

(3) Any strategy for utility and company compliance or for 503  
encouraging the use of qualifying renewable energy resources in 504  
supplying this state's electricity needs in a manner that 505  
considers available technology, costs, job creation, and 506  
economic impacts. 507

The commission shall begin providing the information 508  
described in division (D) (2) of this section in each report 509

submitted after September 10, 2012. The commission shall allow 510  
and consider public comments on the report prior to its 511  
submission to the general assembly. Nothing in the report shall 512  
be binding on any person, including any utility or company for 513  
the purpose of its compliance with any benchmark under division 514  
(B) of this section, or the enforcement of that provision under 515  
division (C) of this section. 516

(E) All costs incurred by an electric distribution utility 517  
in complying with the requirements of this section shall be 518  
bypassable by any consumer that has exercised choice of supplier 519  
under section 4928.03 of the Revised Code. 520

**Sec. 4928.645.** (A) An electric distribution utility or 521  
electric services company may use, for the purpose of complying 522  
with the requirements under divisions (B) (1) and (2) of section 523  
4928.64 of the Revised Code, renewable energy credits any time 524  
in the five calendar years following the date of their purchase 525  
or acquisition from any entity, including, but not limited to, 526  
the following: 527

(1) A mercantile customer; 528

(2) An owner or operator of a hydroelectric generating 529  
facility that is located at a dam on a river, or on any water 530  
discharged to a river, that is within or bordering this state or 531  
within or bordering an adjoining state, or that produces power 532  
that can be shown to be deliverable into this state; 533

(3) A seller of compressed natural gas that has been 534  
produced from biologically derived methane gas, provided that 535  
the seller may only provide renewable energy credits for metered 536  
amounts of gas. 537

(B) (1) The public utilities commission shall adopt rules 538

specifying that one unit of credit shall equal one megawatt hour 539  
of electricity derived from renewable energy resources, except 540  
that, for a generating facility of seventy-five megawatts or 541  
greater that is situated within this state and has committed by 542  
December 31, 2009, to modify or retrofit its generating unit or 543  
units to enable the facility to generate principally from 544  
biomass energy by June 30, 2013, each megawatt hour of 545  
electricity generated principally from that biomass energy shall 546  
equal, in units of credit, the product obtained by multiplying 547  
the actual percentage of biomass feedstock heat input used to 548  
generate such megawatt hour by the quotient obtained by dividing 549  
the then existing unit dollar amount used to determine a 550  
renewable energy compliance payment as provided under division 551  
(C) (2) (b) of section 4928.64 of the Revised Code by the then 552  
existing market value of one renewable energy credit, but such 553  
megawatt hour shall not equal less than one unit of credit. 554  
Renewable energy resources do not have to be converted to 555  
electricity in order to be eligible to receive renewable energy 556  
credits. The rules shall specify that, for purposes of 557  
converting the quantity of energy derived from biologically 558  
derived methane gas to an electricity equivalent, one megawatt 559  
hour equals 3,412,142 British thermal units. 560

(2) The rules also shall provide for this state a system 561  
of registering renewable energy credits by specifying which of 562  
any generally available registries shall be used for that 563  
purpose and not by creating a registry. That selected system of 564  
registering renewable energy credits shall allow a hydroelectric 565  
generating facility to be eligible for obtaining renewable 566  
energy credits and shall allow customer-sited projects or 567  
actions the broadest opportunities to be eligible for obtaining 568  
renewable energy credits. 569

~~(C) Beginning January 1, 2020, a qualifying renewable resource as defined in section 3706.40 of the Revised Code is not eligible to obtain a renewable energy credit under this section for any megawatt hour for which the resource has been issued a renewable energy credit under section 3706.45 of the Revised Code.~~

**Section 2.** That existing sections 3706.40, 3706.41, 3706.43, 3706.45, 3706.46, 3706.49, 3706.55, 3706.59, 3706.61, 4928.64, and 4928.645 of the Revised Code are hereby repealed.

**Section 3.** That sections 3706.53 and 4928.642 of the Revised Code are hereby repealed.