

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 487

Representative McGregor, J.

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A B I L L

To amend section 1571.01 and to enact sections 1
1572.01, 1572.02, 1572.03, 1572.04, 1572.05, 2
1572.06, 1572.07, 3706.31, 3706.32, 3706.33, 3
3706.34, 3706.35, 3706.36, 4928.64, 4928.65, 4
4928.66, 4928.68, and 5501.452 of the Revised Code 5
to establish alternative energy benchmarks for 6
electric distribution utilities and electric 7
services companies, provide for the use of 8
renewable energy credits, establish energy 9
efficiency standards for electric distribution 10
utilities and require the Department of 11
Development to establish energy efficiency 12
programs, create the Ohio Renewable Energy 13
Authority to provide loans and grants to renewable 14
energy businesses, establish policies regarding 15
the geologic storage of carbon dioxide, and 16
require greenhouse gas emission reporting and 17
carbon control planning for generating facilities. 18

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

Section 1. That section 1571.01 be amended and sections 19
1572.01, 1572.02, 1572.03, 1572.04, 1572.05, 1572.06, 1572.07, 20
3706.31, 3706.32, 3706.33, 3706.34, 3706.35, 3706.36, 4928.64, 21

4928.65, 4928.66, 4928.68, and 5501.452 of the Revised Code be 22
enacted to read as follows: 23

Sec. 1571.01. As used in this chapter, unless other meaning 24
is clearly indicated in the context: 25

(A) "Gas storage reservoir" or "storage reservoir" or 26
"reservoir" means a continuous area of a subterranean porous sand 27
or rock stratum or strata, any part of which or of the protective 28
area of which, is within a coal bearing township, into which gas 29
is or may be injected for the purpose of storing it therein and 30
removing it therefrom, or for the purpose of testing whether such 31
stratum is suitable for such storage purposes. 32

(B) "Gas" means any natural, manufactured, or by-product gas 33
or any mixture thereof, but does not include carbon dioxide 34
regulated under Chapter 1572. of the Revised Code. 35

(C) "Reservoir operator" or "operator," when used in 36
referring to the operator of a gas storage reservoir, means a 37
person who is engaged in the work of preparing to inject, or who 38
injects gas into, or who stores gas in, or who removes gas from, a 39
gas storage reservoir, and who owns the right to do so. 40

(D)(1) "Boundary," when used in referring to the boundary of 41
a gas storage reservoir, means the boundary of such reservoir as 42
shown on the map or maps thereof on file in the division of 43
mineral resources management as required by this chapter. 44

(2) "Boundary," when used in referring to the boundary of a 45
reservoir protective area, means the boundary of such reservoir 46
protective area as shown on the map or maps thereof on file in the 47
division as required by this chapter. 48

(E) "Reservoir protective area" or "reservoir's protective 49
area" means the area of land outside the boundary of a gas storage 50
reservoir shown as such on the map or maps thereof on file in the 51

division as required by this chapter. The area of land shown on 52
such map or maps as such reservoir protective area shall be 53
outside the boundary of such reservoir, and shall encircle such 54
reservoir and touch all parts of the boundary of such reservoir, 55
and no part of the outside boundary of such protective area shall 56
be less than two thousand nor more than five thousand linear feet 57
distant from the boundary of such reservoir. 58

(F) "Coal bearing township" means a township designated as a 59
coal bearing township by the chief of the division of mineral 60
resources management as required by section 1561.06 of the Revised 61
Code. 62

(G) "Coal mine" means the underground excavations of a mine 63
that are being used or are usable or are being developed for use 64
in connection with the extraction of coal from its natural deposit 65
in the earth. "Underground excavations," when used in referring to 66
the underground excavations of a coal mine, includes the abandoned 67
underground excavations of such mine. It also includes the 68
underground excavations of an abandoned coal mine if such 69
abandoned mine is connected with underground excavations of a coal 70
mine. "Coal mine" does not mean or include: 71

(1) A mine in which coal is extracted from its natural 72
deposit in the earth by strip or open pit mining methods or by 73
other methods by which individuals are not required to go 74
underground in connection with the extraction of coal from its 75
natural deposit in the earth; 76

(2) A mine in which not more than fourteen individuals are 77
regularly employed underground. 78

(H) "Operator," when used in referring to the operator of a 79
coal mine, means a person who engages in the work of developing 80
such mine for use in extracting coal from its natural deposit in 81
the earth, or who so uses such mine, and who owns the right to do 82

so.	83
(I) "Boundary," when used in referring to the boundary of a coal mine, means the boundary of the underground excavations of such mine as shown on the maps of such mine on file in the division as required by sections 1563.03 to 1563.05 and 1571.03 of the Revised Code.	84 85 86 87 88
(J) "Mine protective area" or "mine's protective area" means the area of land that the operator of a coal mine designates and shows as such on the map or maps of such coal mine filed with the division as required by sections 1563.03 to 1563.05 and 1571.03 of the Revised Code. Such area of land shall be outside of the boundary of such coal mine, but some part of the boundary of such area of land shall abut upon a part of the boundary of such coal mine. Such area of land shall be comprised of such tracts of land in which such coal mine operator owns the right to extract coal therefrom by underground mining methods and in which underground excavations of such coal mine are likely to be made within the ensuing year for use in connection with the extraction of coal therefrom.	89 90 91 92 93 94 95 96 97 98 99 100 101
(K) "Pillar" means a solid block of coal or other material left unmined to support the overlying strata in a coal mine, or to protect a well.	102 103 104
(L) "Retreat mining" means the removal of pillars and ribs and stumps and other coal remaining in a section of a coal mine after the development mining has been completed in such section.	105 106 107
(M) "Linear feet," when used to indicate distance between two points that are not in the same plane, means the length in feet of the shortest horizontal line that connects two lines projected vertically upward or downward from the two points.	108 109 110 111
(N) "Map" means a graphic representation of the location and size of the existing or proposed items it is made to represent,	112 113

accurately drawn according to a given scale.	114
(O) "Well" means any hole, drilled or bored, or being drilled	115
or bored, into the earth, whether for the purpose of, or whether	116
used for:	117
(1) Producing or extracting any gas or liquid mineral, or	118
natural or artificial brines, or oil field waters;	119
(2) Injecting gas into or removing gas from an underground	120
gas storage reservoir;	121
(3) Introducing water or other liquid pressure into an oil	122
bearing sand to recover oil contained in such sand, provided that	123
"well" does not mean a hole drilled or bored, or being drilled or	124
bored, into the earth, whether for the purpose of, or whether used	125
for, producing or extracting potable water to be used as such.	126
(P) "Testing" means injecting gas into, or storing gas in or	127
removing gas from, a gas storage reservoir for the sole purpose of	128
determining whether such reservoir is suitable for use as a gas	129
storage reservoir.	130
(Q) "Casing" means a string or strings of pipe commonly	131
placed in a well.	132
(R) "Inactivate" means to shut off temporarily all flow of	133
gas from a well at a point below the horizon of the coal mine that	134
might be affected by such flow of gas, by means of a plug or other	135
suitable device or by injecting water, bentonite, or some other	136
equally nonporous material into the well, or any other method	137
approved by the mineral resources inspector.	138
(S) "Gas storage well inspector" means the gas storage well	139
inspector in the division.	140
(T) The verb "open" or the noun "opening," when used in	141
clauses relating to the time when a coal mine operator intends to	142
open a new coal mine, or the time when a new coal mine is opened,	143

or the time of the opening of a new coal mine, or when used in 144
other similar clauses to convey like meanings, means that time and 145
condition in the initial development of a new coal mine when the 146
second opening required by section 1563.14 of the Revised Code is 147
completed in such mine. 148

Sec. 1572.01. As used in sections 1572.01 to 1572.07 of the 149
Revised Code: 150

(A) "Carbon dioxide" means anthropogenically sourced carbon 151
dioxide of sufficient purity and quality as not to compromise the 152
safety and efficiency of an underground reservoir to contain the 153
carbon dioxide effectively. 154

(B) "Geologic storage" means the permanent or short-term 155
underground storage of carbon dioxide in an underground reservoir. 156

(C) "Storage facility" means the underground reservoir, 157
underground equipment, and surface buildings and equipment 158
utilized in the subsurface storage of carbon dioxide, excluding 159
any pipelines used to transport the carbon dioxide from one or 160
more capture facilities to the storage facility. "Storage 161
facility" may include an enhanced oil recovery or natural gas 162
operation. 163

(D) "Storage operator" means an individual, corporation, 164
partnership, limited liability company, or other entity authorized 165
by the division of mineral resources management to operate a 166
storage facility in this state. 167

(E) "Underground reservoir" means a subsurface sedimentary 168
stratum, formation, aquifer, cavity, or void, naturally or 169
artificially created, including, but not limited to, an oil or 170
natural gas reservoir, saline formation, or coal seam suitable or 171
capable of being made suitable for the injection and storage of 172
carbon dioxide. "Underground reservoir" includes any necessary and 173

reasonable areal buffer and subsurface monitoring zone designated 174
by the division of mineral resources management for the purposes 175
of ensuring the safe and efficient operation of a storage facility 176
and protecting against pollution and the invasion, escape, or 177
migration of carbon dioxide. 178

Sec. 1572.02. (A) The division of mineral resources 179
management has exclusive authority to regulate the geologic 180
storage of carbon dioxide in this state and shall administer the 181
geologic carbon dioxide storage program established in sections 182
1572.01 to 1572.07 of the Revised Code. 183

(B) A person seeking to operate a storage facility in this 184
state shall apply for a permit to do so from the chief of the 185
division of mineral resources management in accordance with rules 186
adopted under section 1572.03 of the Revised Code. The chief shall 187
issue such a permit only if all of the following apply: 188

(1) The storage facility is suitable and feasible for the 189
injection and storage of carbon dioxide. 190

(2) A good faith effort has been made by the applicant to 191
obtain the consent of a majority of the owners of property 192
interests that will be affected by the storage facility, and the 193
applicant has obtained remaining property interests in accordance 194
with section 1572.04 of the Revised Code. 195

(3) The use of the storage facility for the geologic storage 196
of carbon dioxide will not contaminate resources containing fresh 197
water, oil, natural gas, coal, or other commercial mineral 198
deposits. 199

(4) The storage will not unduly endanger human health and the 200
environment. 201

In issuing a permit under this section, the chief may include 202
terms and conditions in the permit that the chief determines to be 203

necessary. 204

(C) With respect to each parcel of property that is affected 205
by the issuance of a permit under division (B) of this section, 206
the chief shall cause a copy of the permit to be filed and 207
recorded in the office of the county recorder of the county in 208
which the parcel is located. 209

(D) Prior to injecting any carbon dioxide into a storage 210
facility pursuant to a permit issued under this section, the 211
storage operator shall cause to be filed and recorded in the 212
office of the applicable county recorder and with the division of 213
mineral resources management a statement that the storage operator 214
has acquired by purchase, lease, eminent domain, or otherwise all 215
of the necessary property rights with respect to the storage 216
facility that is the subject of the permit. The filing shall 217
include the date on which carbon dioxide will commence being 218
injected into the storage facility. 219

Sec. 1572.03. The chief of the division of mineral resources 220
management shall adopt rules in accordance with Chapter 119. of 221
the Revised Code that do all of the following: 222

(A) Establish application procedures for permits issued under 223
section 1572.02 of the Revised Code and procedures for the 224
issuance or denial of an application for a permit. The rules shall 225
establish the amount of the application fee that shall be 226
submitted with the application. All money collected from the 227
application fees shall be deposited to the credit of the carbon 228
dioxide storage facility trust fund created in section 1572.06 of 229
the Revised Code. 230

(B) Establish requirements applicable to storage operators 231
for obtaining the approval of the chief prior to appropriating 232
property interests under section 1572.04 of the Revised Code; 233

(C) Establish financial assurance requirements for the proper maintenance, well plugging, and abandonment of a storage facility by a storage operator and to protect the storage facility against pollution and the invasion, escape, or migration of carbon dioxide. The financial assurance requirements may include a requirement that a storage operator purchase a surety bond or other financial surety. 234
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(D) Establish penalties and procedures for the enforcement of sections 1572.01 to 1572.07 of the Revised Code and rules adopted under those sections, including civil penalties that may be imposed on any person violating any provision of sections 1572.01 to 1572.07 of the Revised Code or of rules adopted or terms and conditions of a permit issued under those sections. All civil penalties collected under this section shall be deposited in the state treasury to the credit of the carbon dioxide storage facility trust fund. 241
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(E) Establish the amount of a fee to be charged by the division of mineral resources management and paid by a storage operator for each ton of carbon dioxide that is injected into a storage facility by the storage operator. The rules shall require that the proceeds from the fee be deposited to the credit of the carbon dioxide storage facility trust fund created in section 1572.06 of the Revised Code. 250
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(F) Establish closure requirements applicable to storage facilities upon the completion of carbon dioxide injection operations at a storage facility. The rules shall require the division to issue a certificate of completion of injection operations upon the termination of carbon dioxide injection at a storage facility and the successful closure of the storage facility. Additionally, the rules shall require that not later than ten years, or another time frame specified by rule, after the issuance of a certificate, upon a showing by the storage operator 257
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that the storage facility is reasonably expected to retain its 266
mechanical integrity and remain emplaced, the ownership of the 267
storage facility shall transfer to this state. The rules also 268
shall provide that, upon transfer of ownership, the storage 269
operator, and any generator of carbon dioxide that was injected 270
into the storage facility by the storage operator, shall be 271
released from liability with respect to the storage facility and 272
that any long-term monitoring or remediation of any leakage at the 273
storage facility shall become the responsibility of this state. 274

(G) Establish a long-term monitoring program for the purposes 275
of the monitoring of storage facilities, remediation of mechanical 276
problems associated with storage facilities and surface 277
infrastructure, repair of mechanical leaks at storage facilities, 278
and plugging and abandonment of wells that are associated with 279
storage facilities; 280

(H) Establish procedures for allowing the conversion of 281
enhanced recovery of oil or natural gas operations into a storage 282
facility; 283

(I) Establish any other requirements or procedures that are 284
determined necessary by the chief in order to implement sections 285
1572.01 to 1572.07 of the Revised Code. 286

Sec. 1572.04. (A) Subject to rules adopted under section 287
1572.03 of the Revised Code, a storage operator may appropriate, 288
in the manner provided in sections 163.01 to 163.22 of the Revised 289
Code, surface and subsurface rights and interests in land, 290
including easements and rights-of-way, that are necessary for both 291
of the following: 292

(1) The operation of a storage facility; 293

(2) The transporting of carbon dioxide among facilities 294
constituting a storage facility. 295

(B) Notwithstanding division (A) of this section, no property rights in a storage facility shall be acquired pursuant to that division. 296
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Sec. 1572.05. The director of natural resources may enter into cooperative agreements with the federal government and other states that the division of mineral resources management determines to be necessary for the purpose of regulating carbon dioxide storage projects. 299
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Sec. 1572.06. There is hereby created in the state treasury the carbon dioxide storage facility trust fund to be administered by the division of mineral resources management. The fund shall consist of the proceeds of the fees established in rules adopted under section 1572.03 of the Revised Code. Money in the fund shall be used by the division for both of the following purposes: 304
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(A) The administration of sections 1572.01 to 1572.07 of the Revised Code; 310
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(B) Funding for the long-term monitoring of storage facilities as provided in rules adopted under section 1572.03 of the Revised Code. 312
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Sec. 1572.07. Nothing in sections 1572.01 to 1572.07 of the Revised Code or rules adopted under those sections applies to the use of carbon dioxide as part of or in conjunction with any enhanced recovery of oil or natural gas where the sole purpose of the project is the recovery of oil or natural gas. 315
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Sec. 3706.31. (A) As used in sections 3706.31 to 3706.36 of the Revised Code: 320
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(1) "Renewable energy business" means a person that engages in the business of generating electricity using renewable energy 322
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facilities, in the business of manufacturing equipment for 324
renewable energy facilities, or in the business of researching and 325
developing such equipment or facilities. 326

(2) "Renewable energy facility" means any technology or 327
structure that generates electricity using solely or primarily 328
renewable energy resources. 329

(3) "Renewable energy resource" means solar photovoltaic 330
energy, solar thermal energy, wind energy, hydropower, geothermal 331
energy, municipal solid waste, biomass energy, biologically 332
derived methane gas, and energy derived from byproducts of the 333
pulping process or wood manufacturing process including bark, wood 334
chips, sawdust, and lignin in spent pulping liquors. 335

(B) Sections 3706.01 to 3706.21 and 3706.99 of the Revised 336
Code do not apply to sections 3706.31 to 3706.36 of the Revised 337
Code. 338

Sec. 3706.32. (A) There is hereby created the Ohio renewable 339
energy authority, a body corporate and politic, performing 340
essential governmental functions of this state. 341

(B) The authority shall consist of eleven members as follows: 342
three members appointed by the governor, not more than two of whom 343
shall be members of the same political party, three members 344
appointed by the speaker of the house of representatives, not more 345
than two of whom shall be members of the same political party, 346
three members appointed by the president of the senate, not more 347
than two of whom shall be members of the same political party, and 348
two nonvoting members appointed by the Ohio board of regents to 349
represent Ohio colleges and universities. 350

Initial members of the authority shall be appointed by August 351
1, 2008. The terms of the members first appointed by the board of 352
regents shall expire on June 30, 2010. The term of one of the 353

members first appointed by the governor shall expire on that date, 354
with the terms of the other two members appointed by the governor 355
expiring on June 30, 2012. The terms of one of the members first 356
appointed each by the speaker of the house of representatives and 357
the president of the senate shall expire on June 30, 2010, with 358
the terms of the other four members appointed by the speaker and 359
the president expiring on June 30, 2011. Otherwise, members' terms 360
of office shall be for two years, commencing on the first day of 361
July and ending on the thirtieth day of June. Each member shall 362
hold office from the date of appointment until the end of the term 363
for which the member was appointed. A member appointed to fill a 364
vacancy occurring prior to the expiration of the term for which 365
the member's predecessor was appointed shall hold office for the 366
remainder of such term. A member shall continue in office 367
subsequent to the expiration date of the member's term until the 368
member's successor takes office, or until a period of sixty days 369
has elapsed, whichever occurs first. A member is eligible for 370
reappointment. 371

(C) The appointing authority may remove a member at any time 372
for misfeasance, nonfeasance, or malfeasance in office. In 373
addition, by affirmative vote of six voting members, a member may 374
be removed for malfeasance or misfeasance in office, for failing 375
to attend authority meetings regularly, or for any cause that 376
renders the member incapable or unfit to discharge the duties of 377
the member or the authority. 378

(D) The members shall elect a chairperson, vice-chairperson, 379
and secretary from among its voting members. A majority of the 380
voting members shall constitute a quorum, except that the 381
authority may require a vote of six voting members for an action 382
the authority shall specify in its bylaws or otherwise in writing. 383
No vacancy in the membership shall impair the right of a quorum by 384
such vote to exercise all the rights and perform all the duties of 385

the authority. The authority may establish subcommittees from 386
among its members, which subcommittees shall exercise any power or 387
duty of the authority that the authority shall delegate in 388
writing. The authority shall meet at least six times per year, and 389
shall meet at such other times as it considers appropriate or upon 390
the call of the chairperson or the written request of a majority 391
of its voting members. The authority shall determine the location 392
of its offices. 393

(E) Members of the authority and authority employees shall 394
file financial disclosure statements under section 102.02 of the 395
Revised Code. 396

Sec. 3706.33. (A) The Ohio renewable energy authority may: 397

(1) Adopt bylaws for the regulation of its affairs and the 398
conduct of its business; 399

(2) Adopt an official seal; 400

(3) Maintain a principal office and suboffices at such places 401
within this state as it designates; 402

(4) Sue and plead in its own name and be sued and impleaded 403
in its own name with respect to its contracts or the torts of its 404
members, employees, or agents acting within the scope of their 405
employment. Any such actions against the authority shall be 406
brought in the court of common pleas of the county in which the 407
principal office of the authority is located, or in the court of 408
common pleas of the county in which the cause of action arose, 409
provided that county is located within this state. All summonses, 410
exceptions, and notices of every kind shall be served on the 411
authority by leaving a copy at the authority's principal office 412
with the person in charge or with the secretary of the authority. 413

(5) Acquire by gift or purchase, hold, and dispose of real 414
and personal property in the exercise of the powers of the 415

authority and the performance of its duties under sections 3706.31 to 3706.35 of the Revised Code; 416
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(6) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under sections 3706.31 to 3706.35 of the Revised Code; 418
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(7) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of renewable energy development and investment, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which those grants and contributions are made; 422
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(8) Provide coverage for its employees under Chapters 4123. and 4141. of the Revised Code; 428
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(9) Do all acts necessary or proper to carry out the powers expressly granted in sections 3706.31 to 3706.35 of the Revised Code. 430
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(B)(1) All minutes, resolutions, and official decisions of the authority shall be recorded, and a book of minutes, resolutions, and official decisions shall be authenticated by the signature of the authority secretary. The book of minutes, resolutions, and official decisions, as well as any report or financial statement of the authority, shall be public records under section 149.43 of the Revised Code. One copy of the book shall be sent annually to the governor. 433
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(2) Annually, the authority shall submit a report to the general assembly pursuant to section 101.68 of the Revised Code, to the director of development, and to the governor regarding the authority's financial assistance program under section 3706.35 of the Revised Code, job development prospects in this state, and other information. 441
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(C)(1) The authority shall be exempt from the levy of any 447
real and personal property taxes upon any property of the 448
authority acquired and used for its offices. 449

(2) The exemptions specified in division (C)(1) of this 450
section shall not extend to persons or entities conducting 451
business on the authority's property, for which payment of state 452
and local taxes would otherwise be required. 453

(D) Nothing in sections 3706.31 to 3706.36 of the Revised 454
Code authorizes the authority to sell the authority or any of its 455
property or other assets or to merge the authority with another 456
entity, without the prior approval of the general assembly. 457

Sec. 3706.34. (A) There is hereby created the renewable 458
energy development and investment fund, which shall be in the 459
custody of the treasurer of state but shall not be part of the 460
state treasury. The fund shall consist of money transferred to it 461
pursuant to divisions (C) and (D) of this section and revenue from 462
alternative energy compliance payments under division (C) of 463
section 4928.64 and forfeitures under section 4928.66 of the 464
Revised Code. Interest on the fund shall be derived by the 465
investment of the fund balance only in money market accounts and 466
shall be deposited to the credit of the fund. 467

(B) The fund shall be used by the Ohio renewable energy 468
authority to provide financial assistance as authorized under 469
division (A) of section 3706.35 of the Revised Code. In addition, 470
not more than six per cent of the annual transfer to the fund 471
shall be used for administrative purposes, including for office 472
space, office equipment and furnishings, service contracts, member 473
and employee compensation, and member or employee expenses as 474
shall be specified in the authority bylaws, including but not 475
limited to, mileage and any other reasonable expenses of members 476
in attending authority or authority subcommittee meetings, and any 477

filing fee for the financial disclosure statements required by 478
section 3706.32 of the Revised Code. The authority shall set the 479
compensation of its members and employees, but the combined 480
compensation and expenses paid to a member shall not exceed twenty 481
thousand dollars per year. 482

(C) Immediately after the initial member appointments are 483
made pursuant to section 3706.32 of the Revised Code, the 484
treasurer of state shall transfer two and one-half million dollars 485
from the state general revenue fund to the renewable energy 486
development and investment fund. The treasurer shall so transfer 487
ten million dollars in calendar year 2009. 488

(D) Each year beginning in 2010, the tax commissioner shall 489
consult with the director of development and the authority to 490
estimate the number of state income tax taxpayers that are 491
employed by renewable energy businesses in that year. From that 492
information, the tax commissioner shall estimate the amount of 493
state income tax revenue that is generated during that year from 494
those taxpayers, using any method the commissioner determines 495
appropriate, such as the North American industry classification 496
system codes, estimated state income tax withholdings, or any 497
other reasonable process or method. The method shall be consistent 498
from year to year. The tax commissioner may contract with any 499
person to assist in deriving the taxpayer and tax revenue 500
estimates required by this division. Subsequently, the tax 501
commissioner shall certify the difference in such estimated tax 502
revenue generated during the year compared to baseline year 2009. 503
If the certified amount in any year is ten million dollars or 504
more, the treasurer of state in that year shall transfer an amount 505
equal to the certified amount from the state general revenue fund 506
to the renewable energy development and investment fund. If the 507
amount is less than ten million dollars, the treasurer shall so 508
transfer ten million dollars. 509

Sec. 3706.35. (A) The Ohio renewable energy authority shall 510
adopt a mission statement that shall govern its award of financial 511
assistance provided pursuant to this division. That assistance 512
shall be entirely directed at identifying, promoting, nurturing, 513
and expanding job opportunities in renewable energy businesses 514
located in this state and shall consist of grants, loans, loan 515
guarantees, awards, or other forms of assistance provided to those 516
businesses. The authority shall specify the terms and conditions, 517
if any, for the repayment of the assistance it provides under this 518
section and shall incorporate those terms and conditions into a 519
repayment agreement that a recipient of the assistance shall sign. 520

(B) The authority shall maintain accounting records in 522
accordance with generally accepted accounting principles and other 523
required accounting standards and shall prepare a financial 524
statement not later than ninety days after the close of the fiscal 525
period. The financial statement shall be subject to audit by the 526
auditor of state. 527

(C) The authority shall develop policies and guidelines for 528
the administration of its financial assistance program under 529
division (A) of this section and annually shall conduct at least 530
one public hearing to obtain input from any interested party 531
regarding the administration of the program. The hearing shall be 532
held at such time and place as the authority determines and only 533
when a quorum of the authority is present. 534

Sec. 3706.36. The Ohio renewable energy authority shall 535
terminate on June 30, 2018, at which time the terms of office of 536
the authority's members, as well as the employment of the 537
authority's employees except as necessary to close the affairs and 538
offices of the authority, shall terminate, and the authority shall 539
cease to exist, unless the authority and those terms and 540

employment are extended by an act of the general assembly. Upon 541
that expiration, all property, money, and other assets of the 542
authority hereby belong to this state, the obligations of the 543
authority become obligations of this state, and the treasurer of 544
state shall transfer to the general revenue fund the unused 545
balances of the renewable energy development and investment fund 546
created under section 3706.34 of the Revised Code. Nothing in 547
sections 3706.31 to 3706.36 of the Revised Code abrogates or shall 548
authorize the abrogation of any financial assistance provided by 549
the authority prior to its expiration under this section or any 550
related agreement entered into by the authority prior to that 551
date. 552

Sec. 4928.64. (A) As used in sections 4928.64 to 4928.66 of 553
the Revised Code: 554

(1) "Advanced energy resource" means a distributed generation 555
system consisting of customer cogeneration of electricity and 556
thermal output primarily to meet the energy needs of the 557
customer's facilities, clean coal technology, nuclear technology, 558
or energy efficiency, including demand-side management. 559

(2) "Alternative energy" means energy from advanced energy 561
resources or from renewable energy resources or both. 562

(3) "Hydropower" means energy produced by a hydroelectric 563
generating facility that is located at a dam within or on the 564
border of this state and meets all of the following standards: 565

(a) The facility provides for river flows that are not 566
detrimental for fish, wildlife, and water quality, including 567
seasonal flow fluctuations as defined by the applicable licensing 568
agency for the facility. 569

(b) The facility demonstrates that it complies with the water 570

quality standards of this state, which compliance may consist of 571
certification under Section 401 of the "Clean Water Act of 1977," 572
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 573
not contributed to a finding by this state that the river has 574
impaired water quality under Section 303(d) of the "Clean Water 575
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 576

(c) The facility complies with mandatory prescriptions 577
regarding fish passage as required by the federal energy 578
regulatory commission license issued for the project, regarding 579
fish protection for riverine, anadromous, and catadromus fish. 580

(d) The facility complies with the recommendations of the 581
Ohio environmental protection agency and with the terms of its 582
federal energy regulatory commission license regarding watershed 583
protection, mitigation, or enhancement. 584

(e) The facility complies with provisions of the "Endangered 585
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 586
amended. 587

(f) The facility does not harm cultural resources of the 588
area. This can be shown through compliance with the terms of its 589
federal energy regulatory commission license or, if the facility 590
is not regulated by that commission, through development of a plan 591
approved by the Ohio historic preservation office. 592

(g) The facility complies with the terms of its federal 593
energy regulatory commission license or exemption that are related 594
to recreational access, accommodation, and facilities or, if the 595
facility is not regulated by that commission, the facility 596
complies with similar requirements as are recommended by resource 597
agencies; and the facility provides access to water to the public 598
without fee or charge. 599

(h) The facility is not recommended for removal by any 600
federal agency or agency of any state. 601

(4) "Renewable energy resource" means solar photovoltaic or 602
solar thermal energy, wind energy, hydropower, geothermal energy, 603
fuel derived from municipal solid waste through a process other 604
than combustion, biomass energy, biologically derived methane gas, 605
or energy derived from non-treated byproducts of the pulping 606
process or wood manufacturing process, including bark, wood chips, 607
sawdust, and lignin in spent pulping liquors. "Renewable energy 608
resource" includes, but is not limited to, a fuel cell powered by 609
any such energy, any storage facility that will promote the better 610
utilization of renewable energy resources and primarily operates 611
off peak, or a distributed generation system used by a customer to 612
generate electricity from any such energy. 613

(B) Subject to division (C) of this section and by the end of 614
2025, an electric distribution utility shall provide from 615
alternative energy a portion of the electricity supply required 616
for its standard service offer under section 4928.14 of the 617
Revised Code, and an electric services company shall provide a 618
portion of its electricity supply from alternative energy. That 619
portion shall equal twenty-five per cent of the total number of 620
kilowatt hours of electricity supplied by the utility or company 621
to any and all electric consumers whose electric load centers are 622
served by the utility and are located within the utility's 623
certified territory or, in the case of an electric services 624
company, are served by the company and are located within this 625
state. However, nothing in this section precludes a utility or 626
company from providing a greater percentage. 627

Of the alternative energy implemented by the utility or 628
company by the end of 2025: 629

(1) At least half shall be generated from advanced energy 630
resources; 631

(2) Half shall be generated from renewable energy resources, 632
including one per cent from solar energy resources, in accordance 633

<u>with the following benchmarks:</u>			634
<u>By end of year</u>	<u>Renewable energy</u>	<u>Solar energy</u>	635
	<u>resources</u>	<u>resources</u>	
<u>2009</u>	<u>0.25%</u>	<u>.005%</u>	636
<u>2010</u>	<u>0.50%</u>	<u>.05%</u>	637
<u>2011</u>	<u>1%</u>	<u>.1%</u>	638
<u>2012</u>	<u>1.5%</u>	<u>.15%</u>	639
<u>2013</u>	<u>2%</u>	<u>.2%</u>	640
<u>2014</u>	<u>2.5%</u>	<u>.25%</u>	641
<u>2015</u>	<u>3.5%</u>	<u>.3%</u>	642
<u>2016</u>	<u>4.5%</u>	<u>.35%</u>	643
<u>2017</u>	<u>5.5%</u>	<u>.4%</u>	644
<u>2018</u>	<u>6.5%</u>	<u>.45%</u>	645
<u>2019</u>	<u>7.5%</u>	<u>.5%</u>	646
<u>2020</u>	<u>8.5%</u>	<u>.6%</u>	647
<u>2021</u>	<u>9.5%</u>	<u>.7%</u>	648
<u>2022</u>	<u>10.5%</u>	<u>.8%</u>	649
<u>2023</u>	<u>11.5%</u>	<u>.9%</u>	650
<u>2024</u>	<u>12.5%</u>	<u>1%</u>	651

(3) At least one-half of the renewable energy resources 652
implemented by the utility or company by the end of 2025 shall be 653
met through facilities located in this state. 654

(C)(1) The public utilities commission annually shall review 655
a utility's or company's compliance with the most recent 656
applicable benchmark under division (B)(2) of this section. If the 657
commission determines, after notice and hearing, that the utility 658
or company has failed to comply with any such benchmark, the 659
commission shall impose a renewable energy compliance payment on 660
the utility or company. 661

(a) The compliance payment pertaining to the solar energy 662
resource benchmarks under division (B)(2) of this section shall be 663
an amount per megawatt hour of undercompliance or noncompliance in 664

the period under review, starting at four hundred fifty dollars 665
for 2009, four hundred dollars for 2010 and 2011, and similarly 666
reduced every two years thereafter through 2024 by fifty dollars. 667

(b) The compliance payment pertaining to the renewable energy 668
resource benchmarks under division (B)(2) of this section shall 669
equal forty-five dollars times the number of additional renewable 670
energy credits that the utility or company would have needed to 671
comply with the applicable benchmark in the period under review. 672
673

(c) The compliance payment shall not be passed through by the 674
utility or company to consumers. The compliance payment shall be 675
remitted to the commission, for deposit to the credit of the 676
renewable energy development and investment fund created under 677
section 3706.34 of the Revised Code. Payment of the compliance 678
payment shall be subject to such collection and enforcement 679
procedures as apply to the collection of a forfeiture under 680
sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 681

(2) The commission shall establish a process to provide for 682
at least an annual review of the alternative energy market in this 683
state and in the service territories of the regional transmission 684
organizations that manage transmission systems located in this 685
state. The commission shall use the results of this study to 686
identify any needed changes to the amount of the renewable energy 687
compliance payment specified under divisions (C)(1)(a) and (b) of 688
this section. Specifically, the commission may increase the amount 689
to ensure that payment of compliance payments is not used to 690
achieve compliance with this section in lieu of actually acquiring 691
or realizing energy derived from renewable energy resources. 692
However, if the commission finds that the amount of the compliance 693
payment should be otherwise changed, the commission shall present 694
this finding to the general assembly for legislative enactment. 695

696

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

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

(E) All costs incurred by a utility in complying with the requirements of this section shall be bypassable by any consumer that has exercised choice of supplier under section 4928.03 of the Revised Code.

Sec. 4928.65. An electric distribution utility or electric services company may use renewable energy credits for the purpose of complying with the renewable energy and solar energy resource requirements of division (B)(2) of section 4928.64 of the Revised Code. The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of

electricity derived from renewable energy resources. The rules 728
also shall provide for this state a system of registering 729
renewable energy credits by specifying which of any generally 730
available registries shall be used for that purpose and not by 731
creating a registry. 732

Sec. 4928.66. (A)(1) Beginning in 2009, an electric 733
distribution utility, as well as the director of development, 734
shall implement energy efficiency programs designed to achieve 735
reductions in energy usage by three-tenths of one per cent in that 736
year, increasing by an additional five-tenths of one per cent in 737
2010, seven-tenths of one per cent in 2011, eight-tenths of one 738
per cent in 2012, nine-tenths of one per cent in 2013, one per 739
cent from 2014 to 2018, and two per cent each year thereafter, 740
achieving a cumulative energy reduction in excess of twenty-two 741
per cent by 2025. 742

(2) Beginning in 2009, an electric distribution utility shall 743
implement peak demand reduction programs designed to achieve a one 744
per cent reduction in peak demand in 2009 and an additional 745
seventy-five hundredths of one per cent reduction each year 746
through 2018. In 2018, the standing committees in the house of 747
representatives and the senate primarily dealing with energy 748
issues shall make recommendations to the general assembly 749
regarding future peak demand reduction targets. 750

For the purposes of divisions (A)(1) and (2) of this section, 751
programs implemented by a utility may include demand-response 752
programs and transmission and distribution infrastructure 753
improvements that reduce line losses. 754

(B) In accordance with rules it shall adopt, the public 755
utilities commission shall produce and docket at the commission an 756
annual report containing the results of its verification of the 757
annual levels of energy usage and peak demand reductions achieved 758

by each electric distribution utility pursuant to division (A) of 759
this section. A copy of the report shall be provided to the 760
consumers' counsel. 761

(C) If the commission determines, after notice and hearing 762
and based upon its report under division (B) of this section, that 763
an electric distribution utility has failed to comply with an 764
energy usage or peak demand reduction required by division (A) of 765
this section, the commission shall assess a forfeiture on the 766
utility as provided under sections 4905.55 to 4905.60 and 4905.64 767
of the Revised Code, either in the amount, per day per 768
undercompliance or noncompliance, relative to the period of the 769
report, equal to that prescribed for noncompliances under section 770
4905.54 of the Revised Code, or in an amount equal to the then 771
existing market value of one renewable energy credit per megawatt 772
hour of undercompliance or noncompliance. Revenue from any 773
forfeiture assessed under this division shall be deposited to the 774
credit of the renewable energy development and investment fund 775
created under section 3706.34 of the Revised Code. 776

(D) The commission additionally shall adopt rules that 777
require an electric distribution utility to provide a customer 778
upon request with two years' consumption data in an accessible 779
form. The rules also may provide for a decoupling mechanism that 780
shall provide a utility reasonable recovery of lost revenue 781
resulting from its promotion of energy efficiency to consumers. In 782
approving such mechanism for a utility, the commission shall 783
consider whether the utility should maintain its weather risk and 784
shall consider appropriate consumer protections that ensure that 785
the utility's rates or prices are just and reasonable, including, 786
but not limited to, such protections as a cap on any percentage 787
rate or price increase under the mechanism or on any increase in 788
overall rates or prices resulting from the mechanism. 789
Additionally, the rules may provide, subject to notice and 790

hearing, for a utility for which a decoupling mechanism has not 791
been authorized to receive just and reasonable recovery of costs 792
the utility incurs in meeting the reductions established under 793
division (A) of this section. 794

Sec. 4928.68. The public utilities commission shall adopt 795
rules establishing greenhouse gas emission reporting requirements, 796
including participation in the climate registry, and carbon 797
control planning requirements for each electric generating 798
facility located in this state that emits greenhouse gases, 799
including facilities in operation on the effective date of this 800
section. 801

Sec. 5501.452. In accordance with section 5501.45 of the 802
Revised Code, the director of transportation shall implement a 803
program allowing, by lease or permit, the use of lands owned by 804
this state and acquired or used for the state highway system, for 805
highways, in connection with highways, or as incidental to the 806
acquisition of land for highways by any person operating a 807
pipeline that is necessary for the operation of a storage facility 808
regulated under sections 1572.01 to 1572.07 of the Revised Code. 809
The program shall be operated in accordance with guidelines in 810
effect on January 1, 1996. "Operation of a storage facility" under 811
this section includes operation for the purpose of transporting 812
carbon dioxide by pipeline from its source for injection into the 813
storage facility. 814

Nothing in this section shall require the director to 815
maintain a lease or permit at a specific location or prohibit the 816
director from modifying the terms of a specific lease or permit. 817

Section 2. That existing section 1571.01 of the Revised Code 818
is hereby repealed. 819