

As Passed by the Senate

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Am. Sub. S. B. No. 232

Senator Widener

**Cosponsors: Senators Goodman, Jones, Wagoner, Fedor, Harris, Miller, D.,
Miller, R., Morano, Turner, Wilson, Strahorn**

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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. 24

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

Section 1. That sections 717.25, 1710.01, 1710.02, 1710.06, 25
1710.07, 4928.64, 5709.53, 5713.30, 5713.34, 5727.01, 5727.02, 26
5727.06, 5727.11, 5727.111, 5727.15, 5727.30, and 5739.02 be 27
amended and sections 1710.061, 4935.10, and 5727.75 of the Revised 28
Code be enacted to read as follows: 29

Sec. 717.25. (A)(1) As used in this section, 30
"customer-generated energy project" means a wind, biomass, or 31
gasification facility for the generation of electricity that meets 32
either of the following requirements: 33

(a) The facility is designed to have a generating capacity of 34
two hundred fifty kilowatts of electricity or less. 35

(b) The facility is: 36

(i) Designed to have a generating capacity of more than two 37
hundred fifty kilowatts of electricity; 38

(ii) Operated in parallel with electric transmission and 39
distribution facilities serving the real property at the site of 40
the customer-generated energy project; 41

(iii) Intended primarily to offset part or all of the 42
facility owner's requirements for electricity at the site of the 43
customer-generated energy project and is located on the facility 44
owner's real property; and 45

(iv) Not producing energy for direct sale by the facility 46
owner to the public. 47

(2) "Electric distribution utility" and "mercantile customer" 48
have the same meanings as in section 4928.01 of the Revised Code. 49

(3) "Reduction in demand" has the same meaning as in section 1710.01 of the Revised Code. 50
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(B) The legislative authority of a municipal corporation may establish a low-cost ~~solar panel~~ alternative energy revolving loan program to assist ~~residents of~~ owners of real property within the municipal corporation to install solar panels at their residences. 52
if with installing and implementing either of the following on their real property: 53
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(1) Alternative energy technologies limited to solar photovoltaic projects, solar thermal energy projects, geothermal energy projects, and customer-generated energy projects; 58
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(2) Energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy. 61
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(C) If the legislative authority decides to establish such a program, the legislative authority shall adopt an ordinance that provides for the following: 65
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~~(A)~~(1) Creation in the municipal treasury of a ~~residential solar panel~~ alternative energy revolving loan fund; 68
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~~(B)~~(2) A source of money, such as gifts, bond issues, real property assessments, or federal subsidies, to seed the ~~residential solar panel~~ alternative energy revolving loan fund; 70
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~~(C)~~(3) Facilities for making loans from the ~~residential solar panel~~ alternative energy revolving loan fund, including an explanation of how ~~residents of~~ owners of real property within the municipal corporation may qualify for loans from the fund, a description of the ~~solar panels~~ alternative energy and energy efficiency technologies and related equipment for which a loan can be made from the fund, authorization of a municipal agency to process applications for loans and otherwise to administer the 73
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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 an 129
energy efficiency cost recovery mechanism permitted under section 130
4928.66 of the Revised Code, approved by the public utilities 131
commission. 132

(F) The legislative authority shall submit a quarterly report 133
to the electric distribution utility that includes, but is not 134
limited to, both of the following: 135

(1) The number and a description of each new and ongoing 136
project utilizing alternative energy technologies or energy 137
efficiency technologies, products, or activities located in the 138
utility's certified territory that produces energy efficiency 139
savings or reduction in demand and for which a loan has been made 140
under this section; 141

(2) Any additional information that the electric distribution 142

utility needs in order to obtain credit under section 4928.66 of 143
the Revised Code for energy efficiency savings or reduction in 144
demand from such projects. 145

Sec. 1710.01. As used in this chapter: 146

(A) "Special improvement district" means a special 147
improvement district organized under this chapter. 148

(B) "Church" means a fellowship of believers, congregation, 149
society, corporation, convention, or association that is formed 150
primarily or exclusively for religious purposes and that is not 151
formed for the private profit of any person. 152

(C) "Church property" means property that is described as 153
being exempt from taxation under division (A)(2) of section 154
5709.07 of the Revised Code and that the county auditor has 155
entered on the exempt list compiled under section 5713.07 of the 156
Revised Code. 157

(D) "Municipal executive" means the mayor, city manager, or 158
other chief executive officer of the municipal corporation in 159
which a special improvement district is located. 160

(E) "Participating political subdivision" means the municipal 161
corporation or township, or each of the municipal corporations or 162
townships, that has territory within the boundaries of a special 163
improvement district created under this chapter. 164

(F) "Legislative authority of a participating political 165
subdivision" means, with reference to a township, the board of 166
township trustees. 167

(G) "Public improvement" means the planning, design, 168
construction, reconstruction, enlargement, or alteration of any 169
facility or improvement, including the acquisition of land, for 170
which a special assessment may be levied under Chapter 727. of the 171
Revised Code, and includes any special energy improvement project. 172

(H) "Public service" means any service that can be provided 173
by a municipal corporation or any service for which a special 174
assessment may be levied under Chapter 727. of the Revised Code. 175

(I) "Special energy improvement project" means any property, 176
device, structure, or equipment necessary for the acquisition, 177
installation, equipping, and improvement of any real or personal 178
property used for the purpose of creating a solar ~~photo-voltaic~~ 179
photovoltaic project ~~or~~, a solar thermal energy project, a 180
geothermal energy project, a customer-generated energy project, or 181
an energy efficiency improvement, whether such real or personal 182
property is publicly or privately owned. 183

(J) "Existing qualified nonprofit corporation" means a 184
nonprofit corporation that existed before the creation of the 185
corresponding district under this chapter, that is composed of 186
members located within or adjacent to the district, that has 187
established a police department under section 1702.80 of the 188
Revised Code, and that is organized for purposes that include 189
acquisition of real property within an area specified by its 190
articles for the subsequent transfer of such property to its 191
members exclusively for charitable, scientific, literary, or 192
educational purposes, or holding and maintaining and leasing such 193
property; planning for and assisting in the development of its 194
members; providing for the relief of the poor and distressed or 195
underprivileged in the area and adjacent areas; combating 196
community deterioration and lessening the burdens of government; 197
providing or assisting others in providing housing for low- or 198
moderate-income persons; and assisting its members by the 199
provision of public safety and security services, parking 200
facilities, transit service, landscaping, and parks. 201

(K) "Energy efficiency improvement" means energy efficiency 202
technologies, products, and activities that reduce or support the 203
reduction of energy consumption, allow for the reduction in 204

demand, or support the production of clean, renewable energy and 205
that are or will be permanently fixed to real property. 206

(L) "Customer-generated energy project" means a wind, 207
biomass, or gasification facility for the production of 208
electricity that meets either of the following requirements: 209

(1) The facility is designed to have a generating capacity of 210
two hundred fifty kilowatts of electricity or less. 211

(2) The facility is: 212

(a) Designed to have a generating capacity of more than two 213
hundred fifty kilowatts of electricity; 214

(b) Operated in parallel with electric transmission and 215
distribution facilities serving the real property at the site of 216
the customer-generated energy project; 217

(c) Intended primarily to offset part or all of the facility 218
owner's requirements for electricity at the site of the 219
customer-generated energy project and is located on the facility 220
owner's real property; and 221

(d) Not producing energy for direct sale by the facility 222
owner to the public. 223

(M) "Reduction in demand" means a change in customer behavior 224
or a change in customer-owned or operated assets that reduces or 225
has the capability to reduce the demand for electricity as a 226
result of price signals or other incentives. 227

(N) "Electric distribution utility" and "mercantile customer" 228
have the same meanings as in section 4928.01 of the Revised Code. 229

Sec. 1710.02. (A) A special improvement district may be 230
created within the boundaries of any one municipal corporation, 231
any one township, or any combination of contiguous municipal 232
corporations and townships for the purpose of developing and 233

implementing plans for public improvements and public services 234
that benefit the district. A district may be created by petition 235
of the owners of real property within the proposed district, or by 236
an existing qualified nonprofit corporation. If the district is 237
created by an existing qualified nonprofit corporation, the 238
purposes for which the district is created may be supplemental to 239
the other purposes for which the corporation is organized. All 240
territory in a special improvement district shall be contiguous; 241
except that the territory in a special improvement district may be 242
noncontiguous if at least one special energy improvement project 243
is designated for each parcel of real property included within the 244
special improvement district. Additional territory may be added to 245
a special improvement district created under this chapter for the 246
purpose of developing and implementing plans for special energy 247
improvement projects if at least one special energy improvement 248
project is designated for each parcel of real property included 249
within such additional territory and the addition of territory is 250
authorized by the initial plan proposed under division (F) of this 251
section or a plan adopted by the board of directors of the special 252
improvement district under section 1710.06 of the Revised Code. 253

The district shall be governed by the board of trustees of a 254
nonprofit corporation. This board shall be known as the board of 255
directors of the special improvement district. No special 256
improvement district shall include any church property, or 257
property of the federal or state government or a county, township, 258
or municipal corporation, unless the church or the county, 259
township, or municipal corporation specifically requests in 260
writing that the property be included within the district, or 261
unless the church is a member of the existing qualified nonprofit 262
corporation creating the district at the time the district is 263
created. More than one district may be created within a 264
participating political subdivision, but no real property may be 265
included within more than one district unless the owner of the 266

property files a written consent with the clerk of the legislative 267
authority, the township fiscal officer, or the village clerk, as 268
appropriate. The area of each district shall be contiguous; except 269
that the area of a special improvement district may be 270
noncontiguous if all parcels of real property included within such 271
area contain at least one special energy improvement thereon. 272

(B) Except as provided in division (C) of this section, a 273
district created under this chapter is not a political 274
subdivision. A district created under this chapter shall be 275
considered a public agency under section 102.01 and a public 276
authority under section 4115.03 of the Revised Code. Each member 277
of the board of directors of a district, each member's designee or 278
proxy, and each officer and employee of a district shall be 279
considered a public official or employee under section 102.01 of 280
the Revised Code and a public official and public servant under 281
section 2921.42 of the Revised Code. Districts created under this 282
chapter are not subject to section 121.251 of the Revised Code. 283
Districts created under this chapter are subject to sections 284
121.22 and 121.23 of the Revised Code. 285

(C) Each district created under this chapter shall be 286
considered a political subdivision for purposes of section 4905.34 287
of the Revised Code. 288

Membership on the board of directors of the district shall 289
not be considered as holding a public office. Directors and their 290
designees shall be entitled to the immunities provided by Chapter 291
1702. and to the same immunity as an employee under division 292
(A)(6) of section 2744.03 of the Revised Code, except that 293
directors and their designees shall not be entitled to the 294
indemnification provided in section 2744.07 of the Revised Code 295
unless the director or designee is an employee or official of a 296
participating political subdivision of the district and is acting 297
within the scope of the director's or designee's employment or 298

official responsibilities. 299

District officers and district members and directors and 300
their designees or proxies shall not be required to file a 301
statement with the Ohio ethics commission under section 102.02 of 302
the Revised Code. All records of the district shall be treated as 303
public records under section 149.43 of the Revised Code, except 304
that records of organizations contracting with a district shall 305
not be considered to be public records under section 149.43 or 306
section 149.431 of the Revised Code solely by reason of any 307
contract with a district. 308

(D) Except as otherwise provided in this section, the 309
nonprofit corporation that governs a district shall be organized 310
in the manner described in Chapter 1702. of the Revised Code. 311
Except in the case of a district created by an existing qualified 312
nonprofit corporation, the corporation's articles of incorporation 313
are required to be approved, as provided in division (E) of this 314
section, by resolution of the legislative authority of each 315
participating political subdivision of the district. A copy of 316
that resolution shall be filed along with the articles of 317
incorporation in the secretary of state's office. 318

In addition to meeting the requirements for articles of 319
incorporation set forth in Chapter 1702. of the Revised Code, the 320
articles of incorporation for the nonprofit corporation governing 321
a district formed under this chapter shall provide all the 322
following: 323

(1) The name for the district, which shall include the name 324
of each participating political subdivision of the district; 325

(2) A description of the territory within the district, which 326
may be all or part of each participating political subdivision. 327
The description shall be specific enough to enable real property 328
owners to determine if their property is located within the 329

district. 330

(3) A description of the procedure by which the articles of 331
incorporation may be amended. The procedure shall include 332
receiving approval of the amendment, by resolution, from the 333
legislative authority of each participating political subdivision 334
and filing the approved amendment and resolution with the 335
secretary of state. 336

(4) The reasons for creating the district, plus an 337
explanation of how the district will be conducive to the public 338
health, safety, peace, convenience, and welfare of the district. 339

(E) The articles of incorporation for a nonprofit corporation 340
governing a district created under this chapter and amendments to 341
them shall be submitted to the municipal executive, if any, and 342
the legislative authority of each municipal corporation or 343
township in which the proposed district is to be located. Except 344
in the case of a district created by an existing qualified 345
nonprofit corporation, the articles or amendments shall be 346
accompanied by a petition signed either by the owners of at least 347
sixty per cent of the front footage of all real property located 348
in the proposed district that abuts upon any street, alley, public 349
road, place, boulevard, parkway, park entrance, easement, or other 350
existing public improvement within the proposed district, 351
excluding church property or property owned by the state, county, 352
township, municipal, or federal government, unless a church, 353
county, township, or municipal corporation has specifically 354
requested in writing that the property be included in the 355
district, or by the owners of at least seventy-five per cent of 356
the area of all real property located within the proposed 357
district, excluding church property or property owned by the 358
state, county, township, municipal, or federal government, unless 359
a church, county, township, or municipal corporation has 360
specifically requested in writing that the property be included in 361

the district. Pursuant to Section 2o of Article VIII, Ohio 362
Constitution, the petition required under this division may be for 363
the purpose of developing and implementing plans for special 364
energy improvement projects, and, in such case, is determined to 365
be in furtherance of the purposes set forth in Section 2o of 366
Article VIII, Ohio Constitution. If a special improvement district 367
is being created under this chapter for the purpose of developing 368
and implementing plans for special energy improvement projects, 369
the petition required under this division shall be signed by one 370
hundred per cent of the owners of the area of all real property 371
located within the proposed special improvement district, at least 372
one special energy improvement project shall be designated for 373
each parcel of real property within the special improvement 374
district, and the special improvement district may include any 375
number of parcels of real property as determined by the 376
legislative authority of each participating political subdivision 377
in which the proposed special improvement district is to be 378
located. For purposes of determining compliance with these 379
requirements, the area of the district, or the front footage and 380
ownership of property, shall be as shown in the most current 381
records available at the county recorder's office and the county 382
engineer's office sixty days prior to the date on which the 383
petition is filed. 384

Each municipal corporation or township with which the 385
petition is filed has sixty days to approve or disapprove, by 386
resolution, the petition, including the articles of incorporation. 387
In the case of a district created by an existing qualified 388
nonprofit corporation, each municipal corporation or township has 389
sixty days to approve or disapprove the creation of the district 390
after the corporation submits the articles of incorporation or 391
amendments thereto. This chapter does not prohibit or restrict the 392
rights of municipal corporations under Article XVIII of the Ohio 393
Constitution or the right of the municipal legislative authority 394

to impose reasonable conditions in a resolution of approval. The 395
acquisition, installation, equipping, and improvement of a special 396
energy improvement project under this chapter shall not supersede 397
any local zoning, environmental, or similar law or regulation. 398

(F) Persons proposing creation and operation of the district 399
may propose an initial plan for public services or public 400
improvements that benefit all or any part of the district. Any 401
initial plan shall be submitted as part of the petition proposing 402
creation of the district or, in the case of a district created by 403
an existing qualified nonprofit corporation, shall be submitted 404
with the articles of incorporation or amendments thereto. 405

An initial plan may include provisions for the following: 406

(1) Creation and operation of the district and of the 407
nonprofit corporation to govern the district under this chapter; 408

(2) Hiring employees and professional services; 409

(3) Contracting for insurance; 410

(4) Purchasing or leasing office space and office equipment; 411

(5) Other actions necessary initially to form, operate, or 412
organize the district and the nonprofit corporation to govern the 413
district; 414

(6) A plan for public improvements or public services that 415
benefit all or part of the district, which plan shall comply with 416
the requirements of division (A) of section 1710.06 of the Revised 417
Code and may include, but is not limited to, any of the permissive 418
provisions described in the fourth sentence of that division or 419
listed in divisions (A)(1) to ~~(6)~~(7) of that section; 420

(7) If the special improvement district is being created 421
under this chapter for the purpose of developing and implementing 422
plans for special energy improvement projects, provision for the 423
addition of territory to the special improvement district. 424

After the initial plan is approved by all municipal 425
corporations and townships to which it is submitted for approval 426
and the district is created, each participating subdivision shall 427
levy a special assessment within its boundaries to pay for the 428
costs of the initial plan. The levy shall be for no more than ten 429
years from the date of the approval of the initial plan; except 430
that if the proceeds of the levy are to be used to pay the costs 431
of a special energy improvement project, the levy of a special 432
assessment shall be for no more than ~~twenty-five~~ thirty years from 433
the date of approval of the initial plan. In the event that 434
additional territory is added to a special improvement district, 435
the special assessment to be levied with respect to such 436
additional territory shall commence not earlier than the date such 437
territory is added and shall be for no more than ~~twenty-five~~ 438
thirty years from such date. For purposes of levying an assessment 439
for this initial plan, the services or improvements included in 440
the initial plan shall be deemed a special benefit to property 441
owners within the district. 442

(G) Each nonprofit corporation governing a district under 443
this chapter may do the following: 444

(1) Exercise all powers of nonprofit corporations granted 445
under Chapter 1702. of the Revised Code that do not conflict with 446
this chapter; 447

(2) Develop, adopt, revise, implement, and repeal plans for 448
public improvements and public services for all or any part of the 449
district; 450

(3) Contract with any person, political subdivision as 451
defined in section 2744.01 of the Revised Code, or state agency as 452
defined in section 1.60 of the Revised Code to develop and 453
implement plans for public improvements or public services within 454
the district; 455

(4) Contract and pay for insurance for the district and for 456
directors, officers, agents, contractors, employees, or members of 457
the district for any consequences of the implementation of any 458
plan adopted by the district or any actions of the district. 459

The board of directors of a special improvement district may, 460
acting as agent and on behalf of a participating political 461
subdivision, sell, transfer, lease, or convey any special energy 462
improvement project owned by the participating political 463
subdivision upon a determination by the legislative authority 464
thereof that the project is not required to be owned exclusively 465
by the participating political subdivision for its purposes, for 466
uses determined by the legislative authority thereof as those that 467
will promote the welfare of the people of such participating 468
political subdivision; to improve the quality of life and the 469
general and economic well-being of the people of the participating 470
political subdivision; better ensure the public health, safety, 471
and welfare; protect water and other natural resources; provide 472
for the conservation and preservation of natural and open areas 473
and farmlands, including by making urban areas more desirable or 474
suitable for development and revitalization; control, prevent, 475
minimize, clean up, or mediate certain contamination of or 476
pollution from lands in the state and water contamination or 477
pollution; or provide for safe and natural areas and resources. 478
The legislative authority of each participating political 479
subdivision shall specify the consideration for such sale, 480
transfer, lease, or conveyance and any other terms thereof. Any 481
determinations made by a legislative authority of a participating 482
political subdivision under this division shall be conclusive. 483

Any sale, transfer, lease, or conveyance of a special energy 484
improvement project by a participating political subdivision or 485
the board of directors of the special improvement district may be 486
made without advertising, receipt of bids, or other competitive 487

bidding procedures applicable to the participating political 488
subdivision or the special improvement district under Chapter 153. 489
or 735. or section 1710.11 of the Revised Code or other 490
representative provisions of the Revised Code. 491

Sec. 1710.06. (A) The board of directors of a special 492
improvement district may develop and adopt one or more written 493
plans for public improvements or public services that benefit all 494
or any part of the district. Each plan shall set forth the 495
specific public improvements or public services that are to be 496
provided, identify the area in which they will be provided, and 497
specify the method of assessment to be used. Each plan for public 498
improvements or public services shall indicate the period of time 499
the assessments are to be levied for the improvements and services 500
and, if public services are included in the plan, the period of 501
time the services are to remain in effect. Plans for public 502
improvements may include the planning, design, construction, 503
reconstruction, enlargement, or alteration of any public 504
improvements and the acquisition of land for the improvements. 505
Plans for public improvements or public services may also include, 506
but are not limited to, provisions for the following: 507

(1) Creating and operating the district and the nonprofit 508
corporation under this chapter, including hiring employees and 509
professional services, contracting for insurance, and purchasing 510
or leasing office space and office equipment and other 511
requirements of the district; 512

(2) Planning, designing, and implementing a public 513
improvements or public services plan, including hiring 514
architectural, engineering, legal, appraisal, insurance, 515
consulting, energy auditing, and planning services, and, for 516
public services, managing, protecting, and maintaining public and 517
private facilities, including public improvements; 518

(3) Conducting court proceedings to carry out this chapter;	519
(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;	520 521
(5) Paying the costs of issuing, paying interest on, and redeeming notes and bonds issued for funding public improvements and public services plans; and	522 523 524
(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved; <u>and</u>	525 526 527 528 529 530 531 532 533 534
<u>(7) Aggregating the renewable energy credits generated by one or more special energy improvement projects within a special improvement district, upon the consent of the owners of the credits and for the purpose of negotiating and completing the sale of such credits.</u>	535 536 537 538 539
(B) Once the board of directors of the special improvement district adopts a plan, it shall submit the plan to the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation in which the district is located, if any. The legislative authorities and municipal executives shall review the plan and, within sixty days after receiving it, may submit their comments and recommendations about it to the district. After reviewing these comments and recommendations, the board of directors may amend the plan. It may then submit the plan, amended or otherwise, in the form of a	540 541 542 543 544 545 546 547 548 549

petition to members of the district whose property may be assessed 550
for the plan. Once the petition is signed by those members who own 551
at least sixty per cent of the front footage of property that is 552
to be assessed and that abuts upon a street, alley, public road, 553
place, boulevard, parkway, park entrance, easement, or other 554
public improvement, or those members who own at least seventy-five 555
per cent of the area to be assessed for the improvement or 556
service, the petition may be submitted to each legislative 557
authority for approval. If the special improvement district was 558
created for the purpose of developing and implementing plans for 559
special energy improvement projects, the petition required under 560
this division shall be signed by one hundred per cent of the 561
owners of the area of all real property located within the area to 562
be assessed for the special energy improvement project. 563

Each legislative authority shall, by resolution, approve or 564
reject the petition within sixty days after receiving it. If the 565
petition is approved by the legislative authority of each 566
participating political subdivision, the plan contained in the 567
petition shall be effective at the earliest date on which a 568
nonemergency resolution of the legislative authority with the 569
latest effective date may become effective. A plan may not be 570
resubmitted to the legislative authorities and municipal 571
executives more than three times in any twelve-month period. 572

(C) Each participating political subdivision shall levy, by 573
special assessment upon specially benefited property located 574
within the district, the costs of any public improvements or 575
public services plan contained in a petition approved by the 576
participating political subdivisions under this section or 577
division (F) of section 1710.02 of the Revised Code. The levy 578
shall be made in accordance with the procedures set forth in 579
Chapter 727. of the Revised Code, except that: 580

(1) The assessment for each improvements or services plan may 581

be levied by any one or any combination of the methods of 582
assessment listed in section 727.01 of the Revised Code, provided 583
that the assessment is uniformly applied. 584

(2) For the purpose of levying an assessment, the board of 585
directors may combine one or more improvements or services plans 586
or parts of plans and levy a single assessment against specially 587
benefited property. 588

(3) For purposes of special assessments levied by a township 589
pursuant to this chapter, references in Chapter 727. of the 590
Revised Code to the municipal corporation shall be deemed to refer 591
to the township, and references to the legislative authority of 592
the municipal corporation shall be deemed to refer to the board of 593
township trustees. 594

Church property or property owned by a political subdivision, 595
including any participating political subdivision in which a 596
special improvement district is located, shall be included in and 597
be subject to special assessments made pursuant to a plan adopted 598
under this section or division (F) of section 1710.02 of the 599
Revised Code, if the church or political subdivision has 600
specifically requested in writing that its property be included 601
within the special improvement district and the church or 602
political subdivision is a member of the district or, in the case 603
of a district created by an existing qualified nonprofit 604
corporation, if the church is a member of the corporation. 605

(D) All rights and privileges of property owners who are 606
assessed under Chapter 727. of the Revised Code shall be granted 607
to property owners assessed under this chapter, including those 608
rights and privileges specified in sections 727.15 to 727.17 and 609
727.18 to 727.22 of the Revised Code and the right to notice of 610
the resolution of necessity and the filing of the estimated 611
assessment under section 727.13 of the Revised Code. Property 612
owners assessed for public services under this chapter shall have 613

the same rights and privileges as property owners assessed for 614
public improvements under this chapter. 615

Sec. 1710.061. (A) Except as provided in division (B) of this 616
section, an electric distribution utility may count toward its 617
compliance with the energy efficiency and peak demand reduction 618
requirements of section 4928.66 of the Revised Code any efficiency 619
savings or reduction in demand produced by a special energy 620
improvement project located in its certified territory. 621

(B) A mercantile customer that realizes energy efficiency 622
savings or reduction in demand produced by a special energy 623
improvement project that it owns may elect to commit the savings 624
or reduction to the electric distribution utility in exchange for 625
an exemption from an energy efficiency cost recovery mechanism 626
permitted under section 4928.66 of the Revised Code, approved by 627
the public utilities commission. 628

(C) The board of directors of a special improvement district 629
shall submit a quarterly report to the electric distribution 630
utility that includes, but is not limited to, both of the 631
following: 632

(1) The total number and a description of each new and 633
ongoing special energy improvement project located within the 634
special improvement district that produces energy efficiency 635
savings or reduction in demand; 636

(2) Any additional information that the electric distribution 637
utility needs in order to obtain credit under section 4928.66 of 638
the Revised Code for energy efficiency savings or reduction in 639
demand from such projects. 640

Sec. 1710.07. The cost of any public improvements or public 641
services plan of a special improvement district may include, but 642
is not limited to, the following: 643

(A) The cost of creating and operating the district under 644
this chapter, including creating and operating a nonprofit 645
organization organized under this chapter, hiring employees and 646
professional services, contracting for insurance, and purchasing 647
or leasing office space or office equipment; 648

(B) The cost of planning, designing, and implementing the 649
public improvements or public services plan, including payment of 650
architectural, engineering, legal, appraisal, insurance, 651
consulting, energy auditing, and planning fees and expenses, and, 652
for public services, the management, protection, and maintenance 653
costs of public or private facilities; 654

(C) Any court costs incurred by the district in implementing 655
the public improvements or public services plan; 656

(D) Any damages resulting from implementing the public 657
improvements or public services plan; 658

(E) The costs of issuing, paying interest on, and redeeming 659
notes and bonds issued for funding the public improvements or 660
public services plan; and 661

(F) The costs associated with the sale, lease, lease with an 662
option to purchase, conveyance of other interests in, or other 663
contracts for the acquisition, construction, maintenance, repair, 664
furnishing, equipping, operation, or improvement of any special 665
energy improvement project by the district, between a 666
participating political subdivision and the special improvement 667
district, or between the special improvement district and any 668
owner of real property in the special improvement district on 669
which a special energy improvement project has been acquired, 670
installed, equipped, or improved. 671

Sec. 4928.64. (A)(1) As used in sections 4928.64 and 4928.65 672
of the Revised Code, "alternative energy resource" means an 673

advanced energy resource or renewable energy resource, as defined 674
in section 4928.01 of the Revised Code that has a 675
placed-in-service date of January 1, 1998, or after; a renewable 676
energy resource created on or after January 1, 1998, by the 677
modification or retrofit of any facility placed in service prior 678
to January 1, 1998; or a mercantile customer-sited advanced energy 679
resource or renewable energy resource, whether new or existing, 680
that the mercantile customer commits for integration into the 681
electric distribution utility's demand-response, energy 682
efficiency, or peak demand reduction programs as provided under 683
division (A)(2)(c) of section 4928.66 of the Revised Code, 684
including, but not limited to, any of the following: 685

(a) A resource that has the effect of improving the 686
relationship between real and reactive power; 687

(b) A resource that makes efficient use of waste heat or 688
other thermal capabilities owned or controlled by a mercantile 689
customer; 690

(c) Storage technology that allows a mercantile customer more 691
flexibility to modify its demand or load and usage 692
characteristics; 693

(d) Electric generation equipment owned or controlled by a 694
mercantile customer that uses an advanced energy resource or 695
renewable energy resource; 696

(e) Any advanced energy resource or renewable energy resource 697
of the mercantile customer that can be utilized effectively as 698
part of any advanced energy resource plan of an electric 699
distribution utility and would otherwise qualify as an alternative 700
energy resource if it were utilized directly by an electric 701
distribution utility. 702

(2) For the purpose of this section and as it considers 703

appropriate, the public utilities commission may classify any new 704
technology as such an advanced energy resource or a renewable 705
energy resource. 706

(B) By 2025 and thereafter, an electric distribution utility 707
shall provide from alternative energy resources, including, at its 708
discretion, alternative energy resources obtained pursuant to an 709
electricity supply contract, a portion of the electricity supply 710
required for its standard service offer under section 4928.141 of 711
the Revised Code, and an electric services company shall provide a 712
portion of its electricity supply for retail consumers in this 713
state from alternative energy resources, including, at its 714
discretion, alternative energy resources obtained pursuant to an 715
electricity supply contract. That portion shall equal twenty-five 716
per cent of the total number of kilowatt hours of electricity sold 717
by the subject utility or company to any and all retail electric 718
consumers whose electric load centers are served by that utility 719
and are located within the utility's certified territory or, in 720
the case of an electric services company, are served by the 721
company and are located within this state. However, nothing in 722
this section precludes a utility or company from providing a 723
greater percentage. The baseline for a utility's or company's 724
compliance with the alternative energy resource requirements of 725
this section shall be the average of such total kilowatt hours it 726
sold in the preceding three calendar years, except that the 727
commission may reduce a utility's or company's baseline to adjust 728
for new economic growth in the utility's certified territory or, 729
in the case of an electric services company, in the company's 730
service area in this state. 731

Of the alternative energy resources implemented by the 732
subject utility or company by 2025 and thereafter: 733

(1) Half may be generated from advanced energy resources; 734

(2) At least half shall be generated from renewable energy 735

resources, including one-half per cent from solar energy			736
resources, in accordance with the following benchmarks:			737
By end of year	Renewable energy	Solar energy	738
	resources	resources	
2009	0.25%	0.004%	739
2010	0.50%	0.010%	740
2011	1%	0.030%	741
2012	1.5%	0.060%	742
2013	2%	0.090%	743
2014	2.5%	0.12%	744
2015	3.5%	0.15%	745
2016	4.5%	0.18%	746
2017	5.5%	0.22%	747
2018	6.5%	0.26%	748
2019	7.5%	0.3%	749
2020	8.5%	0.34%	750
2021	9.5%	0.38%	751
2022	10.5%	0.42%	752
2023	11.5%	0.46%	753
2024 and each calendar	12.5%	0.5%	754
year thereafter			
(3) At least one-half of the renewable energy resources			755
implemented by the utility or company shall be met through			756
facilities located in this state; the remainder shall be met with			757
resources that can be shown to be deliverable into this state.			758
(C)(1) The commission annually shall review an electric			759
distribution utility's or electric services company's compliance			760
with the most recent applicable benchmark under division (B)(2) of			761
this section and, in the course of that review, shall identify any			762
undercompliance or noncompliance of the utility or company that it			763
determines is weather-related, related to equipment or resource			764
shortages for advanced energy or renewable energy resources as			765

applicable, or is otherwise outside the utility's or company's control. 766
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(2) Subject to the cost cap provisions of division (C)(3) of this section, if the commission determines, after notice and opportunity for hearing, and based upon its findings in that review regarding avoidable undercompliance or noncompliance, but subject to division (C)(4) of this section, that the utility or company has failed to comply with any such benchmark, the commission shall impose a renewable energy compliance payment on the utility or company. 768
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(a) The compliance payment pertaining to the solar energy resource benchmarks under division (B)(2) of this section shall be an amount per megawatt hour of undercompliance or noncompliance in the period under review, starting at four hundred fifty dollars for 2009, four hundred dollars for 2010 and 2011, and similarly reduced every two years thereafter through 2024 by fifty dollars, to a minimum of fifty dollars. 776
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(b) The compliance payment pertaining to the renewable energy resource benchmarks under division (B)(2) of this section shall equal the number of additional renewable energy credits that the electric distribution utility or electric services company would have needed to comply with the applicable benchmark in the period under review times an amount that shall begin at forty-five dollars and shall be adjusted annually by the commission to reflect any change in the consumer price index as defined in section 101.27 of the Revised Code, but shall not be less than forty-five dollars. 783
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(c) The compliance payment shall not be passed through by the electric distribution utility or electric services company to consumers. The compliance payment shall be remitted to the commission, for deposit to the credit of the advanced energy fund created under section 4928.61 of the Revised Code. Payment of the 793
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compliance payment shall be subject to such collection and 798
enforcement procedures as apply to the collection of a forfeiture 799
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code. 800

(3) An electric distribution utility or an electric services 801
company need not comply with a benchmark under division (B)(1) or 802
(2) of this section to the extent that its reasonably expected 803
cost of that compliance exceeds its reasonably expected cost of 804
otherwise producing or acquiring the requisite electricity by 805
three per cent or more. The cost of compliance shall be calculated 806
as though any exemption from taxes and assessments had not been 807
granted under section 5727.75 of the Revised Code. 808

(4)(a) An electric distribution utility or electric services 809
company may request the commission to make a force majeure 810
determination pursuant to this division regarding all or part of 811
the utility's or company's compliance with any minimum benchmark 812
under division (B)(2) of this section during the period of review 813
occurring pursuant to division (C)(2) of this section. The 814
commission may require the electric distribution utility or 815
electric services company to make solicitations for renewable 816
energy resource credits as part of its default service before the 817
utility's or company's request of force majeure under this 818
division can be made. 819

(b) Within ninety days after the filing of a request by an 820
electric distribution utility or electric services company under 821
division (C)(4)(a) of this section, the commission shall determine 822
if renewable energy resources are reasonably available in the 823
marketplace in sufficient quantities for the utility or company to 824
comply with the subject minimum benchmark during the review 825
period. In making this determination, the commission shall 826
consider whether the electric distribution utility or electric 827
services company has made a good faith effort to acquire 828
sufficient renewable energy or, as applicable, solar energy 829

resources to so comply, including, but not limited to, by banking 830
or seeking renewable energy resource credits or by seeking the 831
resources through long-term contracts. Additionally, the 832
commission shall consider the availability of renewable energy or 833
solar energy resources in this state and other jurisdictions in 834
the PJM interconnection regional transmission organization or its 835
successor and the midwest system operator or its successor. 836

(c) If, pursuant to division (C)(4)(b) of this section, the 837
commission determines that renewable energy or solar energy 838
resources are not reasonably available to permit the electric 839
distribution utility or electric services company to comply, 840
during the period of review, with the subject minimum benchmark 841
prescribed under division (B)(2) of this section, the commission 842
shall modify that compliance obligation of the utility or company 843
as it determines appropriate to accommodate the finding. 844
Commission modification shall not automatically reduce the 845
obligation for the electric distribution utility's or electric 846
services company's compliance in subsequent years. If it modifies 847
the electric distribution utility or electric services company 848
obligation under division (C)(4)(c) of this section, the 849
commission may require the utility or company, if sufficient 850
renewable energy resource credits exist in the marketplace, to 851
acquire additional renewable energy resource credits in subsequent 852
years equivalent to the utility's or company's modified obligation 853
under division (C)(4)(c) of this section. 854

(5) The commission shall establish a process to provide for 855
at least an annual review of the alternative energy resource 856
market in this state and in the service territories of the 857
regional transmission organizations that manage transmission 858
systems located in this state. The commission shall use the 859
results of this study to identify any needed changes to the amount 860
of the renewable energy compliance payment specified under 861

divisions (C)(2)(a) and (b) of this section. Specifically, the 862
commission may increase the amount to ensure that payment of 863
compliance payments is not used to achieve compliance with this 864
section in lieu of actually acquiring or realizing energy derived 865
from renewable energy resources. However, if the commission finds 866
that the amount of the compliance payment should be otherwise 867
changed, the commission shall present this finding to the general 868
assembly for legislative enactment. 869

(D)(1) The commission annually shall submit to the general 870
assembly in accordance with section 101.68 of the Revised Code a 871
report describing the compliance of electric distribution 872
utilities and electric services companies with division (B) of 873
this section and any strategy for utility and company compliance 874
or for encouraging the use of alternative energy resources in 875
supplying this state's electricity needs in a manner that 876
considers available technology, costs, job creation, and economic 877
impacts. The commission shall allow and consider public comments 878
on the report prior to its submission to the general assembly. 879
Nothing in the report shall be binding on any person, including 880
any utility or company for the purpose of its compliance with any 881
benchmark under division (B) of this section, or the enforcement 882
of that provision under division (C) of this section. 883

(2) The governor, in consultation with the commission 884
chairperson, shall appoint an alternative energy advisory 885
committee. The committee shall examine available technology for 886
and related timetables, goals, and costs of the alternative energy 887
resource requirements under division (B) of this section and shall 888
submit to the commission a semiannual report of its 889
recommendations. 890

(E) All costs incurred by an electric distribution utility in 891
complying with the requirements of this section shall be 892
bypassable by any consumer that has exercised choice of supplier 893

under section 4928.03 of the Revised Code. 894

Sec. 4935.10. The public utilities commission shall conduct a study to review the condition of reactive power in the state. The commission shall issue a report of its findings to the general assembly not later than one year after the effective date of this section. 895
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Sec. 5709.53. (A) A solar, wind, or hydrothermal energy system on which construction or installation is completed during the period from the effective date of this section through December 31, 1985, that meets the guidelines established under division (B) of section 1551.20 of the Revised Code is exempt from real property taxation. 900
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(B) Any fixture or other real property included in an energy facility with an aggregate nameplate capacity of two hundred fifty kilowatts or less is exempt from taxation if construction or installation is completed on or after the effective date of this section. 906
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As used in division (B) of this section, "energy facility" and "nameplate capacity" have the same meanings as in section 5727.01 of the Revised Code. 911
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Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code: 914
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(A) "Land devoted exclusively to agricultural use" means: 916

(1) Tracts, lots, or parcels of land totaling not less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose 917
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of timber, field crops, tobacco, fruits, vegetables, nursery 923
stock, ornamental trees, sod, or flowers, or the growth of timber 924
for a noncommercial purpose, if the land on which the timber is 925
grown is contiguous to or part of a parcel of land under common 926
ownership that is otherwise devoted exclusively to agricultural 927
use, or were devoted to and qualified for payments or other 928
compensation under a land retirement or conservation program under 929
an agreement with an agency of the federal government; 930

(2) Tracts, lots, or parcels of land totaling less than ten 931
acres that, during the three calendar years prior to the year in 932
which application is filed under section 5713.31 of the Revised 933
Code and through the last day of May of such year, were devoted 934
exclusively to commercial animal or poultry husbandry, 935
aquaculture, apiculture, the production for a commercial purpose 936
of field crops, tobacco, fruits, vegetables, timber, nursery 937
stock, ornamental trees, sod, or flowers where such activities 938
produced an average yearly gross income of at least twenty-five 939
hundred dollars during such three-year period or where there is 940
evidence of an anticipated gross income of such amount from such 941
activities during the tax year in which application is made, or 942
were devoted to and qualified for payments or other compensation 943
under a land retirement or conservation program under an agreement 944
with an agency of the federal government; 945

(3) A tract, lot, or parcel of land taxed under sections 946
5713.22 to 5713.26 of the Revised Code is not land devoted 947
exclusively to agricultural use; 948

(4) Tracts, lots, or parcels of land, or portions thereof 949
that, during the previous three consecutive calendar years have 950
been designated as land devoted exclusively to agricultural use, 951
but such land has been lying idle or fallow for up to one year and 952
no action has occurred to such land that is either inconsistent 953
with the return of it to agricultural production or converts the 954

land devoted exclusively to agricultural use as defined in this 955
section. Such land shall remain designated as land devoted 956
exclusively to agricultural use provided that beyond one year, but 957
less than three years, the landowner proves good cause as 958
determined by the board of revision. 959

"Land devoted exclusively to agricultural use" includes 960
tracts, lots, or parcels of land or portions thereof that are used 961
for conservation practices, provided that the tracts, lots, or 962
parcels of land or portions thereof comprise twenty-five per cent 963
or less of the total of the tracts, lots, or parcels of land that 964
satisfy the criteria established in division (A)(1), (2), or (4) 965
of this section together with the tracts, lots, or parcels of land 966
or portions thereof that are used for conservation practices. 967

(B) "Conversion of land devoted exclusively to agricultural 968
use" means any of the following: 969

(1) The failure of the owner of land devoted exclusively to 970
agricultural use during the next preceding calendar year to file a 971
renewal application under section 5713.31 of the Revised Code 972
without good cause as determined by the board of revision; 973

(2) The failure of the new owner of such land to file an 974
initial application under that section without good cause as 975
determined by the board of revision; 976

(3) The failure of such land or portion thereof to qualify as 977
land devoted exclusively to agricultural use for the current 978
calendar year as requested by an application filed under such 979
section; 980

(4) The failure of the owner of the land described in 981
division (A)(4) of this section to act on such land in a manner 982
that is consistent with the return of the land to agricultural 983
production after three years. 984

The construction or installation of an energy facility, as 985

defined in section 5727.01 of the Revised Code, on a portion of a 986
tract, lot, or parcel of land devoted exclusively to agricultural 987
use shall not cause the remaining portion of the tract, lot, or 988
parcel to be regarded as a conversion of land devoted exclusively 989
to agricultural use if the remaining portion of the tract, lot, or 990
parcel continues to be devoted exclusively to agricultural use. 991

(C) "Tax savings" means the difference between the dollar 992
amount of real property taxes levied in any year on land valued 993
and assessed in accordance with its current agricultural use value 994
and the dollar amount of real property taxes that would have been 995
levied upon such land if it had been valued and assessed for such 996
year in accordance with Section 2 of Article XII, Ohio 997
Constitution. 998

(D) "Owner" includes, but is not limited to, any person 999
owning a fee simple, fee tail, or life estate or a buyer on a land 1000
installment contract. 1001

(E) "Conservation practices" are practices used to abate soil 1002
erosion as required in the management of the farming operation, 1003
and include, but are not limited to, the installation, 1004
construction, development, planting, or use of grass waterways, 1005
terraces, diversions, filter strips, field borders, windbreaks, 1006
riparian buffers, wetlands, ponds, and cover crops for that 1007
purpose. 1008

(F) "Wetlands" has the same meaning as in section 6111.02 of 1009
the Revised Code. 1010

Sec. 5713.34. (A)(1) Upon the conversion of all or any 1011
portion of a tract, lot, or parcel of land devoted exclusively to 1012
agricultural use a portion of the tax savings upon such converted 1013
land shall be recouped as provided for by Section 36, Article II, 1014
Ohio Constitution by levying a charge on such land in an amount 1015
equal to the amount of the tax savings on the converted land 1016

during the three tax years immediately preceding the year in which 1017
the conversion occurs. The charge shall constitute a lien of the 1018
state upon such converted land as of the first day of January of 1019
the tax year in which the charge is levied and shall continue 1020
until discharged as provided by law. 1021

(2) Upon the conversion of an adequately described portion of 1022
a tract, lot, or parcel of land, the county auditor shall divide 1023
any numbered permanent parcel into economic units and value each 1024
unit individually for the purpose of levying the charge under 1025
division (A)(1) of this section against only the converted 1026
portion. 1027

(3) A charge shall not be levied under this section for the 1028
conversion of a portion of a tract, lot, or parcel of land devoted 1029
exclusively to agricultural use if the conversion is incident to 1030
the construction or installation of an energy facility, as defined 1031
in section 5727.01 of the Revised Code, and if the remaining 1032
portion of the tract, lot, or parcel continues to be devoted 1033
exclusively to agricultural use. 1034

(B) Except as otherwise provided in division (C) or (D) of 1035
this section, a public entity that acquires by any means and 1036
converts land devoted exclusively to agricultural use and a 1037
private entity granted the power of eminent domain that acquires 1038
by any means and converts land devoted exclusively to agricultural 1039
use shall pay the charge levied by division (A) of this section 1040
and shall not, directly or indirectly, transfer the charge to the 1041
person from whom the land is acquired. A person injured by a 1042
violation of this division may recover, in a civil action, any 1043
damages resulting from the violation. 1044

(C) The charge levied by division (A)(1) of this section does 1045
not apply to the conversion of land acquired by a public entity by 1046
means other than eminent domain and thereafter used exclusively 1047
for a public purpose that leaves the land principally undeveloped 1048

when either of the following conditions applies: 1049

(1) In the case of land so acquired and converted by a park 1050
district created under Chapter 1545. of the Revised Code, the land 1051
is located within the boundaries of the park district. 1052

(2) In the case of land so acquired and converted by a public 1053
entity other than a park district created under Chapter 1545. of 1054
the Revised Code, the land is located within the boundaries of any 1055
city, local, exempted village, or joint vocational school district 1056
that is wholly or partially located within the boundaries of the 1057
public entity that so acquired and converted the land. 1058

If all or any portion of a tract, lot, or parcel of such land 1059
is later developed or otherwise converted to a purpose other than 1060
one of the purposes enumerated under division (E)(1) of this 1061
section, the charge levied by division (A)(1) of this section 1062
shall be levied against such developed or converted land as 1063
otherwise required by that division. 1064

The county auditor of the county in which the land is located 1065
shall determine annually whether all or any portion of a tract, 1066
lot, or parcel of land formerly converted to a purpose enumerated 1067
under division (E)(1) of this section has been developed in such a 1068
way or converted to such a purpose as to require the charge levied 1069
by division (A)(1) of this section to be levied against the land 1070
so developed or converted. 1071

(D) Division (B) of this section does not apply to a public 1072
entity that acquires by means other than eminent domain and 1073
converts land devoted exclusively to agricultural use to use for 1074
public, active or passive, outdoor education, recreation, or 1075
similar open space uses when either of the following conditions 1076
applies: 1077

(1) In the case of land so acquired and converted by a park 1078
district created under Chapter 1545. of the Revised Code, the land 1079

is located outside the boundaries of the park district. 1080

(2) In the case of land so acquired and converted by a public 1081
entity other than a park district created under Chapter 1545. of 1082
the Revised Code, the land is located outside the boundaries of 1083
any city, local, exempted village, or joint vocational school 1084
district that is wholly or partially located within the boundaries 1085
of the public entity that so acquired and converted the land. 1086

(E) As used in divisions (C) and (D) of this section: 1087

(1) "Principally undeveloped" means a parcel of real property 1088
that is used for public, active or passive, outdoor education, 1089
recreation, or similar open space uses and contains only the 1090
structures, roadways, and other facilities that are necessary for 1091
such uses. 1092

(2) "Public entity" means any political subdivision of this 1093
state or any agency or instrumentality of a political subdivision. 1094

Sec. 5727.01. As used in this chapter: 1095

(A) "Public utility" means each person referred to as a 1096
telephone company, telegraph company, electric company, natural 1097
gas company, pipe-line company, water-works company, water 1098
transportation company, heating company, rural electric company, 1099
railroad company, ~~or~~ combined company, or energy company. 1100

(B) "Gross receipts" means the entire receipts for business 1101
done by any person from operations as a public utility, or 1102
incidental thereto, or in connection therewith, including any 1103
receipts received under Chapter 4928. of the Revised Code. The 1104
gross receipts for business done by an incorporated company 1105
engaged in operation as a public utility includes the entire 1106
receipts for business done by such company under the exercise of 1107
its corporate powers, whether from the operation as a public 1108
utility or from any other business. 1109

(C) "Rural electric company" means any nonprofit corporation, 1110
organization, association, or cooperative engaged in the business 1111
of supplying electricity to its members or persons owning an 1112
interest therein in an area the major portion of which is rural. 1113
"Rural electric company" excludes an energy company. 1114

(D) Any person: 1115

(1) Is a telegraph company when engaged in the business of 1116
transmitting telegraphic messages to, from, through, or in this 1117
state; 1118

(2) Is a telephone company when primarily engaged in the 1119
business of providing local exchange telephone service, excluding 1120
cellular radio service, in this state; 1121

(3) Is an electric company when engaged in the business of 1122
generating, transmitting, or distributing electricity within this 1123
state for use by others, but excludes a rural electric company or 1124
an energy company or an energy company; 1125

(4) Is a natural gas company when engaged in the business of 1126
supplying or distributing natural gas for lighting, power, or 1127
heating purposes to consumers within this state, excluding a 1128
person that is a governmental aggregator or retail natural gas 1129
supplier as defined in section 4929.01 of the Revised Code; 1130

(5) Is a pipe-line company when engaged in the business of 1131
transporting natural gas, oil, or coal or its derivatives through 1132
pipes or tubing, either wholly or partially within this state; 1133

(6) Is a water-works company when engaged in the business of 1134
supplying water through pipes or tubing, or in a similar manner, 1135
to consumers within this state; 1136

(7) Is a water transportation company when engaged in the 1137
transportation of passengers or property, by boat or other 1138
watercraft, over any waterway, whether natural or artificial, from 1139

one point within this state to another point within this state, or 1140
between points within this state and points without this state; 1141

(8) Is a heating company when engaged in the business of 1142
supplying water, steam, or air through pipes or tubing to 1143
consumers within this state for heating purposes; 1144

(9) Is a railroad company when engaged in the business of 1145
owning or operating a railroad either wholly or partially within 1146
this state on rights-of-way acquired and held exclusively by such 1147
company, or otherwise, and includes a passenger, street, suburban, 1148
or interurban railroad company; 1149

(10) Is an energy company when engaged in the business of 1150
generating, transmitting, or distributing electricity within this 1151
state for use by others solely from an energy facility with an 1152
aggregate nameplate capacity in excess of two hundred fifty 1153
kilowatts. 1154

As used in division (D)(2) of this section, "local exchange 1155
telephone service" means making available or furnishing access and 1156
a dial tone to all persons within a local calling area for use in 1157
originating and receiving voice grade communications over a 1158
switched network operated by the provider of the service within 1159
the area and for gaining access to other telecommunication 1160
services. 1161

(E) "Taxable property" means the property required by section 1162
5727.06 of the Revised Code to be assessed by the tax 1163
commissioner, but does not include either of the following: 1164

(1) An item of tangible personal property that for the period 1165
subsequent to the effective date of an air, water, or noise 1166
pollution control certificate and continuing so long as the 1167
certificate is in force, has been certified as part of the 1168
pollution control facility with respect to which the certificate 1169
has been issued; 1170

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

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

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

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

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

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

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

(K) "Tax year" means the year for which property or gross receipts are subject to assessment under this chapter. This division does not limit the tax commissioner's ability to assess

and value property or gross receipts outside the tax year. 1202

(L) "Combined company" means any person engaged in the 1203
activity of an electric company or rural electric company that is 1204
also engaged in the activity of a heating company or a natural gas 1205
company, or any combination thereof. 1206

(M) "Public utility property lessor" means any person, other 1207
than a public utility or an interexchange telecommunications 1208
company, that leases personal property, other than in a sale and 1209
leaseback transaction, to a public utility, other than a railroad, 1210
water transportation, telephone, or telegraph company if the 1211
property would be taxable property if owned by the public utility. 1212
A public utility property lessor is subject to this chapter only 1213
for the purposes of reporting and paying tax on taxable property 1214
it leases to a public utility other than a telephone or telegraph 1215
company. A public utility property lessor that leases property to 1216
a public utility other than a telephone or telegraph company is 1217
not a public utility, but it shall report its property and be 1218
assessed in the same manner as the utility to which it leases the 1219
property. 1220

(N) "Energy resource" means any of the following: 1221

(1) "Renewable energy resource" as defined in section 4928.01 1222
of the Revised Code; 1223

(2) "Clean coal technology" as described in division 1224
(A)(34)(c) of section 4928.01 of the Revised Code; 1225

(3) "Advanced nuclear technology" as described in division 1226
(A)(34)(d) of section 4928.01 of the Revised Code; 1227

(4) "Cogeneration technology" as described in division 1228
(A)(34)(b) of section 4928.01 of the Revised Code. 1229

(O) "Energy conversion equipment" means tangible personal 1230
property connected to a wind turbine tower, connected to and 1231

behind solar radiation collector areas and designed to convert the 1232
radiant energy of the sun into electricity or heat, or connected 1233
to any other property used to generate electricity from an energy 1234
resource, through which electricity is transferred to controls, 1235
transformers, or power electronics and to the transmission 1236
interconnection point. 1237

"Energy conversion equipment" includes, but is not limited 1238
to, inverters, batteries, switch gears, wiring, collection lines, 1239
substations, ancillary tangible personal property, or any lines 1240
and associated tangible personal property located between 1241
substations and the transmission interconnection point. 1242

(P) "Energy facility" means one or more interconnected wind 1243
turbines, solar panels, or other tangible personal property used 1244
to generate electricity from an energy resource owned by the same 1245
person, including: 1246

(1) All interconnection equipment, devices, and related 1247
apparatus connected to such tangible personal property; 1248

(2) All cables, equipment, devices, and related apparatus 1249
that connect the generators to an electricity grid or to a 1250
building or facility that directly consumes the electricity 1251
produced, that facilitate the transmission of electrical energy 1252
from the generators to the grid, building, or facility, and, where 1253
applicable, that transform voltage before ultimate delivery of 1254
electricity to the grid, building, or facility. 1255

"Energy facility" includes buildings, structures, 1256
improvements, or fixtures exclusively used to house, support, or 1257
stabilize tangible personal property constituting the facility or 1258
that are otherwise necessary for the operation of that property; 1259
and so much of the land on which such tangible personal property 1260
is situated as is required for operation of the facility and is 1261
not devoted to some other use, not to exceed, in the case of wind 1262

turbines, one-half acre for each wind turbine, and regardless of 1263
whether the land is owned by the owner or lessee of the tangible 1264
personal property or by another person. 1265

(Q) "Nameplate capacity" means the original maximum rated 1266
output of a generator or other electric production equipment under 1267
specific conditions designated by the manufacturer, expressed in 1268
the number of kilowatts or megawatts. 1269

Sec. 5727.02. As used in this chapter, "public utility," 1270
"electric company," "natural gas company," "pipe-line company," 1271
"water-works company," "water transportation company" or "heating 1272
company" does not include any of the following: 1273

(A)(1) Except as provided in division (A)(2) of this section, 1274
any person that is engaged in some other primary business to which 1275
the supplying of electricity, heat, natural gas, water, water 1276
transportation, steam, or air to others is incidental. ~~As used in~~ 1277
~~division (A) of this section and in section 5727.031 of the~~ 1278
~~Revised Code, "supplying of electricity" means generating,~~ 1279
~~transmitting, or distributing electricity.~~ 1280

(2) For tax year 2009 and each tax year thereafter, a person 1281
that is engaged in some other primary business to which the 1282
supplying of electricity to others is incidental shall be treated 1283
as an "electric company" and a "public utility" for purposes of 1284
this chapter solely to the extent required by section 5727.031 of 1285
the Revised Code. 1286

(3) For purposes of division (A) of this section and section 1287
5727.031 of the Revised Code: 1288

(a) "Supplying of electricity" means generating, 1289
transmitting, or distributing electricity. 1290

(b) A person that leases to others energy facilities with an 1291
aggregate nameplate capacity in this state of two hundred fifty 1292

kilowatts or less per lease is not supplying electricity to 1293
others. 1294

(c) A person that owns, or leases from another person, energy 1295
facilities with an aggregate nameplate capacity in this state of 1296
two hundred fifty kilowatts or less is not supplying electricity 1297
to others, regardless of whether the owner or lessee engages in 1298
net metering as defined in section 4928.01 of the Revised Code. 1299

(d) A political subdivision of this state that owns an energy 1300
facility is not supplying electricity to others regardless of the 1301
nameplate capacity of the facility if the primary purpose of the 1302
facility is to supply electricity for the political subdivision's 1303
own use. As used in this division, "political subdivision" means a 1304
county, township, municipal corporation, or any other body 1305
corporate and politic that is responsible for government 1306
activities in a geographic area smaller than that of the state. 1307

(B) Any person that supplies electricity, natural gas, water, 1308
water transportation, steam, or air to its tenants, whether for a 1309
separate charge or otherwise; 1310

(C) Any person whose primary business in this state consists 1311
of producing, refining, or marketing petroleum or its products. 1312

(D) Any person whose primary business in this state consists 1313
of producing or gathering natural gas rather than supplying or 1314
distributing natural gas to consumers. 1315

Sec. 5727.06. (A) Except as otherwise provided by law, the 1316
following constitutes the taxable property of a public utility, 1317
interexchange telecommunications company, or public utility 1318
property lessor that shall be assessed by the tax commissioner: 1319

(1) For tax years before tax year 2006: 1320

(a) In the case of a railroad company, all real property and 1321
tangible personal property owned or operated by the railroad 1322

company in this state on the thirty-first day of December of the 1323
preceding year; 1324

(b) In the case of a water transportation company, all 1325
tangible personal property, except watercraft, owned or operated 1326
by the water transportation company in this state on the 1327
thirty-first day of December of the preceding year and all 1328
watercraft owned or operated by the water transportation company 1329
in this state during the preceding calendar year; 1330

(c) In the case of all other public utilities and 1331
interexchange telecommunications companies, all tangible personal 1332
property that on the thirty-first day of December of the preceding 1333
year was both located in this state and: 1334

(i) Owned by the public utility or interexchange 1335
telecommunications company; or 1336

(ii) Leased by the public utility or interexchange 1337
telecommunications company under a sale and leaseback transaction. 1338

(2) For tax years 2006, 2007, and 2008: 1339

(a) In the case of a railroad company, all real property used 1340
in railroad operations and tangible personal property owned or 1341
operated by the railroad company in this state on the thirty-first 1342
day of December of the preceding year; 1343

(b) In the case of a water transportation company, all 1344
tangible personal property, except watercraft, owned or operated 1345
by the water transportation company in this state on the 1346
thirty-first day of December of the preceding year and all 1347
watercraft owned or operated by the water transportation company 1348
in this state during the preceding calendar year; 1349

(c) In the case of all other public utilities except 1350
telephone and telegraph companies, all tangible personal property 1351
that on the thirty-first day of December of the preceding year was 1352

both located in this state and either owned by the public utility 1353
or leased by the public utility under a sale and leaseback 1354
transaction. 1355

(3) For tax year 2009 and each tax year thereafter: 1356

(a) In the case of a railroad company, all real property used 1357
in railroad operations and tangible personal property owned or 1358
operated by the railroad company in this state on the thirty-first 1359
day of December of the preceding year; 1360

(b) In the case of a water transportation company, all 1361
tangible personal property, except watercraft, owned or operated 1362
by the water transportation company in this state on the 1363
thirty-first day of December of the preceding year and all 1364
watercraft owned or operated by the water transportation company 1365
in this state during the preceding calendar year; 1366

(c) In the case of all other public utilities except 1367
telephone and telegraph companies, all tangible personal property 1368
that on the thirty-first day of December of the preceding year was 1369
both located in this state and either owned by the public utility 1370
or leased by the public utility under a sale and leaseback 1371
transaction; 1372

(d) In the case of a public utility property lessor, all 1373
personal property that on the thirty-first day of December of the 1374
preceding year was both located in this state and leased, in other 1375
than a sale and leaseback transaction, to a public utility other 1376
than a railroad, telephone, telegraph, or water transportation 1377
company. The assessment rate used under section 5727.111 of the 1378
Revised Code shall be based on the assessment rate that would 1379
apply if the public utility owned the property. 1380

(4) For tax years 2005 and 2006, in the case of telephone, 1381
telegraph, or interexchange telecommunications companies, all 1382
tangible personal property that on the thirty-first day of 1383

December of the preceding year was both located in this state and 1384
either owned by the telephone, telegraph, or interexchange 1385
telecommunications company or leased by the telephone, telegraph, 1386
or interexchange telecommunications company under a sale and 1387
leaseback transaction. 1388

(5)(a) For tax year 2007 and thereafter, in the case of 1389
telephone, telegraph, or interexchange telecommunications 1390
companies, all tangible personal property shall be listed and 1391
assessed for taxation under Chapter 5711. of the Revised Code, but 1392
the tangible personal property shall be valued in accordance with 1393
this chapter using the composite annual allowances and other 1394
valuation procedures prescribed under section 5727.11 of the 1395
Revised Code by the tax commissioner for such property for tax 1396
year 2006, notwithstanding any section of Chapter 5711. of the 1397
Revised Code to the contrary. 1398

(b) A telephone, telegraph, or interexchange 1399
telecommunications company subject to division (A)(5)(a) of this 1400
section shall file a combined return with the tax commissioner in 1401
accordance with section 5711.13 of the Revised Code even if the 1402
company has tangible personal property in only one county. Such a 1403
company also is subject to the issuance of a preliminary 1404
assessment certificate by the tax commissioner under section 1405
5711.25 of the Revised Code. Such a company is not required to 1406
file a county supplemental return under section 5711.131 of the 1407
Revised Code. 1408

(6) In the case of an energy company, for tax year 2011 and 1409
each tax year thereafter, all tangible personal property that on 1410
the thirty-first day of December of the preceding year was both 1411
located in this state and either owned by the company or leased by 1412
the company under a sale and leaseback transaction, and that is 1413
not exempted from taxation under section 5727.75 of the Revised 1414
Code. 1415

(B) This division applies to tax years before tax year 2007. 1416

In the case of an interexchange telecommunications company, 1417
all taxable property shall be subject to the provisions of this 1418
chapter and shall be valued by the commissioner in accordance with 1419
division (A) of section 5727.11 of the Revised Code. A person 1420
described by this division shall file the report required by 1421
section 5727.08 of the Revised Code. Persons described in this 1422
division shall not be considered taxpayers, as defined in division 1423
(B) of section 5711.01 of the Revised Code, and shall not be 1424
required to file a return and list their taxable property under 1425
any provision of Chapter 5711. of the Revised Code. 1426

(C) The lien of the state for taxes levied each year on the 1427
real and personal property of public utilities and interexchange 1428
telecommunications companies and on the personal property of 1429
public utility property lessors shall attach thereto on the 1430
thirty-first day of December of the preceding year. 1431

(D) Property that is required by division (A)(3)(b) of this 1432
section to be assessed by the tax commissioner under this chapter 1433
shall not be listed by the owner of the property under Chapter 1434
5711. of the Revised Code. 1435

(E) The ten-thousand-dollar exemption provided for in 1436
division (C)(3) of section 5709.01 of the Revised Code does not 1437
apply to any personal property that is valued under this chapter. 1438

(F) The tax commissioner may adopt rules governing the 1439
listing of the taxable property of public utilities and 1440
interexchange telecommunications companies and the determination 1441
of true value. 1442

Sec. 5727.11. (A) Except as otherwise provided in this 1443
section, the true value of all taxable property, except property 1444
of a railroad company, required by section 5727.06 of the Revised 1445

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

(B)(1) Except as provided in division (B)(2) of this section, 1453
the true value of current gas stored underground is the cost of 1454
that gas shown on the books and records of the public utility on 1455
the thirty-first day of December of the preceding year. 1456

(2) For tax year 2001 and thereafter, the true value of 1457
current gas stored underground is the quotient obtained by 1458
dividing (a) the average value of the current gas stored 1459
underground, which shall be determined by adding the value of the 1460
gas on hand at the end of each calendar month in the calendar year 1461
preceding the tax year, or, if applicable, the last day of 1462
business of each month for a partial month, divided by (b) the 1463
total number of months the natural gas company was in business 1464
during the calendar year prior to the beginning of the tax year. 1465
with the approval of the tax commissioner, a natural gas company 1466
may use a date other than the end of a calendar month to value its 1467
current gas stored underground. 1468

(C) The true value of noncurrent gas stored underground is 1469
thirty-five per cent of the cost of that gas shown on the books 1470
and records of the public utility on the thirty-first day of 1471
December of the preceding year. 1472

(D)(1) Except as provided in division (D)(2) of this section, 1473
the true value of the production equipment of an electric company 1474
and the true value of all taxable property of a rural electric 1475
company is the equipment's or property's cost as capitalized on 1476

the company's books and records less fifty per cent of that cost 1477
as an allowance for depreciation and obsolescence. 1478

(2) The true value of the production equipment or energy 1479
conversion equipment of an electric company ~~or~~, rural electric 1480
company, or energy company purchased, transferred, or placed into 1481
service after ~~the effective date of this amendment~~ October 5, 1482
1999, is the purchase price of the equipment as capitalized on the 1483
company's books and records less composite annual allowances as 1484
prescribed by the tax commissioner. 1485

(E) The true value of taxable property, except property of a 1486
railroad company, required by section 5727.06 of the Revised Code 1487
to be assessed by the tax commissioner shall not include the 1488
allowance for funds used during construction or interest during 1489
construction that has been capitalized on the public utility's 1490
books and records as part of the total cost of the taxable 1491
property. This division shall not apply to the taxable property of 1492
an electric company or a rural electric company, excluding 1493
transmission and distribution property, first placed into service 1494
after December 31, 2000, or to the taxable property a person 1495
purchases, which includes transfers, if that property was used in 1496
business by the seller prior to the purchase. 1497

(F) The true value of watercraft owned or operated by a water 1498
transportation company shall be determined by multiplying the true 1499
value of the watercraft as determined under division (A) of this 1500
section by a fraction, the numerator of which is the number of 1501
revenue-earning miles traveled by the watercraft in the waters of 1502
this state and the denominator of which is the number of 1503
revenue-earning miles traveled by the watercraft in all waters. 1504

(G) The cost of property subject to a sale and leaseback 1505
transaction is the cost of the property as capitalized on the 1506
books and records of the public utility owning the property 1507
immediately prior to the sale and leaseback transaction. 1508

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

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

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

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

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

(1) For tax years prior to 2005, eighty-eight per cent;

(2) For tax year 2005, sixty-seven per cent;

(3) For tax year 2006, forty-six per cent;	1539
(4) For tax year 2007 and thereafter, pursuant to division	1540
(H) of section 5711.22 of the Revised Code.	1541
(C) Twenty-five per cent in the case of a natural gas	1542
company.	1543
(D) Eighty-eight per cent in the case of a pipe-line,	1544
water-works, or heating company;	1545
(E)(1) For tax year 2005, eighty-eight per cent in the case	1546
of the taxable transmission and distribution property of an	1547
electric company, and twenty-five per cent for all its other	1548
taxable property;	1549
(2) For tax year 2006 and each tax year thereafter, <u>in the</u>	1550
<u>case of an electric company</u> , eighty-five per cent in the case of	1551
<u>the its</u> taxable transmission and distribution property <u>of an</u>	1552
<u>electric company and its energy conversion equipment</u> , and	1553
twenty-four per 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	1567

district. 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 company: 1598
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(a) Seventy per cent of the taxable value of all production equipment and of all station equipment that is not production equipment shall be apportioned to the taxing district in which such property is physically located; and 1600
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(b) The remaining value of such property, together with the value of all other taxable personal property, shall be apportioned to each taxing district in the per cent that the cost of all transmission and distribution property physically located in the taxing district is of the total cost of all transmission and distribution property physically located in this state. 1604
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(c) If an electric company's taxable value for the current year includes the value of any production equipment at a plant at which the initial cost of the plant's production equipment exceeded one billion dollars, then prior to making the apportionments required for that company by division (C)(1)(a) and (b) of this section, the tax commissioner shall do the following: 1610
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(i) Subtract four hundred twenty million dollars from the total taxable value of the production equipment at that plant for the current tax year. 1616
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(ii) Multiply the difference thus obtained by a fraction, the numerator of which is the portion of the taxable value of that plant's production equipment included in the company's total value for the current tax year, and the denominator of which is the total taxable value of such equipment included in the total taxable value of all electric companies for such year; 1619
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1623
1624

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

(iv) Deduct the amounts so apportioned from the taxable value of the company's production equipment at the plant, prior to 1627
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) In the case of all other public utilities, the value of 1659
the property to be apportioned shall be apportioned to each taxing 1660
district in proportion to the entire value of such property within 1661
this state. 1662

Sec. 5727.30. (A) Except as provided in divisions (B), (C), 1663
and (D) of this section, each public utility, except railroad 1664
companies, shall be subject to an annual excise tax, as provided 1665
by sections 5727.31 to 5727.62 of the Revised Code, for the 1666
privilege of owning property in this state or doing business in 1667
this state during the twelve-month period next succeeding the 1668
period upon which the tax is based. The tax shall be imposed 1669
against each such public utility that, on the first day of such 1670
twelve-month period, owns property in this state or is doing 1671
business in this state, and the lien for the tax, including any 1672
penalties and interest accruing thereon, shall attach on such day 1673
to the property of the public utility in this state. 1674

(B) ~~An electric company's or a rural electric company's gross~~ 1675
Gross receipts of an electric company, rural electric company, or 1676
energy company received after April 30, 2001, are not subject to 1677
the annual excise tax imposed by this section. 1678

(C) A natural gas company's gross receipts received after 1679
April 30, 2000, are not subject to the annual excise tax imposed 1680
by this section. 1681

(D) A telephone company's gross receipts derived from amounts 1682
billed to customers after June 30, 2004, are not subject to the 1683
annual excise tax imposed by this section. Notwithstanding any 1684
other provision of law, gross receipts derived from amounts billed 1685
by a telephone company to customers prior to July 1, 2004, shall 1686
be included in the telephone company's annual statement filed on 1687
or before August 1, 2004, which shall be the last statement or 1688
report filed under section 5727.31 of the Revised Code by a 1689

telephone company. A telephone company shall not deduct from its 1690
gross receipts included in that last statement any receipts it was 1691
unable to collect from its customers for the period of July 1, 1692
2003, to June 30, 2004. 1693

Sec. 5727.75. (A) For purposes of this section: 1694

(1) "Qualified energy project" means an energy project 1695
certified by the director of development pursuant to this section. 1696
"Qualified energy project" does not include any facility if the 1697
facility or any portion of the facility was used to supply 1698
electricity before January 1, 2010. 1699

(2) "Energy project" means a project to provide electric 1700
power through the construction, installation, and use of an energy 1701
facility. 1702

(3) "Job and economic development impact model" means the job 1703
and economic development impact model published by the national 1704
renewable energy laboratory of the United States department of 1705
energy. "Job and economic development impact model" includes 1706
economic models that project job creation and that are approved by 1707
the department of development for technologies for which the 1708
national renewable energy laboratory has not developed an 1709
applicable model. 1710

(4) "Full-time equivalent employee" means the total number of 1711
hours for which compensation was paid to individuals, including 1712
contract employees, employed at a qualified energy project for 1713
services performed at the project during the calendar year divided 1714
by two thousand eighty. 1715

(B)(1) Tangible personal property of a qualified energy 1716
project using renewable energy resources is exempt from taxation 1717
for tax years 2011 and 2012 if all of the following circumstances 1718
exist: 1719

(a) On or before December 31, 2011, the owner or a lessee 1720
pursuant to a sale and leaseback transaction of the project has 1721
obtained a certificate from the power siting board if required 1722
under Chapter 4906. of the Revised Code, or if that chapter does 1723
not apply, has obtained any approval, consent, permit, or 1724
certificate or has satisfied any condition required by a public 1725
agency or political subdivision of this state for the construction 1726
or initial operation of an energy project. 1727

(b) Project construction has begun on or after January 1, 1728
2009, and before January 1, 2012. For the purposes of this 1729
division, construction begins on the earlier of the date of 1730
application for a certificate or other approval or permit 1731
described in division (B)(1)(a) of this section, or the date the 1732
construction contract is entered into. 1733

(c) A board of county commissioners of a county in which 1734
property of the qualified energy project is located has adopted a 1735
resolution to approve an application to exempt the property 1736
located in that county from taxation. A board's rejection of an 1737
application or failure to adopt a resolution to approve or reject 1738
the tax exemption does not affect the tax-exempt status of 1739
property of a qualified energy project located in another county. 1740

(2) If tangible personal property of a qualified energy 1741
project was exempt from taxation under this section for tax years 1742
2011 and 2012 and the certification under division (E)(2) of this 1743
section has not been revoked, the tangible personal property of 1744
the qualified energy project is exempt from taxation for tax year 1745
2013 and all ensuing tax years if the property was placed into 1746
service before January 1, 2013. Tangible personal property not 1747
placed into service on that date is taxable property subject to 1748
taxation. An energy project for which certification has been 1749
revoked is ineligible for further exemption under this section. 1750
Revocation does not affect the tax-exempt status of the project's 1751

tangible personal property for the tax year in which revocation 1752
occurs or any prior tax year. 1753

(C) Tangible personal property of a qualified energy project 1754
using clean coal technology, advanced nuclear technology, or 1755
cogeneration technology is exempt from taxation for the first tax 1756
year that the property would be listed for taxation and all 1757
subsequent years if all of the following circumstances are met: 1758

(1) The property was placed into service before January 1, 1759
2017. Tangible personal property not placed into service on that 1760
date is taxable property subject to taxation. 1761

(2) A board of county commissioners of a county in which 1762
property of the qualified energy project is located has adopted a 1763
resolution to approve an application to exempt the property 1764
located in that county from taxation. A board's rejection of an 1765
application or failure to adopt a resolution to approve or reject 1766
the tax exemption does not affect the tax-exempt status of 1767
property of a qualified energy project located in another county. 1768

(3) The certification for the qualified energy project, 1769
issued under division (E)(2) of this section, has not been 1770
revoked. An energy project for which certification has been 1771
revoked is ineligible for exemption under this section. Revocation 1772
does not affect the tax-exempt status of the project's tangible 1773
personal property for the tax year in which revocation occurs or 1774
any prior tax year. 1775

(D) Except as otherwise provided in this division, real 1776
property included in an energy facility that is a qualified energy 1777
project is exempt from taxation for any tax year for which the 1778
tangible personal property that is part of the same qualified 1779
energy project is exempted under this section. Real property 1780
included in an energy facility that is an energy project is not 1781
exempt from taxation if it is located in a county in which the 1782

board of county commissioners has adopted a resolution to reject 1783
the exemption or has failed to adopt a resolution to approve or 1784
reject the tax exemption. 1785

(E)(1)(a) A person may apply to the director of development 1786
for certification of an energy project as a qualified energy 1787
project on or before the following dates: 1788

(i) September 30, 2010, for an energy facility using 1789
renewable energy resources; 1790

(ii) September 30, 2012, for an energy facility using clean 1791
coal technology, advanced nuclear technology, or cogeneration 1792
technology. 1793

(b) The director shall forward a copy of the application to 1794
the board of county commissioners of each county in which the 1795
project is located and to each taxing unit with territory located 1796
in each of the affected counties. Any board that receives from the 1797
director a copy of an application for an exemption from taxes and 1798
assessments under division (B) or (C) of this section shall adopt 1799
a resolution to approve or reject the exemption. A resolution to 1800
approve the exemption may specify additional requirements that a 1801
project shall meet in order to be eligible for the exemption under 1802
this section. Additional requirements may include, but are not 1803
limited to, a modification to the service payment required under 1804
division (G) of this section. The board shall adopt the resolution 1805
within thirty days after the board receives the copy of the 1806
application, or a longer period of time if authorized by the 1807
director, after which the board shall send, by certified mail, 1808
copies of the resolution to the owner of the facility and the 1809
director. All tangible personal property and real property 1810
included in an energy facility that is an energy project is 1811
taxable if it is located in a county in which the board of county 1812
commissioners rejected the exemption or failed to adopt a 1813
resolution to approve or reject the tax exemption. 1814

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

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

(4) If a qualified energy project that is certified by the director is located in more than one county and the board of county commissioners of one or more of the counties adopts a resolution rejecting a tax exemption for the project or fails to adopt a resolution to approve or reject the tax exemption, the exemption under this section shall apply only to that part of the project that is physically located in a county whose board adopts a resolution approving the exemption and shall not apply to any part of the project that is physically located in a county whose board adopts a resolution rejecting the exemption or fails to adopt a resolution to approve or reject the tax exemption.

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

(1) Comply with all applicable regulations;

(2)(a) File with the director of development a certificate of completion not later than sixty days after completion of the energy facility's construction and, if applicable, file a certificate of partial completion. A certificate of partial completion for an energy facility using renewable energy resources shall be filed on or before March 1, 2013 and shall state the nameplate capacity of the facility as of January 1, 2013. A certificate of partial completion for an energy facility using clean coal technology, advanced nuclear technology, or cogeneration technology shall be filed on or before March 1, 2017, and shall state the nameplate capacity of the facility as of January 1, 2017.

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

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

(4) File with the director of development, at the time and in the manner prescribed by the director, a report of the total number of full-time equivalent employees and of Ohio-domiciled full-time equivalent employees employed in the construction and installation of the facility, and, annually, a report of the number of such employees employed in the operation of the facility;

(5) Repair all roads, bridges, and culverts affected by the construction or decommissioning as required to restore them to

their preconstruction condition, as determined by the county 1878
engineer in consultation with the local jurisdiction responsible 1879
for the roads, bridges, or culverts. In the event that the county 1880
engineer deems any road, bridge, or culvert to be inadequate to 1881
support the construction or decommissioning of the facility, the 1882
road, bridge, or culvert shall be rebuilt or reinforced to the 1883
specifications established by the county engineer prior to the 1884
construction or decommissioning of the facility. The owner or 1885
lessee of the facility shall post a bond in an amount established, 1886
and to be held, by the county engineer to meet the cost of any 1887
damage due to construction or decommissioning of the facility. 1888

(6) Provide or facilitate training for fire and emergency 1889
responders for response to emergency situations related to the 1890
qualified energy project and, at the person's expense, equip the 1891
fire and emergency responders with proper equipment as reasonably 1892
required to enable them to respond to such emergency situations; 1893

(7) Offer to sell power or renewable energy credits from the 1894
qualified energy project to electric distribution utilities or 1895
electric services companies subject to renewable energy resource 1896
requirements under section 4928.64 of the Revised Code that have 1897
issued requests for proposal for such power or renewable energy 1898
credits. If no electric distribution utility or electric services 1899
company issues a request for proposal on or before December 31, 1900
2010, or accepts an offer for power or renewable energy credits 1901
within forty-five days after the offer is submitted, power or 1902
renewable energy credits from the qualified energy project may be 1903
sold to other persons. Division (F)(7) of this section does not 1904
apply if: 1905

(a) The owner or lessee is a rural electric company or a 1906
municipal power agency as defined in section 3734.058 of the 1907
Revised Code; 1908

(b) The owner or lessee is a person that, before completion 1909

of the qualified energy project, contracted for the sale of power 1910
or renewable energy credits with a rural electric company or a 1911
municipal power agency; 1912

(c) The owner or lessee contracts for the sale of power or 1913
renewable energy credits from the project before the effective 1914
date of this section as enacted by this act. 1915

(8) Make annual service payments as required by division (G) 1916
of this section. 1917

(G) The owner or lessee of a qualified energy project that is 1918
exempted from taxes and assessments under this section shall make 1919
annual service payments in lieu of taxes to the county treasurer 1920
of any county in which exempted property is located. Service 1921
payments shall be required for each tax year for which the 1922
property is exempt. The payment shall equal seven thousand dollars 1923
for each megawatt of nameplate capacity of the energy facility. 1924
The payment shall be charged, collected, and distributed at the 1925
same time and in the same manner as the taxes imposed on taxable 1926
property subject to assessment under Chapter 5727. of the Revised 1927
Code. 1928

(H) Within ninety days after the effective date of this 1929
section, the director of development, in consultation with the tax 1930
commissioner, shall adopt rules pursuant to Chapter 119. of the 1931
Revised Code to implement and enforce this section. 1932

Sec. 5739.02. For the purpose of providing revenue with which 1933
to meet the needs of the state, for the use of the general revenue 1934
fund of the state, for the purpose of securing a thorough and 1935
efficient system of common schools throughout the state, for the 1936
purpose of affording revenues, in addition to those from general 1937
property taxes, permitted under constitutional limitations, and 1938
from other sources, for the support of local governmental 1939
functions, and for the purpose of reimbursing the state for the 1940

expense of administering this chapter, an excise tax is hereby 1941
levied on each retail sale made in this state. 1942

(A)(1) The tax shall be collected as provided in section 1943
5739.025 of the Revised Code. The rate of the tax shall be five 1944
and one-half per cent. The tax applies and is collectible when the 1945
sale is made, regardless of the time when the price is paid or 1946
delivered. 1947

(2) In the case of the lease or rental, with a fixed term of 1948
more than thirty days or an indefinite term with a minimum period 1949
of more than thirty days, of any motor vehicles designed by the 1950
manufacturer to carry a load of not more than one ton, watercraft, 1951
outboard motor, or aircraft, or of any tangible personal property, 1952
other than motor vehicles designed by the manufacturer to carry a 1953
load of more than one ton, to be used by the lessee or renter 1954
primarily for business purposes, the tax shall be collected by the 1955
vendor at the time the lease or rental is consummated and shall be 1956
calculated by the vendor on the basis of the total amount to be 1957
paid by the lessee or renter under the lease agreement. If the 1958
total amount of the consideration for the lease or rental includes 1959
amounts that are not calculated at the time the lease or rental is 1960
executed, the tax shall be calculated and collected by the vendor 1961
at the time such amounts are billed to the lessee or renter. In 1962
the case of an open-end lease or rental, the tax shall be 1963
calculated by the vendor on the basis of the total amount to be 1964
paid during the initial fixed term of the lease or rental, and for 1965
each subsequent renewal period as it comes due. As used in this 1966
division, "motor vehicle" has the same meaning as in section 1967
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1968
unit attached to the watercraft. 1969

A lease with a renewal clause and a termination penalty or 1970
similar provision that applies if the renewal clause is not 1971
exercised is presumed to be a sham transaction. In such a case, 1972

the tax shall be calculated and paid on the basis of the entire 1973
length of the lease period, including any renewal periods, until 1974
the termination penalty or similar provision no longer applies. 1975
The taxpayer shall bear the burden, by a preponderance of the 1976
evidence, that the transaction or series of transactions is not a 1977
sham transaction. 1978

(3) Except as provided in division (A)(2) of this section, in 1979
the case of a sale, the price of which consists in whole or in 1980
part of the lease or rental of tangible personal property, the tax 1981
shall be measured by the installments of that lease or rental. 1982

(4) In the case of a sale of a physical fitness facility 1983
service or recreation and sports club service, the price of which 1984
consists in whole or in part of a membership for the receipt of 1985
the benefit of the service, the tax applicable to the sale shall 1986
be measured by the installments thereof. 1987

(B) The tax does not apply to the following: 1988

(1) Sales to the state or any of its political subdivisions, 1989
or to any other state or its political subdivisions if the laws of 1990
that state exempt from taxation sales made to this state and its 1991
political subdivisions; 1992

(2) Sales of food for human consumption off the premises 1993
where sold; 1994

(3) Sales of food sold to students only in a cafeteria, 1995
dormitory, fraternity, or sorority maintained in a private, 1996
public, or parochial school, college, or university; 1997

(4) Sales of newspapers and of magazine subscriptions and 1998
sales or transfers of magazines distributed as controlled 1999
circulation publications; 2000

(5) The furnishing, preparing, or serving of meals without 2001
charge by an employer to an employee provided the employer records 2002

the meals as part compensation for services performed or work done; 2003
2004

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state; 2005
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(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires; 2015
2016
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2020

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code; 2021
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(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or 2028
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services, other than items never subject to the tax, are sold does 2035
not exceed six in any calendar year, except as otherwise provided 2036
in division (B)(9)(b) of this section. If the number of days on 2037
which such sales are made exceeds six in any calendar year, the 2038
church or organization shall be considered to be engaged in 2039
business and all subsequent sales by it shall be subject to the 2040
tax. In counting the number of days, all sales by groups within a 2041
church or within an organization shall be considered to be sales 2042
of that church or organization. 2043

(b) The limitation on the number of days on which tax-exempt 2044
sales may be made by a church or organization under division 2045
(B)(9)(a) of this section does not apply to sales made by student 2046
clubs and other groups of students of a primary or secondary 2047
school, or a parent-teacher association, booster group, or similar 2048
organization that raises money to support or fund curricular or 2049
extracurricular activities of a primary or secondary school. 2050

(c) Divisions (B)(9)(a) and (b) of this section do not apply 2051
to sales by a noncommercial educational radio or television 2052
broadcasting station. 2053

(10) Sales not within the taxing power of this state under 2054
the Constitution of the United States; 2055

(11) Except for transactions that are sales under division 2056
(B)(3)(r) of section 5739.01 of the Revised Code, the 2057
transportation of persons or property, unless the transportation 2058
is by a private investigation and security service; 2059

(12) Sales of tangible personal property or services to 2060
churches, to organizations exempt from taxation under section 2061
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2062
nonprofit organizations operated exclusively for charitable 2063
purposes in this state, no part of the net income of which inures 2064
to the benefit of any private shareholder or individual, and no 2065

substantial part of the activities of which consists of carrying 2066
on propaganda or otherwise attempting to influence legislation; 2067
sales to offices administering one or more homes for the aged or 2068
one or more hospital facilities exempt under section 140.08 of the 2069
Revised Code; and sales to organizations described in division (D) 2070
of section 5709.12 of the Revised Code. 2071

"Charitable purposes" means the relief of poverty; the 2072
improvement of health through the alleviation of illness, disease, 2073
or injury; the operation of an organization exclusively for the 2074
provision of professional, laundry, printing, and purchasing 2075
services to hospitals or charitable institutions; the operation of 2076
a home for the aged, as defined in section 5701.13 of the Revised 2077
Code; the operation of a radio or television broadcasting station 2078
that is licensed by the federal communications commission as a 2079
noncommercial educational radio or television station; the 2080
operation of a nonprofit animal adoption service or a county 2081
humane society; the promotion of education by an institution of 2082
learning that maintains a faculty of qualified instructors, 2083
teaches regular continuous courses of study, and confers a 2084
recognized diploma upon completion of a specific curriculum; the 2085
operation of a parent-teacher association, booster group, or 2086
similar organization primarily engaged in the promotion and 2087
support of the curricular or extracurricular activities of a 2088
primary or secondary school; the operation of a community or area 2089
center in which presentations in music, dramatics, the arts, and 2090
related fields are made in order to foster public interest and 2091
education therein; the production of performances in music, 2092
dramatics, and the arts; or the promotion of education by an 2093
organization engaged in carrying on research in, or the 2094
dissemination of, scientific and technological knowledge and 2095
information primarily for the public. 2096

Nothing in this division shall be deemed to exempt sales to 2097

any organization for use in the operation or carrying on of a 2098
trade or business, or sales to a home for the aged for use in the 2099
operation of independent living facilities as defined in division 2100
(A) of section 5709.12 of the Revised Code. 2101

(13) Building and construction materials and services sold to 2102
construction contractors for incorporation into a structure or 2103
improvement to real property under a construction contract with 2104
this state or a political subdivision of this state, or with the 2105
United States government or any of its agencies; building and 2106
construction materials and services sold to construction 2107
contractors for incorporation into a structure or improvement to 2108
real property that are accepted for ownership by this state or any 2109
of its political subdivisions, or by the United States government 2110
or any of its agencies at the time of completion of the structures 2111
or improvements; building and construction materials sold to 2112
construction contractors for incorporation into a horticulture 2113
structure or livestock structure for a person engaged in the 2114
business of horticulture or producing livestock; building 2115
materials and services sold to a construction contractor for 2116
incorporation into a house of public worship or religious 2117
education, or a building used exclusively for charitable purposes 2118
under a construction contract with an organization whose purpose 2119
is as described in division (B)(12) of this section; building 2120
materials and services sold to a construction contractor for 2121
incorporation into a building under a construction contract with 2122
an organization exempt from taxation under section 501(c)(3) of 2123
the Internal Revenue Code of 1986 when the building is to be used 2124
exclusively for the organization's exempt purposes; building and 2125
construction materials sold for incorporation into the original 2126
construction of a sports facility under section 307.696 of the 2127
Revised Code; and building and construction materials and services 2128
sold to a construction contractor for incorporation into real 2129
property outside this state if such materials and services, when 2130

sold to a construction contractor in the state in which the real 2131
property is located for incorporation into real property in that 2132
state, would be exempt from a tax on sales levied by that state; 2133

(14) Sales of ships or vessels or rail rolling stock used or 2134
to be used principally in interstate or foreign commerce, and 2135
repairs, alterations, fuel, and lubricants for such ships or 2136
vessels or rail rolling stock; 2137

(15) Sales to persons primarily engaged in any of the 2138
activities mentioned in division (B)(42)(a) or (g) of this 2139
section, to persons engaged in making retail sales, or to persons 2140
who purchase for sale from a manufacturer tangible personal 2141
property that was produced by the manufacturer in accordance with 2142
specific designs provided by the purchaser, of packages, including 2143
material, labels, and parts for packages, and of machinery, 2144
equipment, and material for use primarily in packaging tangible 2145
personal property produced for sale, including any machinery, 2146
equipment, and supplies used to make labels or packages, to 2147
prepare packages or products for labeling, or to label packages or 2148
products, by or on the order of the person doing the packaging, or 2149
sold at retail. "Packages" includes bags, baskets, cartons, 2150
crates, boxes, cans, bottles, bindings, wrappings, and other 2151
similar devices and containers, but does not include motor 2152
vehicles or bulk tanks, trailers, or similar devices attached to 2153
motor vehicles. "Packaging" means placing in a package. Division 2154
(B)(15) of this section does not apply to persons engaged in 2155
highway transportation for hire. 2156

(16) Sales of food to persons using supplemental nutrition 2157
assistance program benefits to purchase the food. As used in this 2158
division, "food" has the same meaning as in 7 U.S.C. 2012 and 2159
federal regulations adopted pursuant to the Food and Nutrition Act 2160
of 2008. 2161

(17) Sales to persons engaged in farming, agriculture, 2162

horticulture, or floriculture, of tangible personal property for 2163
use or consumption directly in the production by farming, 2164
agriculture, horticulture, or floriculture of other tangible 2165
personal property for use or consumption directly in the 2166
production of tangible personal property for sale by farming, 2167
agriculture, horticulture, or floriculture; or material and parts 2168
for incorporation into any such tangible personal property for use 2169
or consumption in production; and of tangible personal property 2170
for such use or consumption in the conditioning or holding of 2171
products produced by and for such use, consumption, or sale by 2172
persons engaged in farming, agriculture, horticulture, or 2173
floriculture, except where such property is incorporated into real 2174
property; 2175

(18) Sales of drugs for a human being that may be dispensed 2176
only pursuant to a prescription; insulin as recognized in the 2177
official United States pharmacopoeia; urine and blood testing 2178
materials when used by diabetics or persons with hypoglycemia to 2179
test for glucose or acetone; hypodermic syringes and needles when 2180
used by diabetics for insulin injections; epoetin alfa when 2181
purchased for use in the treatment of persons with medical 2182
disease; hospital beds when purchased by hospitals, nursing homes, 2183
or other medical facilities; and medical oxygen and medical 2184
oxygen-dispensing equipment when purchased by hospitals, nursing 2185
homes, or other medical facilities; 2186

(19) Sales of prosthetic devices, durable medical equipment 2187
for home use, or mobility enhancing equipment, when made pursuant 2188
to a prescription and when such devices or equipment are for use 2189
by a human being. 2190

(20) Sales of emergency and fire protection vehicles and 2191
equipment to nonprofit organizations for use solely in providing 2192
fire protection and emergency services, including trauma care and 2193
emergency medical services, for political subdivisions of the 2194

state;	2195
(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;	2196 2197 2198 2199 2200 2201
(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;	2202 2203 2204 2205 2206
(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;	2207 2208 2209
(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.	2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224
(25)(a) Sales of water to a consumer for residential use,	2225

except the sale of bottled water, distilled water, mineral water,	2226
carbonated water, or ice;	2227
(b) Sales of water by a nonprofit corporation engaged	2228
exclusively in the treatment, distribution, and sale of water to	2229
consumers, if such water is delivered to consumers through pipes	2230
or tubing.	2231
(26) Fees charged for inspection or reinspection of motor	2232
vehicles under section 3704.14 of the Revised Code;	2233
(27) Sales to persons licensed to conduct a food service	2234
operation pursuant to section 3717.43 of the Revised Code, of	2235
tangible personal property primarily used directly for the	2236
following:	2237
(a) To prepare food for human consumption for sale;	2238
(b) To preserve food that has been or will be prepared for	2239
human consumption for sale by the food service operator, not	2240
including tangible personal property used to display food for	2241
selection by the consumer;	2242
(c) To clean tangible personal property used to prepare or	2243
serve food for human consumption for sale.	2244
(28) Sales of animals by nonprofit animal adoption services	2245
or county humane societies;	2246
(29) Sales of services to a corporation described in division	2247
(A) of section 5709.72 of the Revised Code, and sales of tangible	2248
personal property that qualifies for exemption from taxation under	2249
section 5709.72 of the Revised Code;	2250
(30) Sales and installation of agricultural land tile, as	2251
defined in division (B)(5)(a) of section 5739.01 of the Revised	2252
Code;	2253
(31) Sales and erection or installation of portable grain	2254
bins, as defined in division (B)(5)(b) of section 5739.01 of the	2255

Revised Code;	2256
(32) The sale, lease, repair, and maintenance of, parts for,	2257
or items attached to or incorporated in, motor vehicles that are	2258
primarily used for transporting tangible personal property	2259
belonging to others by a person engaged in highway transportation	2260
for hire, except for packages and packaging used for the	2261
transportation of tangible personal property;	2262
(33) Sales to the state headquarters of any veterans'	2263
organization in this state that is either incorporated and issued	2264
a charter by the congress of the United States or is recognized by	2265
the United States veterans administration, for use by the	2266
headquarters;	2267
(34) Sales to a telecommunications service vendor, mobile	2268
telecommunications service vendor, or satellite broadcasting	2269
service vendor of tangible personal property and services used	2270
directly and primarily in transmitting, receiving, switching, or	2271
recording any interactive, one- or two-way electromagnetic	2272
communications, including voice, image, data, and information,	2273
through the use of any medium, including, but not limited to,	2274
poles, wires, cables, switching equipment, computers, and record	2275
storage devices and media, and component parts for the tangible	2276
personal property. The exemption provided in this division shall	2277
be in lieu of all other exemptions under division (B)(42)(a) of	2278
this section to which the vendor may otherwise be entitled, based	2279
upon the use of the thing purchased in providing the	2280
telecommunications, mobile telecommunications, or satellite	2281
broadcasting service.	2282
(35)(a) Sales where the purpose of the consumer is to use or	2283
consume the things transferred in making retail sales and	2284
consisting of newspaper inserts, catalogues, coupons, flyers, gift	2285
certificates, or other advertising material that prices and	2286
describes tangible personal property offered for retail sale.	2287

(b) Sales to direct marketing vendors of preliminary 2288
materials such as photographs, artwork, and typesetting that will 2289
be used in printing advertising material; of printed matter that 2290
offers free merchandise or chances to win sweepstake prizes and 2291
that is mailed to potential customers with advertising material 2292
described in division (B)(35)(a) of this section; and of equipment 2293
such as telephones, computers, facsimile machines, and similar 2294
tangible personal property primarily used to accept orders for 2295
direct marketing retail sales. 2296

(c) Sales of automatic food vending machines that preserve 2297
food with a shelf life of forty-five days or less by refrigeration 2298
and dispense it to the consumer. 2299

For purposes of division (B)(35) of this section, "direct 2300
marketing" means the method of selling where consumers order 2301
tangible personal property by United States mail, delivery 2302
service, or telecommunication and the vendor delivers or ships the 2303
tangible personal property sold to the consumer from a warehouse, 2304
catalogue distribution center, or similar fulfillment facility by 2305
means of the United States mail, delivery service, or common 2306
carrier. 2307

(36) Sales to a person engaged in the business of 2308
horticulture or producing livestock of materials to be 2309
incorporated into a horticulture structure or livestock structure; 2310

(37) Sales of personal computers, computer monitors, computer 2311
keyboards, modems, and other peripheral computer equipment to an 2312
individual who is licensed or certified to teach in an elementary 2313
or a secondary school in this state for use by that individual in 2314
preparation for teaching elementary or secondary school students; 2315

(38) Sales to a professional racing team of any of the 2316
following: 2317

(a) Motor racing vehicles; 2318

(b) Repair services for motor racing vehicles;	2319
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	2320 2321 2322 2323 2324 2325 2326 2327
(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	2328 2329 2330
(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; <u>energy conversion equipment as defined in section 5727.01 of the Revised Code</u> ; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.	2331 2332 2333 2334 2335 2336 2337 2338 2339 2340 2341 2342 2343 2344 2345 2346 2347 2348
(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible	2349 2350

personal property and services used directly and primarily in 2351
providing taxable services under that section. 2352

(42) Sales where the purpose of the purchaser is to do any of 2353
the following: 2354

(a) To incorporate the thing transferred as a material or a 2355
part into tangible personal property to be produced for sale by 2356
manufacturing, assembling, processing, or refining; or to use or 2357
consume the thing transferred directly in producing tangible 2358
personal property for sale by mining, including, without 2359
limitation, the extraction from the earth of all substances that 2360
are classed geologically as minerals, production of crude oil and 2361
natural gas, farming, agriculture, horticulture, or floriculture, 2362
or directly in the rendition of a public utility service, except 2363
that the sales tax levied by this section shall be collected upon 2364
all meals, drinks, and food for human consumption sold when 2365
transporting persons. Persons engaged in rendering farming, 2366
agricultural, horticultural, or floricultural services, and 2367
services in the exploration for, and production of, crude oil and 2368
natural gas, for others are deemed engaged directly in farming, 2369
agriculture, horticulture, and floriculture, or exploration for, 2370
and production of, crude oil and natural gas. This paragraph does 2371
not exempt from "retail sale" or "sales at retail" the sale of 2372
tangible personal property that is to be incorporated into a 2373
structure or improvement to real property. 2374

(b) To hold the thing transferred as security for the 2375
performance of an obligation of the vendor; 2376

(c) To resell, hold, use, or consume the thing transferred as 2377
evidence of a contract of insurance; 2378

(d) To use or consume the thing directly in commercial 2379
fishing; 2380

(e) To incorporate the thing transferred as a material or a 2381

part into, or to use or consume the thing transferred directly in 2382
the production of, magazines distributed as controlled circulation 2383
publications; 2384

(f) To use or consume the thing transferred in the production 2385
and preparation in suitable condition for market and sale of 2386
printed, imprinted, overprinted, lithographic, multilithic, 2387
blueprinted, photostatic, or other productions or reproductions of 2388
written or graphic matter; 2389

(g) To use the thing transferred, as described in section 2390
5739.011 of the Revised Code, primarily in a manufacturing 2391
operation to produce tangible personal property for sale; 2392

(h) To use the benefit of a warranty, maintenance or service 2393
contract, or similar agreement, as described in division (B)(7) of 2394
section 5739.01 of the Revised Code, to repair or maintain 2395
tangible personal property, if all of the property that is the 2396
subject of the warranty, contract, or agreement would not be 2397
subject to the tax imposed by this section; 2398

(i) To use the thing transferred as qualified research and 2399
development equipment; 2400

(j) To use or consume the thing transferred primarily in 2401
storing, transporting, mailing, or otherwise handling purchased 2402
sales inventory in a warehouse, distribution center, or similar 2403
facility when the inventory is primarily distributed outside this 2404
state to retail stores of the person who owns or controls the 2405
warehouse, distribution center, or similar facility, to retail 2406
stores of an affiliated group of which that person is a member, or 2407
by means of direct marketing. This division does not apply to 2408
motor vehicles registered for operation on the public highways. As 2409
used in this division, "affiliated group" has the same meaning as 2410
in division (B)(3)(e) of section 5739.01 of the Revised Code and 2411
"direct marketing" has the same meaning as in division (B)(35) of 2412

this section.	2413
(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;	2414 2415 2416 2417 2418 2419 2420
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	2421 2422
(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;	2423 2424 2425 2426 2427
(n) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.	2428 2429 2430
As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.	2431 2432 2433
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	2434 2435 2436 2437 2438 2439 2440
(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and	2441 2442 2443

sales of services for the repair, modification, and maintenance of 2444
such aircraft, and machinery, equipment, and supplies primarily 2445
used to provide those services. 2446

(45) Sales of telecommunications service that is used 2447
directly and primarily to perform the functions of a call center. 2448
As used in this division, "call center" means any physical 2449
location where telephone calls are placed or received in high 2450
volume for the purpose of making sales, marketing, customer 2451
service, technical support, or other specialized business 2452
activity, and that employs at least fifty individuals that engage 2453
in call center activities on a full-time basis, or sufficient 2454
individuals to fill fifty full-time equivalent positions. 2455

(46) Sales by a telecommunications service vendor of 900 2456
service to a subscriber. This division does not apply to 2457
information services, as defined in division (FF) of section 2458
5739.01 of the Revised Code. 2459

(47) Sales of value-added non-voice data service. This 2460
division does not apply to any similar service that is not 2461
otherwise a telecommunications service. 2462

(48)(a) Sales of machinery, equipment, and software to a 2463
qualified direct selling entity for use in a warehouse or 2464
distribution center primarily for storing, transporting, or 2465
otherwise handling inventory that is held for sale to independent 2466
salespersons who operate as direct sellers and that is held 2467
primarily for distribution outside this state; 2468

(b) As used in division (B)(48)(a) of this section: 2469

(i) "Direct seller" means a person selling consumer products 2470
to individuals for personal or household use and not from a fixed 2471
retail location, including selling such product at in-home product 2472
demonstrations, parties, and other one-on-one selling. 2473

(ii) "Qualified direct selling entity" means an entity 2474

selling to direct sellers at the time the entity enters into a tax 2475
credit agreement with the tax credit authority pursuant to section 2476
122.17 of the Revised Code, provided that the agreement was 2477
entered into on or after January 1, 2007. Neither contingencies 2478
relevant to the granting of, nor later developments with respect 2479
to, the tax credit shall impair the status of the qualified direct 2480
selling entity under division (B)(48) of this section after 2481
execution of the tax credit agreement by the tax credit authority. 2482

(c) Division (B)(48) of this section is limited to machinery, 2483
equipment, and software first stored, used, or consumed in this 2484
state within the period commencing June 24, 2008, and ending on 2485
the date that is five years after that date. 2486

(49) Sales of materials, parts, equipment, or engines used in 2487
the repair or maintenance of aircraft or avionics systems of such 2488
aircraft, and sales of repair, remodeling, replacement, or 2489
maintenance services in this state performed on aircraft or on an 2490
aircraft's avionics, engine, or component materials or parts. As 2491
used in division (B)(49) of this section, "aircraft" means 2492
aircraft of more than six thousand pounds maximum certified 2493
takeoff weight or used exclusively in general aviation. 2494

(50) Sales of full flight simulators that are used for pilot 2495
or flight-crew training, sales of repair or replacement parts or 2496
components, and sales of repair or maintenance services for such 2497
full flight simulators. "Full flight simulator" means a replica of 2498
a specific type, or make, model, and series of aircraft cockpit. 2499
It includes the assemblage of equipment and computer programs 2500
necessary to represent aircraft operations in ground and flight 2501
conditions, a visual system providing an out-of-the-cockpit view, 2502
and a system that provides cues at least equivalent to those of a 2503
three-degree-of-freedom motion system, and has the full range of 2504
capabilities of the systems installed in the device as described 2505
in appendices A and B of part 60 of chapter 1 of title 14 of the 2506

Code of Federal Regulations. 2507

(C) For the purpose of the proper administration of this 2508
chapter, and to prevent the evasion of the tax, it is presumed 2509
that all sales made in this state are subject to the tax until the 2510
contrary is established. 2511

(D) The levy of this tax on retail sales of recreation and 2512
sports club service shall not prevent a municipal corporation from 2513
levying any tax on recreation and sports club dues or on any 2514
income generated by recreation and sports club dues. 2515

(E) The tax collected by the vendor from the consumer under 2516
this chapter is not part of the price, but is a tax collection for 2517
the benefit of the state, and of counties levying an additional 2518
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 2519
Code and of transit authorities levying an additional sales tax 2520
pursuant to section 5739.023 of the Revised Code. Except for the 2521
discount authorized under section 5739.12 of the Revised Code and 2522
the effects of any rounding pursuant to section 5703.055 of the 2523
Revised Code, no person other than the state or such a county or 2524
transit authority shall derive any benefit from the collection or 2525
payment of the tax levied by this section or section 5739.021, 2526
5739.023, or 5739.026 of the Revised Code. 2527

Section 2. That existing sections 717.25, 1710.01, 1710.02, 2528
1710.06, 1710.07, 4928.64, 5709.53, 5713.30, 5713.34, 5727.01, 2529
5727.02, 5727.06, 5727.11, 5727.111, 5727.15, 5727.30, and 5739.02 2530
of the Revised Code are hereby repealed. 2531