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LEGISLATIVE ACTION

Senate	.	House
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Floor: WD	.	
03/08/2012 04:50 PM	.	
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Senator Gardiner moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (a) of subsection (2) of section  
163.08, Florida Statutes, is amended to read:

163.08 Supplemental authority for improvements to real  
property.—

(2) As used in this section, the term:

(a) "Local government" means a county, a municipality, ~~or~~ a  
dependent special district as defined in s. 189.403, or a  
separate legal entity created pursuant to s. 163.01(7).

Section 2. Subsection (2) of section 186.801, Florida



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14 Statutes, is amended to read:

15 186.801 Ten-year site plans.—

16 (2) Within 9 months after the receipt of the proposed plan,  
17 the commission shall make a preliminary study of such plan and  
18 classify it as "suitable" or "unsuitable." The commission may  
19 suggest alternatives to the plan. All findings of the commission  
20 shall be made available to the Department of Environmental  
21 Protection for its consideration at any subsequent electrical  
22 power plant site certification proceedings. It is recognized  
23 that 10-year site plans submitted by an electric utility are  
24 tentative information for planning purposes only and may be  
25 amended at any time at the discretion of the utility upon  
26 written notification to the commission. A complete application  
27 for certification of an electrical power plant site under  
28 chapter 403, when such site is not designated in the current 10-  
29 year site plan of the applicant, shall constitute an amendment  
30 to the 10-year site plan. In its preliminary study of each 10-  
31 year site plan, the commission shall consider such plan as a  
32 planning document and shall review:

33 (a) The need, including the need as determined by the  
34 commission, for electrical power in the area to be served.

35 (b) The effect on fuel diversity within the state.

36 (c) The anticipated environmental impact of each proposed  
37 electrical power plant site.

38 (d) Possible alternatives to the proposed plan.

39 (e) The views of appropriate local, state, and federal  
40 agencies, including the views of the appropriate water  
41 management district as to the availability of water and its  
42 recommendation as to the use by the proposed plant of salt water



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43 or fresh water for cooling purposes.

44 (f) The extent to which the plan is consistent with the  
45 state comprehensive plan.

46 (g) The plan with respect to the information of the state  
47 on energy availability and consumption.

48 (h) The amount of renewable energy resources the utility  
49 produces or purchases.

50 (i) The amount of renewable energy resources the utility  
51 plans to produce or purchase over the 10-year planning horizon  
52 and the means by which the production or purchases will be  
53 achieved.

54 (j) A statement describing how the production and purchase  
55 of renewable energy resources impact the utility's present and  
56 future capacity and energy needs.

57 Section 3. Paragraph (d) of subsection (2) of section  
58 212.055, Florida Statutes, is amended to read:

59 212.055 Discretionary sales surtaxes; legislative intent;  
60 authorization and use of proceeds.—It is the legislative intent  
61 that any authorization for imposition of a discretionary sales  
62 surtax shall be published in the Florida Statutes as a  
63 subsection of this section, irrespective of the duration of the  
64 levy. Each enactment shall specify the types of counties  
65 authorized to levy; the rate or rates which may be imposed; the  
66 maximum length of time the surtax may be imposed, if any; the  
67 procedure which must be followed to secure voter approval, if  
68 required; the purpose for which the proceeds may be expended;  
69 and such other requirements as the Legislature may provide.  
70 Taxable transactions and administrative procedures shall be as  
71 provided in s. 212.054.



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72 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

73 (d) The proceeds of the surtax authorized by this  
74 subsection and any accrued interest shall be expended by the  
75 school district, within the county and municipalities within the  
76 county, or, in the case of a negotiated joint county agreement,  
77 within another county, to finance, plan, and construct  
78 infrastructure; to acquire land for public recreation,  
79 conservation, or protection of natural resources; to provide  
80 loans, grants, or rebates to residential or commercial property  
81 owners who make energy efficiency improvements to their  
82 residential or commercial property, if a local government  
83 ordinance authorizing such use is approved by referendum; or to  
84 finance the closure of county-owned or municipally owned solid  
85 waste landfills that have been closed or are required to be  
86 closed by order of the Department of Environmental Protection.  
87 Any use of the proceeds or interest for purposes of landfill  
88 closure before July 1, 1993, is ratified. The proceeds and any  
89 interest may not be used for the operational expenses of  
90 infrastructure, except that a county that has a population of  
91 fewer than 75,000 and that is required to close a landfill may  
92 use the proceeds or interest for long-term maintenance costs  
93 associated with landfill closure. Counties, as defined in s.  
94 125.011, and charter counties may, in addition, use the proceeds  
95 or interest to retire or service indebtedness incurred for bonds  
96 issued before July 1, 1987, for infrastructure purposes, and for  
97 bonds subsequently issued to refund such bonds. Any use of the  
98 proceeds or interest for purposes of retiring or servicing  
99 indebtedness incurred for refunding bonds before July 1, 1999,  
100 is ratified.



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101           1. For the purposes of this paragraph, the term  
102 "infrastructure" means:

103           a. Any fixed capital expenditure or fixed capital outlay  
104 associated with the construction, reconstruction, or improvement  
105 of public facilities that have a life expectancy of 5 or more  
106 years and any related land acquisition, land improvement,  
107 design, and engineering costs.

108           b. A fire department vehicle, an emergency medical service  
109 vehicle, a sheriff's office vehicle, a police department  
110 vehicle, or any other vehicle, and the equipment necessary to  
111 outfit the vehicle for its official use or equipment that has a  
112 life expectancy of at least 5 years.

113           c. Any expenditure for the construction, lease, or  
114 maintenance of, or provision of utilities or security for,  
115 facilities, as defined in s. 29.008.

116           d. Any fixed capital expenditure or fixed capital outlay  
117 associated with the improvement of private facilities that have  
118 a life expectancy of 5 or more years and that the owner agrees  
119 to make available for use on a temporary basis as needed by a  
120 local government as a public emergency shelter or a staging area  
121 for emergency response equipment during an emergency officially  
122 declared by the state or by the local government under s.

123 252.38. Such improvements are limited to those necessary to  
124 comply with current standards for public emergency evacuation  
125 shelters. The owner must enter into a written contract with the  
126 local government providing the improvement funding to make the  
127 private facility available to the public for purposes of  
128 emergency shelter at no cost to the local government for a  
129 minimum of 10 years after completion of the improvement, with



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130 the provision that the obligation will transfer to any  
131 subsequent owner until the end of the minimum period.

132 e. Any land acquisition expenditure for a residential  
133 housing project in which at least 30 percent of the units are  
134 affordable to individuals or families whose total annual  
135 household income does not exceed 120 percent of the area median  
136 income adjusted for household size, if the land is owned by a  
137 local government or by a special district that enters into a  
138 written agreement with the local government to provide such  
139 housing. The local government or special district may enter into  
140 a ground lease with a public or private person or entity for  
141 nominal or other consideration for the construction of the  
142 residential housing project on land acquired pursuant to this  
143 sub-subparagraph.

144 2. For the purposes of this paragraph, the term "energy  
145 efficiency improvement" means any energy conservation and  
146 efficiency improvement that reduces consumption through  
147 conservation or a more efficient use of electricity, natural  
148 gas, propane, or other forms of energy on the property,  
149 including, but not limited to, air sealing; installation of  
150 insulation; installation of energy-efficient heating, cooling,  
151 or ventilation systems; installation of solar panels; building  
152 modifications to increase the use of daylight or shade;  
153 replacement of windows; installation of energy controls or  
154 energy recovery systems; installation of electric vehicle  
155 charging equipment; and installation of efficient lighting  
156 equipment.

157 3.2. Notwithstanding any other provision of this  
158 subsection, a local government infrastructure surtax imposed or



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159 extended after July 1, 1998, may allocate up to 15 percent of  
160 the surtax proceeds for deposit in a trust fund within the  
161 county's accounts created for the purpose of funding economic  
162 development projects having a general public purpose of  
163 improving local economies, including the funding of operational  
164 costs and incentives related to economic development. The ballot  
165 statement must indicate the intention to make an allocation  
166 under the authority of this subparagraph.

167 Section 4. Paragraph (hhh) is added to subsection (7) of  
168 section 212.08, Florida Statutes, to read:

169 212.08 Sales, rental, use, consumption, distribution, and  
170 storage tax; specified exemptions.—The sale at retail, the  
171 rental, the use, the consumption, the distribution, and the  
172 storage to be used or consumed in this state of the following  
173 are hereby specifically exempt from the tax imposed by this  
174 chapter.

175 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
176 entity by this chapter do not inure to any transaction that is  
177 otherwise taxable under this chapter when payment is made by a  
178 representative or employee of the entity by any means,  
179 including, but not limited to, cash, check, or credit card, even  
180 when that representative or employee is subsequently reimbursed  
181 by the entity. In addition, exemptions provided to any entity by  
182 this subsection do not inure to any transaction that is  
183 otherwise taxable under this chapter unless the entity has  
184 obtained a sales tax exemption certificate from the department  
185 or the entity obtains or provides other documentation as  
186 required by the department. Eligible purchases or leases made  
187 with such a certificate must be in strict compliance with this



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188 subsection and departmental rules, and any person who makes an  
189 exempt purchase with a certificate that is not in strict  
190 compliance with this subsection and the rules is liable for and  
191 shall pay the tax. The department may adopt rules to administer  
192 this subsection.

193 (hhh) Equipment, machinery, and other materials for  
194 renewable energy technologies.-

195 1. As used in this paragraph, the term:

196 a. "Biodiesel" means the mono-alkyl esters of long-chain  
197 fatty acids derived from plant or animal matter for use as a  
198 source of energy and meeting the specifications for biodiesel  
199 and biodiesel blends with petroleum products as adopted by rule  
200 of the Department of Agriculture and Consumer Services.  
201 "Biodiesel" may refer to biodiesel blends designated BXX, where  
202 XX represents the volume percentage of biodiesel fuel in the  
203 blend.

204 b. "Ethanol" means an anhydrous denatured alcohol produced  
205 by the conversion of carbohydrates meeting the specifications  
206 for fuel ethanol and fuel ethanol blends with petroleum products  
207 as adopted by rule of the Department of Agriculture and Consumer  
208 Services. "Ethanol" may refer to fuel ethanol blends designated  
209 EXX, where XX represents the volume percentage of fuel ethanol  
210 in the blend.

211 c. "Renewable fuel" means a fuel produced from biomass that  
212 is used to replace or reduce the quantity of fossil fuel present  
213 in motor fuel or diesel fuel. "Biomass" means biomass as defined  
214 in s. 366.91, "motor fuel" means motor fuel as defined in s.  
215 206.01, and "diesel fuel" means diesel fuel as defined in s.  
216 206.86.





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217           2. The sale or use in the state of the following is exempt  
218 from the tax imposed by this chapter. Materials used in the  
219 distribution of biodiesel (B10-B100), ethanol (E10-E100), and  
220 other renewable fuels, including fueling infrastructure,  
221 transportation, and storage, up to a limit of \$1 million in tax  
222 each state fiscal year for all taxpayers. Gasoline fueling  
223 station pump retrofits for biodiesel (B10-B100), ethanol (E10-  
224 E100), and other renewable fuel distribution qualify for the  
225 exemption provided in this paragraph.

226           3. The Department of Agriculture and Consumer Services  
227 shall provide to the department a list of items eligible for the  
228 exemption provided in this paragraph.

229           4.a. The exemption provided in this paragraph shall be  
230 available to a purchaser only through a refund of previously  
231 paid taxes. An eligible item is subject to refund one time. A  
232 person who has received a refund on an eligible item shall  
233 notify the next purchaser of the item that the item is no longer  
234 eligible for a refund of paid taxes. The notification shall be  
235 provided to each subsequent purchaser on the sales invoice or  
236 other proof of purchase.

237           b. To be eligible to receive the exemption provided in this  
238 paragraph, a purchaser shall file an application with the  
239 Department of Agriculture and Consumer Services. The application  
240 shall be developed by the Department of Agriculture and Consumer  
241 Services, in consultation with the department, and shall  
242 require:

243           (I) The name and address of the person claiming the refund.

244           (II) A specific description of the purchase for which a  
245 refund is sought, including, when applicable, a serial number or



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246 other permanent identification number.

247 (III) The sales invoice or other proof of purchase showing  
248 the amount of sales tax paid, the date of purchase, and the name  
249 and address of the sales tax dealer from whom the property was  
250 purchased.

251 (IV) A sworn statement that the information provided is  
252 accurate and that the requirements of this paragraph have been  
253 met.

254 c. Within 30 days after receipt of an application, the  
255 Department of Agriculture and Consumer Services shall review the  
256 application and notify the applicant of any deficiencies. Upon  
257 receipt of a completed application, the Department of  
258 Agriculture and Consumer Services shall evaluate the application  
259 for the exemption and issue a written certification that the  
260 applicant is eligible for a refund or issue a written denial of  
261 such certification. The Department of Agriculture and Consumer  
262 Services shall provide the department a copy of each  
263 certification issued upon approval of an application.

264 d. Each certified applicant is responsible for applying for  
265 the refund and forwarding the certification that the applicant  
266 is eligible to the department within 6 months after  
267 certification by the Department of Agriculture and Consumer  
268 Services.

269 e. A refund approved pursuant to this paragraph shall be  
270 made within 30 days after formal approval by the department.

271 f. The Department of Agriculture and Consumer Services may  
272 adopt by rule the form for the application for a certificate,  
273 requirements for the content and format of information submitted  
274 to the Department of Agriculture and Consumer Services in



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275 support of the application, other procedural requirements, and  
276 criteria by which the application will be determined. The  
277 Department of Agriculture and Consumer Services may adopt other  
278 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
279 paragraph, including rules establishing additional forms and  
280 procedures for claiming the exemption.

281 g. The Department of Agriculture and Consumer Services  
282 shall be responsible for ensuring that the total amount of the  
283 exemptions authorized do not exceed the limits specified in  
284 subparagraph 2.

285 5. Approval of the exemptions under this paragraph is on a  
286 first-come, first-served basis, based upon the date complete  
287 applications are received by the Department of Agriculture and  
288 Consumer Services. Incomplete placeholder applications shall not  
289 be accepted and shall not secure a place in the first-come,  
290 first-served application line. The Department of Agriculture and  
291 Consumer Services shall determine and publish on its website on  
292 a regular basis the amount of sales tax funds remaining in each  
293 fiscal year.

294 6. This paragraph expires July 1, 2016.

295 Section 5. Paragraph (w) of subsection (8) of section  
296 213.053, Florida Statutes, is amended to read:

297 213.053 Confidentiality and information sharing.—

298 (8) Notwithstanding any other provision of this section,  
299 the department may provide:

300 (w) Information relative to ss. 212.08(7) (hhh), 220.192,  
301 and 220.193 ~~ss. 220.192~~ to the Department of Agriculture and  
302 Consumer Services for use in the conduct of its official  
303 business.



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Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 6. Subsections (1), (2), (4), (6), (7), and (8) of section 220.192, Florida Statutes, are amended to read:

220.192 Renewable energy technologies investment tax credit.—

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Biodiesel" means biodiesel as defined in s. 212.08(7)(hhh) ~~former s. 212.08(7)(ccc)~~.

(b) "Corporation" includes a general partnership, limited partnership, limited liability company, unincorporated business, or other business entity, including entities taxed as partnerships for federal income tax purposes.

(c) "Eligible costs" means:

~~1. Seventy-five percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2006, and June 30, 2010, up to a limit of \$3 million per state fiscal year for all taxpayers, in connection with an investment in hydrogen-powered vehicles and hydrogen vehicle fueling stations in the state, including, but not limited to, the costs of constructing, installing, and equipping such technologies in the state.~~

~~2. Seventy-five percent of all capital costs, operation and~~



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333 ~~maintenance costs, and research and development costs incurred~~  
334 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$1.5~~  
335 ~~million per state fiscal year for all taxpayers, and limited to~~  
336 ~~a maximum of \$12,000 per fuel cell, in connection with an~~  
337 ~~investment in commercial stationary hydrogen fuel cells in the~~  
338 ~~state, including, but not limited to, the costs of constructing,~~  
339 ~~installing, and equipping such technologies in the state.~~

340 3. 75 ~~Seventy-five~~ percent of all capital costs, operation  
341 and maintenance costs, and research and development costs  
342 incurred between July 1, 2012 ~~2006~~, and June 30, 2016 ~~2010~~, not  
343 to exceed \$1 million per state fiscal year for each taxpayer and  
344 up to a limit of \$10 ~~\$6.5~~ million per state fiscal year for all  
345 taxpayers, in connection with an investment in the production,  
346 storage, and distribution of biodiesel (B10-B100), and ethanol  
347 (E10-E100), and other renewable fuel in the state, including the  
348 costs of constructing, installing, and equipping such  
349 technologies in the state. Gasoline fueling station pump  
350 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and  
351 other renewable fuel distribution qualify as an eligible cost  
352 under this section ~~subparagraph~~.

353 (d) "Ethanol" means ethanol as defined in s. 212.08(7) (hhh)  
354 ~~former s. 212.08(7) (ccc)~~.

355 (e) "Renewable fuel" means a fuel produced from biomass  
356 that is used to replace or reduce the quantity of fossil fuel  
357 present in motor fuel or diesel fuel. "Biomass" means biomass as  
358 defined in s. 366.91, "motor fuel" means motor fuel as defined  
359 in s. 206.01, and "diesel fuel" means diesel fuel as defined in  
360 s. 206.86.

361 ~~(e) "Hydrogen fuel cell" means hydrogen fuel cell as~~



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362 ~~defined in former s. 212.08(7)(ccc).~~

363 (f) "Taxpayer" includes a corporation as defined in  
364 paragraph (b) or s. 220.03.

365 (2) TAX CREDIT.—For tax years beginning on or after January  
366 1, 2013 ~~2007~~, a credit against the tax imposed by this chapter  
367 shall be granted in an amount equal to the eligible costs.  
368 Credits may be used in tax years beginning January 1, 2013 ~~2007~~,  
369 and ending December 31, 2016 ~~2010~~, after which the credit shall  
370 expire. If the credit is not fully used in any one tax year  
371 because of insufficient tax liability on the part of the  
372 corporation, the unused amount may be carried forward and used  
373 in tax years beginning January 1, 2013 ~~2007~~, and ending December  
374 31, 2018 ~~2012~~, after which the credit carryover expires and may  
375 not be used. A taxpayer that files a consolidated return in this  
376 state as a member of an affiliated group under s. 220.131(1) may  
377 be allowed the credit on a consolidated return basis up to the  
378 amount of tax imposed upon the consolidated group. Any eligible  
379 cost for which a credit is claimed and which is deducted or  
380 otherwise reduces federal taxable income shall be added back in  
381 computing adjusted federal income under s. 220.13.

382 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under  
383 this section, each taxpayer must apply to the Department of  
384 Agriculture and Consumer Services for an allocation of each type  
385 of annual credit by the date established by the Department of  
386 Agriculture and Consumer Services. The application form adopted  
387 by rule of the Department of Agriculture and Consumer Services  
388 must include an affidavit from each taxpayer certifying that all  
389 information contained in the application, including all records  
390 of eligible costs claimed as the basis for the tax credit, are



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391 true and correct. Approval of the credits under this section is  
392 on a first-come, first-served basis, based upon the date  
393 complete applications are received by the Department of  
394 Agriculture and Consumer Services. A taxpayer must submit only  
395 one complete application based upon eligible costs incurred  
396 within a particular state fiscal year. Incomplete placeholder  
397 applications will not be accepted and will not secure a place in  
398 the first-come, first-served application line. If a taxpayer  
399 does not receive a tax credit allocation due to the exhaustion  
400 of the annual tax credit authorizations, then such taxpayer may  
401 reapply in the following year for those eligible costs and will  
402 have priority over other applicants for the allocation of  
403 credits. If the annual tax credit authorization amount is not  
404 exhausted by allocations of credits within that particular state  
405 fiscal year, any authorized but unallocated credit amounts may  
406 be used to grant credits that were earned pursuant to s. 220.193  
407 but unallocated due to a lack of authorized funds.

408 (6) TRANSFERABILITY OF CREDIT.—

409 (a) For tax years beginning on or after January 1, 2014  
410 ~~2009~~, any corporation or subsequent transferee allowed a tax  
411 credit under this section may transfer the credit, in whole or  
412 in part, to any taxpayer by written agreement without  
413 transferring any ownership interest in the property generating  
414 the credit or any interest in the entity owning such property.  
415 The transferee is entitled to apply the credits against the tax  
416 with the same effect as if the transferee had incurred the  
417 eligible costs.

418 (b) To perfect the transfer, the transferor shall provide  
419 the Department of Revenue with a written transfer statement



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420 notifying the Department of Revenue of the transferor's intent  
421 to transfer the tax credits to the transferee; the date the  
422 transfer is effective; the transferee's name, address, and  
423 federal taxpayer identification number; the tax period; and the  
424 amount of tax credits to be transferred. The Department of  
425 Revenue shall, upon receipt of a transfer statement conforming  
426 to the requirements of this section, provide the transferee with  
427 a certificate reflecting the tax credit amounts transferred. A  
428 copy of the certificate must be attached to each tax return for  
429 which the transferee seeks to apply such tax credits.

430 (c) A tax credit authorized under this section that is held  
431 by a corporation and not transferred under this subsection shall  
432 be passed through to the taxpayers designated as partners,  
433 members, or owners, respectively, in the manner agreed to by  
434 such persons regardless of whether such partners, members, or  
435 owners are allocated or allowed any portion of the federal  
436 energy tax credit for the eligible costs. A corporation that  
437 passes the credit through to a partner, member, or owner must  
438 comply with the notification requirements described in paragraph  
439 (b). The partner, member, or owner must attach a copy of the  
440 certificate to each tax return on which the partner, member, or  
441 owner claims any portion of the credit.

442 (7) RULES.—The Department of Revenue and the Department of  
443 Agriculture and Consumer Services shall have the authority to  
444 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer  
445 this section, including rules relating to:

446 (a) The forms required to claim a tax credit under this  
447 section, the requirements and basis for establishing an  
448 entitlement to a credit, and the examination and audit





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449 procedures required to administer this section.

450 (b) The implementation and administration of the provisions  
451 allowing a transfer of a tax credit, including rules prescribing  
452 forms, reporting requirements, and specific procedures,  
453 guidelines, and requirements necessary to transfer a tax credit.

454 (8) PUBLICATION.—The Department of Agriculture and Consumer  
455 Services shall determine and publish on its website on a regular  
456 basis the amount of available tax credits remaining in each  
457 fiscal year.

458 Section 7. Section 220.193, Florida Statutes, is amended to  
459 read:

460 220.193 Florida renewable energy production credit.—

461 (1) The purpose of this section is to encourage the  
462 development and expansion of facilities that produce renewable  
463 energy in Florida.

464 (2) As used in this section, the term:

465 (a) "Commission" means ~~shall mean~~ the Public Service  
466 Commission.

467 (b) "Department" means ~~shall mean~~ the Department of  
468 Revenue.

469 (c) "Expanded facility" means ~~shall mean~~ a Florida  
470 renewable energy facility that increases its electrical  
471 production and sale by more than 5 percent above the facility's  
472 electrical production and sale during the 2011 ~~2005~~ calendar  
473 year.

474 (d) "Florida renewable energy facility" means ~~shall mean~~ a  
475 facility in the state that produces electricity for sale from  
476 renewable energy, as defined in s. 377.803.

477 (e) "New facility" means ~~shall mean~~ a Florida renewable



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478 energy facility that is operationally placed in service after  
479 May 1, 2006. The term includes a Florida renewable energy  
480 facility that has had an expansion operationally placed in  
481 service after May 1, 2006, and whose cost exceeded 50 percent of  
482 the assessed value of the facility immediately before the  
483 expansion.

484 (f) "Sale" or "sold" includes the use of electricity by the  
485 producer of such electricity which decreases the amount of  
486 electricity that the producer would otherwise have to purchase.

487 (g) "Taxpayer" includes a general partnership, limited  
488 partnership, limited liability company, trust, or other  
489 artificial entity in which a corporation, as defined in s.  
490 220.03(1)(e), owns an interest and is taxed as a partnership or  
491 is disregarded as a separate entity from the corporation under  
492 this chapter.

493 (3) An annual credit against the tax imposed by this  
494 section shall be allowed to a taxpayer, based on the taxpayer's  
495 production and sale of electricity from a new or expanded  
496 Florida renewable energy facility. For a new facility, the  
497 credit shall be based on the taxpayer's sale of the facility's  
498 entire electrical production. For an expanded facility, the  
499 credit shall be based on the increases in the facility's  
500 electrical production that are achieved after May 1, 2012 ~~2006~~.

501 (a) The credit shall be \$0.01 for each kilowatt-hour of  
502 electricity produced and sold by the taxpayer to an unrelated  
503 party during a given tax year.

504 (b) The credit may be claimed for electricity produced and  
505 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~  
506 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit



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507 under this section must ~~first~~ apply to the Department of  
508 Agriculture and Consumer Services by the date established by the  
509 Department of Agriculture and Consumer Services by February 1 of  
510 each year for an allocation of available credits for that year  
511 ~~credit~~. The application form shall be adopted by rule of the  
512 Department of Agriculture and Consumer Services in consultation  
513 with the commission. The department, in consultation with the  
514 ~~commission, shall develop an application form.~~ The application  
515 form shall, at a minimum, require a sworn affidavit from each  
516 taxpayer certifying the increase in production and sales that  
517 form the basis of the application and certifying that all  
518 information contained in the application is true and correct.

519 (c) If the amount of credits applied for each year exceeds  
520 the amount authorized in paragraph (g) \$5 million, the  
521 Department of Agriculture and Consumer Services shall allocate  
522 credits to qualified applicants based on the following priority:  
523 ~~award to each applicant a prorated amount based on each~~  
524 ~~applicant's increased production and sales and the increased~~  
525 ~~production and sales of all applicants.~~

526 1. An applicant that places a new facility in operation on  
527 or after May 1, 2012, shall be allocated credits first, up to a  
528 maximum of \$250,000 each, with any remaining credits to be  
529 granted pursuant to subparagraph 3., but if the claims for  
530 credits under this subparagraph exceed the cap for the state  
531 fiscal year in paragraph (g), credits shall be allocated  
532 pursuant to this subparagraph on a prorated basis based upon  
533 each applicant's qualified production and sales as a percentage  
534 of total production and sales for all applicants in this  
535 category for the fiscal year.



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536           2. An applicant that does not qualify under subparagraph 1.  
537 but that claims a credit of \$50,000 or less shall be allocated  
538 credits next, but if the claims for credits under this  
539 subparagraph combined with credits allocated in subparagraph 1.  
540 exceed the cap for the state fiscal year in paragraph (g),  
541 credits shall be allocated pursuant to this subparagraph on a  
542 prorated basis based upon each applicant's qualified production  
543 and sales as a percentage of total qualified production and  
544 sales for all applicants in this category for the fiscal year.

545           3. An applicant that does not qualify under subparagraph 1.  
546 or subparagraph 2. and an applicant that has credits that have  
547 not been fully allocated under subparagraph 1. shall be  
548 allocated credits next. If there is insufficient capacity within  
549 the amount authorized for the state fiscal year in paragraph (g)  
550 and after allocations pursuant to subparagraphs 1. and 2., the  
551 credits allocated under this subparagraph shall be prorated  
552 based upon each applicant's unallocated claims for qualified  
553 production and sales as a percentage of total unallocated claims  
554 for qualified production and sales of all applicants in this  
555 category, up to a maximum of \$1 million per taxpayer per state  
556 fiscal year. If, after application of this \$1 million cap, there  
557 is excess capacity under the cap for the state fiscal year in  
558 paragraph (g) in any state fiscal year, that remaining capacity  
559 shall be used to allocate additional credits, with priority  
560 given in the order set forth in this paragraph and without  
561 regard to the cap of \$1 million per taxpayer per state fiscal  
562 year.

563           (d) If the credit granted pursuant to this section is not  
564 fully used in one year because of insufficient tax liability on



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565 the part of the taxpayer, the unused amount may be carried  
566 forward for a period not to exceed 5 years. The carryover credit  
567 may be used in a subsequent year when the tax imposed by this  
568 chapter for such year exceeds the credit for such year, after  
569 applying the other credits and unused credit carryovers in the  
570 order provided in s. 220.02(8).

571 (e) A taxpayer that files a consolidated return in this  
572 state as a member of an affiliated group under s. 220.131(1) may  
573 be allowed the credit on a consolidated return basis up to the  
574 amount of tax imposed upon the consolidated group.

575 (f)1. Tax credits that may be available under this section  
576 to an entity eligible under this section may be transferred  
577 after a merger or acquisition to the surviving or acquiring  
578 entity and used in the same manner with the same limitations.

579 2. The entity or its surviving or acquiring entity as  
580 described in subparagraph 1. may transfer any unused credit in  
581 whole or in units of no less than 25 percent of the remaining  
582 credit. The entity acquiring such credit may use it in the same  
583 manner and with the same limitations under this section. Such  
584 transferred credits may not be transferred again although they  
585 may succeed to a surviving or acquiring entity subject to the  
586 same conditions and limitations as described in this section.

587 3. In the event the credit provided for under this section  
588 is reduced as a result of an examination or audit by the  
589 department, such tax deficiency shall be recovered from the  
590 first entity or the surviving or acquiring entity to have  
591 claimed such credit up to the amount of credit taken. Any  
592 subsequent deficiencies shall be assessed against any entity  
593 acquiring and claiming such credit, or in the case of multiple



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594 succeeding entities in the order of credit succession.

595 (g) Notwithstanding any other provision of this section,  
596 credits for the production and sale of electricity from a new or  
597 expanded Florida renewable energy facility may be earned between  
598 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The amount of tax  
599 credits that may be granted to each taxpayer under this section  
600 is limited to \$1 million per state fiscal year. The combined  
601 total amount of tax credits which may be granted for all  
602 taxpayers under this section is limited to \$5 million in state  
603 fiscal year 2012-2013 and \$10 million per state fiscal year in  
604 state fiscal years 2013-2014 through 2016-2017. If the annual  
605 tax credit authorization amount is not exhausted by allocations  
606 of credits within that particular state fiscal year, any  
607 authorized but unallocated credit amounts may be used to grant  
608 credits that were earned pursuant to s. 220.192 but unallocated  
609 due to a lack of authorized funds.

610 (h) A taxpayer claiming a credit under this section shall  
611 be required to add back to net income that portion of its  
612 business deductions claimed on its federal return paid or  
613 incurred for the taxable year which is equal to the amount of  
614 the credit allowable for the taxable year under this section.

615 (i) A taxpayer claiming credit under this section may not  
616 claim a credit under s. 220.192. A taxpayer claiming credit  
617 under s. 220.192 may not claim a credit under this section.

618 (j) When an entity treated as a partnership or a  
619 disregarded entity under this chapter produces and sells  
620 electricity from a new or expanded renewable energy facility,  
621 the credit earned by such entity shall pass through in the same  
622 manner as items of income and expense pass through for federal



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623 income tax purposes. When an entity applies for the credit and  
624 the entity has received the credit by a pass-through, the  
625 application must identify the taxpayer that passed the credit  
626 through, all taxpayers that received the credit, and the  
627 percentage of the credit that passes through to each recipient  
628 and must provide other information that the Department of  
629 Agriculture and Consumer Services ~~department~~ requires.

630 (k) A taxpayer's use of the credit granted pursuant to this  
631 section does not reduce the amount of any credit available to  
632 such taxpayer under s. 220.186.

633 (4) The Department of Agriculture and Consumer Services  
634 shall make a determination on the eligibility of the applicant  
635 for the credits sought and certify the determination to the  
636 applicant and the Department of Revenue. The corporation must  
637 attach the Department of Agriculture and Consumer Services'  
638 certification to the tax return on which the credit is claimed.  
639 The Department of Agriculture and Consumer Services is  
640 responsible for ensuring that the corporate income tax credits  
641 granted in each fiscal year do not exceed the limits provided  
642 for in this section.

643 (5) (a) In addition to its existing audit and investigation  
644 authority, the Department of Revenue may perform any additional  
645 financial and technical audits and investigations, including  
646 examining the accounts, books, and records of the tax credit  
647 applicant, which are necessary to verify the information  
648 included in the tax credit return and to ensure compliance with  
649 this section. The Department of Agriculture and Consumer  
650 Services shall provide technical assistance when requested by  
651 the Department of Revenue on any technical audits or



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652 examinations performed pursuant to this section.

653 (b) It is grounds for forfeiture of previously claimed and  
654 received tax credits if the Department of Revenue determines, as  
655 a result of an audit or examination or from information received  
656 from the Department of Agriculture and Consumer Services, that a  
657 taxpayer received tax credits pursuant to this section to which  
658 the taxpayer was not entitled. The taxpayer is responsible for  
659 returning forfeited tax credits to the Department of Revenue,  
660 and such funds shall be paid into the General Revenue Fund of  
661 the state.

662 (c) The Department of Agriculture and Consumer Services may  
663 revoke or modify any written decision granting eligibility for  
664 tax credits under this section if it is discovered that the tax  
665 credit applicant submitted any false statement, representation,  
666 or certification in any application, record, report, plan, or  
667 other document filed in an attempt to receive tax credits under  
668 this section. The Department of Agriculture and Consumer  
669 Services shall immediately notify the Department of Revenue of  
670 any revoked or modified orders affecting previously granted tax  
671 credits. Additionally, the taxpayer must notify the Department  
672 of Revenue of any change in its tax credit claimed.

673 (d) The taxpayer shall file with the Department of Revenue  
674 an amended return or such other report as the Department of  
675 Revenue prescribes by rule and shall pay any required tax and  
676 interest within 60 days after the taxpayer receives notification  
677 from the Department of Agriculture and Consumer Services that  
678 previously approved tax credits have been revoked or modified.  
679 If the revocation or modification order is contested, the  
680 taxpayer shall file an amended return or other report as





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681 provided in this paragraph within 60 days after a final order is  
682 issued after proceedings.

683 (e) A notice of deficiency may be issued by the Department  
684 of Revenue at any time within 3 years after the taxpayer  
685 receives formal notification from the Department of Agriculture  
686 and Consumer Services that previously approved tax credits have  
687 been revoked or modified. If a taxpayer fails to notify the  
688 Department of Revenue of any changes to its tax credit claimed,  
689 a notice of deficiency may be issued at any time.

690 (6)-(4) The Department of Revenue and the Department of  
691 Agriculture and Consumer Services ~~department~~ may adopt rules to  
692 implement and administer this section, including rules  
693 prescribing forms, the documentation needed to substantiate a  
694 claim for the tax credit, and the specific procedures and  
695 guidelines for claiming the credit.

696 (7) The Department of Agriculture and Consumer Services  
697 shall determine and publish on its website on a regular basis  
698 the amount of available tax credits remaining in each fiscal  
699 year.

700 (8)-(5) This section shall take effect upon becoming law and  
701 shall apply to tax years beginning on and after January 1, 2013  
702 2007.

703 Section 8. Subsection (3) of section 255.257, Florida  
704 Statutes, is amended to read:

705 255.257 Energy management; buildings occupied by state  
706 agencies.—

707 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The  
708 Department of Management Services, in coordination with the  
709 Department of Agriculture and Consumer Services, shall further



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710 develop the a state energy management plan consisting of, but  
711 not limited to, the following elements:

- 712 (a) Data-gathering requirements;
- 713 (b) Building energy audit procedures;
- 714 (c) Uniform data analysis and reporting procedures;
- 715 (d) Employee energy education program measures;
- 716 (e) Energy consumption reduction techniques;
- 717 (f) Training program for state agency energy management  
718 coordinators; and
- 719 (g) Guidelines for building managers.

720  
721 The plan shall include a description of actions that state  
722 agencies shall take to reduce consumption of electricity and  
723 nonrenewable energy sources used for space heating and cooling,  
724 ventilation, lighting, water heating, and transportation.

725 Section 9. Paragraph (q) of subsection (2) of section  
726 288.106, Florida Statutes, is amended to read:

727 288.106 Tax refund program for qualified target industry  
728 businesses.—

729 (2) DEFINITIONS.—As used in this section:

730 (q) "Target industry business" means a corporate  
731 headquarters business or any business that is engaged in one of  
732 the target industries identified pursuant to the following  
733 criteria developed by the department in consultation with  
734 Enterprise Florida, Inc.:

735 1. Future growth.—Industry forecasts should indicate strong  
736 expectation for future growth in both employment and output,  
737 according to the most recent available data. Special  
738 consideration should be given to businesses that export goods



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739 to, or provide services in, international markets and businesses  
740 that replace domestic and international imports of goods or  
741 services.

742 2. Stability.—The industry should not be subject to  
743 periodic layoffs, whether due to seasonality or sensitivity to  
744 volatile economic variables such as weather. The industry should  
745 also be relatively resistant to recession, so that the demand  
746 for products of this industry is not typically subject to  
747 decline during an economic downturn.

748 3. High wage.—The industry should pay relatively high wages  
749 compared to statewide or area averages.

750 4. Market and resource independent.—The location of  
751 industry businesses should not be dependent on Florida markets  
752 or resources as indicated by industry analysis, except for  
753 businesses in the renewable energy industry.

754 5. Industrial base diversification and strengthening.—The  
755 industry should contribute toward expanding or diversifying the  
756 state's or area's economic base, as indicated by analysis of  
757 employment and output shares compared to national and regional  
758 trends. Special consideration should be given to industries that  
759 strengthen regional economies by adding value to basic products  
760 or building regional industrial clusters as indicated by  
761 industry analysis. Special consideration should also be given to  
762 the development of strong industrial clusters that include  
763 defense and homeland security businesses.

764 6. Positive economic impact.—The industry is expected to  
765 have strong positive economic impacts on or benefits to the  
766 state or regional economies. Special consideration should be  
767 given to industries that facilitate the development of the state



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768 as a hub for domestic and global trade and logistics.  
769  
770 The term does not include any business engaged in retail  
771 industry activities; any electrical utility company as defined  
772 in s. 366.02(2); any phosphate or other solid minerals  
773 severance, mining, or processing operation; any oil or gas  
774 exploration or production operation; or any business subject to  
775 regulation by the Division of Hotels and Restaurants of the  
776 Department of Business and Professional Regulation. Any business  
777 within NAICS code 5611 or 5614, office administrative services  
778 and business support services, respectively, may be considered a  
779 target industry business only after the local governing body and  
780 Enterprise Florida, Inc., make a determination that the  
781 community where the business may locate has conditions affecting  
782 the fiscal and economic viability of the local community or  
783 area, including but not limited to, factors such as low per  
784 capita income, high unemployment, high underemployment, and a  
785 lack of year-round stable employment opportunities, and such  
786 conditions may be improved by the location of such a business to  
787 the community. By January 1 of every 3rd year, beginning January  
788 1, 2011, the department, in consultation with Enterprise  
789 Florida, Inc., economic development organizations, the State  
790 University System, local governments, employee and employer  
791 organizations, market analysts, and economists, shall review  
792 and, as appropriate, revise the list of such target industries  
793 and submit the list to the Governor, the President of the  
794 Senate, and the Speaker of the House of Representatives.

795 Section 10. Section 366.92, Florida Statutes, is amended to  
796 read:



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797 366.92 Florida renewable energy policy.-

798 (1) It is the intent of the Legislature to promote the  
799 development of renewable energy; protect the economic viability  
800 of Florida's existing renewable energy facilities; diversify the  
801 types of fuel used to generate electricity in Florida; lessen  
802 Florida's dependence on natural gas and fuel oil for the  
803 production of electricity; minimize the volatility of fuel  
804 costs; encourage investment within the state; improve  
805 environmental conditions; and, at the same time, minimize the  
806 costs of power supply to electric utilities and their customers.

807 (2) As used in this section, the term:

808 ~~(a) "Florida renewable energy resources" means renewable~~  
809 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

810 ~~(a)(b) "Provider" means a "utility" as defined in s.~~  
811 ~~366.8255(1) (a) .~~

812 ~~(b)(e) "Renewable energy" means renewable energy as defined~~  
813 ~~in s. 366.91(2) (d) .~~

814 ~~(d) "Renewable energy credit" or "REC" means a product that~~  
815 ~~represents the unbundled, separable, renewable attribute of~~  
816 ~~renewable energy produced in Florida and is equivalent to 1~~  
817 ~~megawatt-hour of electricity generated by a source of renewable~~  
818 ~~energy located in Florida.~~

819 ~~(e) "Renewable portfolio standard" or "RPS" means the~~  
820 ~~minimum percentage of total annual retail electricity sales by a~~  
821 ~~provider to consumers in Florida that shall be supplied by~~  
822 ~~renewable energy produced in Florida.~~

823 ~~(3) The commission shall adopt rules for a renewable~~  
824 ~~portfolio standard requiring each provider to supply renewable~~  
825 ~~energy to its customers directly, by procuring, or through~~



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826 ~~renewable energy credits. In developing the RPS rule, the~~  
827 ~~commission shall consult the Department of Environmental~~  
828 ~~Protection and the Department of Agriculture and Consumer~~  
829 ~~Services. The rule shall not be implemented until ratified by~~  
830 ~~the Legislature. The commission shall present a draft rule for~~  
831 ~~legislative consideration by February 1, 2009.~~

832 ~~(a) In developing the rule, the commission shall evaluate~~  
833 ~~the current and forecasted levelized cost in cents per kilowatt~~  
834 ~~hour through 2020 and current and forecasted installed capacity~~  
835 ~~in kilowatts for each renewable energy generation method through~~  
836 ~~2020.~~

837 ~~(b) The commission's rule:~~

838 ~~1. Shall include methods of managing the cost of compliance~~  
839 ~~with the renewable portfolio standard, whether through direct~~  
840 ~~supply or procurement of renewable power or through the purchase~~  
841 ~~of renewable energy credits. The commission shall have~~  
842 ~~rulemaking authority for providing annual cost recovery and~~  
843 ~~incentive-based adjustments to authorized rates of return on~~  
844 ~~common equity to providers to incentivize renewable energy.~~  
845 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~  
846 ~~the rules developed pursuant to this subsection, the commission~~  
847 ~~may approve projects and power sales agreements with renewable~~  
848 ~~power producers and the sale of renewable energy credits needed~~  
849 ~~to comply with the renewable portfolio standard. In the event of~~  
850 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~  
851 ~~(4). However, nothing in this section shall alter the obligation~~  
852 ~~of each public utility to continuously offer a purchase contract~~  
853 ~~to producers of renewable energy.~~

854 ~~2. Shall provide for appropriate compliance measures and~~



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855 ~~the conditions under which noncompliance shall be excused due to~~  
856 ~~a determination by the commission that the supply of renewable~~  
857 ~~energy or renewable energy credits was not adequate to satisfy~~  
858 ~~the demand for such energy or that the cost of securing~~  
859 ~~renewable energy or renewable energy credits was cost~~  
860 ~~prohibitive.~~

861 ~~3. May provide added weight to energy provided by wind and~~  
862 ~~solar photovoltaic over other forms of renewable energy, whether~~  
863 ~~directly supplied or procured or indirectly obtained through the~~  
864 ~~purchase of renewable energy credits.~~

865 ~~4. Shall determine an appropriate period of time for which~~  
866 ~~renewable energy credits may be used for purposes of compliance~~  
867 ~~with the renewable portfolio standard.~~

868 ~~5. Shall provide for monitoring of compliance with and~~  
869 ~~enforcement of the requirements of this section.~~

870 ~~6. Shall ensure that energy credited toward compliance with~~  
871 ~~the requirements of this section is not credited toward any~~  
872 ~~other purpose.~~

873 ~~7. Shall include procedures to track and account for~~  
874 ~~renewable energy credits, including ownership of renewable~~  
875 ~~energy credits that are derived from a customer-owned renewable~~  
876 ~~energy facility as a result of any action by a customer of an~~  
877 ~~electric power supplier that is independent of a program~~  
878 ~~sponsored by the electric power supplier.~~

879 ~~8. Shall provide for the conditions and options for the~~  
880 ~~repeal or alteration of the rule in the event that new~~  
881 ~~provisions of federal law supplant or conflict with the rule.~~

882 ~~(c) Beginning on April 1 of the year following final~~  
883 ~~adoption of the commission's renewable portfolio standard rule,~~



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884 ~~each provider shall submit a report to the commission describing~~  
885 ~~the steps that have been taken in the previous year and the~~  
886 ~~steps that will be taken in the future to add renewable energy~~  
887 ~~to the provider's energy supply portfolio. The report shall~~  
888 ~~state whether the provider was in compliance with the renewable~~  
889 ~~portfolio standard during the previous year and how it will~~  
890 ~~comply with the renewable portfolio standard in the upcoming~~  
891 ~~year.~~

892 ~~(4) In order to demonstrate the feasibility and viability~~  
893 ~~of clean energy systems, the commission shall provide for full~~  
894 ~~cost recovery under the environmental cost-recovery clause of~~  
895 ~~all reasonable and prudent costs incurred by a provider for~~  
896 ~~renewable energy projects that are zero greenhouse gas emitting~~  
897 ~~at the point of generation, up to a total of 110 megawatts~~  
898 ~~statewide, and for which the provider has secured necessary~~  
899 ~~land, zoning permits, and transmission rights within the state.~~  
900 ~~Such costs shall be deemed reasonable and prudent for purposes~~  
901 ~~of cost recovery so long as the provider has used reasonable and~~  
902 ~~customary industry practices in the design, procurement, and~~  
903 ~~construction of the project in a cost-effective manner~~  
904 ~~appropriate to the location of the facility. The provider shall~~  
905 ~~report to the commission as part of the cost-recovery~~  
906 ~~proceedings the construction costs, in-service costs, operating~~  
907 ~~and maintenance costs, hourly energy production of the renewable~~  
908 ~~energy project, and any other information deemed relevant by the~~  
909 ~~commission. Any provider constructing a clean energy facility~~  
910 ~~pursuant to this section shall file for cost recovery no later~~  
911 ~~than July 1, 2009.~~

912 ~~(3)(5)~~ Each municipal electric utility and rural electric





913 cooperative shall develop standards for the promotion,  
914 encouragement, and expansion of the use of renewable energy  
915 resources and energy conservation and efficiency measures. On or  
916 before April 1, 2009, and annually thereafter, each municipal  
917 electric utility and electric cooperative shall submit to the  
918 commission a report that identifies such standards.

919 (4)~~(6)~~ Nothing in this section shall be construed to impede  
920 or impair terms and conditions of existing contracts.

921 (5)~~(7)~~ The commission may adopt rules to administer and  
922 implement the provisions of this section.

923 Section 11. Section 366.94, Florida Statutes, is created to  
924 read:

925 366.94 Electric vehicle charging stations.-

926 (1) The provision of electric vehicle charging to the  
927 public by a nonutility is not the retail sale of electricity for  
928 the purposes of this chapter. The rates, terms, and conditions  
929 of electric vehicle charging services by a nonutility are not  
930 subject to regulation under this chapter. This section does not  
931 affect the ability of individuals, businesses, or governmental  
932 entities to acquire, install, or use an electric vehicle charger  
933 for their own vehicles.

934 (2) The Department of Agriculture and Consumer Services  
935 shall adopt rules to provide definitions, methods of sale,  
936 labeling requirements, and price-posting requirements for  
937 electric vehicle charging stations to allow for consistency for  
938 consumers and the industry.

939 (3) (a) It is unlawful for a person to stop, stand, or park  
940 a vehicle that is not capable of using an electrical recharging  
941 station within any parking space specifically designated for



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942 charging an electric vehicle.

943 (b) If a law enforcement officer finds a motor vehicle in  
944 violation of this subsection, the officer or specialist shall  
945 charge the operator or other person in charge of the vehicle in  
946 violation with a noncriminal traffic infraction, punishable as  
947 provided in s. 316.008(4) or s. 318.18.

948 (4) The Public Service Commission is directed to conduct a  
949 study of the potential effects of public charging stations and  
950 privately owned electric vehicle charging on both energy  
951 consumption and the impact on the electric grid in the state.  
952 The Public Service Commission shall also investigate the  
953 feasibility of using off-grid solar photovoltaic power as a  
954 source of electricity for the electric vehicle charging  
955 stations. The commission shall submit the results of the study  
956 to the President of the Senate, the Speaker of the House of  
957 Representatives, and the Executive Office of the Governor by  
958 December 31, 2012.

959 Section 12. Paragraph (n) is added to subsection (2) of  
960 section 377.703, Florida Statutes, to read:

961 377.703 Additional functions of the Department of  
962 Agriculture and Consumer Services.—

963 (2) DUTIES.—The department shall perform the following  
964 functions, unless as otherwise provided, consistent with the  
965 development of a state energy policy:

966 (n) On an annual basis, the department shall prepare an  
967 assessment of the utilization of the tax exemption authorized in  
968 s. 212.08(7) (hhh), the renewable energy technologies investment  
969 tax credit authorized in s. 220.192, and the renewable energy  
970 production credit authorized in s. 220.193, which the department



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971 shall submit to the President of the Senate, the Speaker of the  
972 House of Representatives, and the Executive Office of the  
973 Governor by February 1 of each year. The assessment shall  
974 include, at a minimum, the following information:  
975 1. For the tax exemption authorized in s. 212.08(7) (hhh):  
976 a. The name of each taxpayer receiving an exemption under  
977 this section;  
978 b. The amount of the exemption received by each taxpayer;  
979 and  
980 c. The type and description of each eligible item for which  
981 each taxpayer is applying.  
982 2. For the renewable energy technologies investment tax  
983 credit authorized in s. 220.192:  
984 a. The name of each taxpayer receiving an allocation under  
985 this section;  
986 b. The amount of the credits allocated for that fiscal year  
987 for each taxpayer; and  
988 c. The type of technology and a description of each  
989 investment for which each taxpayer receives an allocation.  
990 3. For the renewable energy production credit authorized in  
991 s. 220.193:  
992 a. The name of each taxpayer receiving an allocation under  
993 this section;  
994 b. The amount of credits allocated for that fiscal year for  
995 each taxpayer;  
996 c. The type and amount of renewable energy produced and  
997 sold, whether the facility producing that energy is a new or  
998 expanded facility, and the approximate date on which production  
999 began; and



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1000 d. The aggregate amount of credits allocated for all  
1001 taxpayers claiming credits under this section for the fiscal  
1002 year.

1003 Section 13. Subsections (1) and (2) of section 526.203,  
1004 Florida Statutes, are amended, and subsections (5) and (6) are  
1005 added to that section, to read:

1006 526.203 Renewable fuel standard.—

1007 (1) DEFINITIONS.—As used in this act, the term:

1008 (a) "Alternative fuel" means a fuel produced from biomass,  
1009 as defined in s. 366.91, which is used to replace or reduce the  
1010 quantity of fossil fuel present in a petroleum fuel that meets  
1011 the specifications as adopted by the department.

1012 (b) ~~(a)~~ "Blender," "importer," "terminal supplier," and  
1013 "wholesaler" are defined as provided in s. 206.01.

1014 (c) ~~(b)~~ "Blended gasoline" means a mixture of 90 to 91  
1015 percent gasoline and 9 to 10 percent fuel ethanol or other  
1016 alternative fuel, by volume, which ~~that~~ meets the specifications  
1017 as adopted by the department. The fuel ethanol or other  
1018 alternative fuel portion may be derived from any agricultural  
1019 source.

1020 (d) ~~(c)~~ "Fuel ethanol" means an anhydrous denatured alcohol  
1021 produced by the conversion of carbohydrates which ~~that~~ meets the  
1022 specifications as adopted by the department.

1023 (e) ~~(d)~~ "Unblended gasoline" means gasoline that has not  
1024 been blended with fuel ethanol or other alternative fuel and  
1025 that meets the specifications as adopted by the department.

1026 (2) FUEL STANDARD.—Beginning December 31, 2010, all  
1027 gasoline sold or offered for sale in Florida by a ~~terminal~~  
1028 ~~supplier, importer, blender must, or wholesaler shall be blended~~



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1029 gasoline.

1030 (5) This section does not prohibit a terminal supplier,  
1031 importer, wholesaler, or retail dealer, as defined in s. 206.01,  
1032 from selling or offering to sell unblended gasoline.

1033 (6) The Department of Agriculture and Consumer Services  
1034 shall compile a list of retail fuel stations that sell or offer  
1035 to sell unblended gasoline. This information shall be compiled  
1036 by the department as part of its routine retail fuel station  
1037 inspections, authorized under s. 525.07, and from information  
1038 provided voluntarily by retail dealers. The Department of  
1039 Agriculture and Consumer Services shall provide this information  
1040 on its website to inform consumers of the options available for  
1041 unblended gasoline.

1042 Section 14. Subsection (4) of section 581.083, Florida  
1043 Statutes, is amended to read:

1044 581.083 Introduction or release of plant pests, noxious  
1045 weeds, or organisms affecting plant life; cultivation of  
1046 nonnative plants; special permit and security required.—

1047 (4) A person may not cultivate a nonnative plant, algae, or  
1048 blue-green algae, including a genetically engineered plant,  
1049 algae, or blue-green algae ~~or a plant that has been introduced,~~  
1050 ~~for purposes of fuel production or purposes other than~~  
1051 ~~agriculture~~ in plantings greater in size than 2 contiguous  
1052 acres, except under a special permit issued by the department  
1053 through the division, which is the sole agency responsible for  
1054 issuing such special permits. A permit is not required to  
1055 cultivate any plant or group of plants that, based on experience  
1056 or research data, does not pose a threat of becoming an invasive  
1057 species and is commonly grown in this state for the purpose of



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1058 human food consumption, commercial feed, feedstuff, forage for  
1059 livestock, nursery stock, or silviculture. The department is  
1060 authorized to adopt additional exemptions to the permitting  
1061 requirements of this section if the department determines, after  
1062 consulting with the Institute of Food and Agricultural Sciences  
1063 at the University of Florida, that based on experience or  
1064 research data, the nonnative plant, algae, or blue-green algae  
1065 does not pose a threat of becoming an invasive species or a pest  
1066 of plants or native fauna under conditions in this state and  
1067 subsequently exempts the plant or group of plants by rule ~~Such a~~  
1068 ~~permit shall not be required if the department determines, in~~  
1069 ~~conjunction with the Institute of Food and Agricultural Sciences~~  
1070 ~~at the University of Florida, that the plant is not invasive and~~  
1071 ~~subsequently exempts the plant by rule.~~

1072 (a)1. Each application for a special permit must be  
1073 accompanied by a fee as described in subsection (2) and proof  
1074 that the applicant has obtained, on a form approved by the  
1075 department, ~~a bond in the form approved by the department and~~  
1076 ~~issued by a surety company admitted to do business in this state~~  
1077 ~~or a certificate of deposit, or other type of security adopted~~  
1078 by rule of the department, which provides a financial assurance  
1079 of cost recovery for the removal of a planting. The application  
1080 must include, on a form provided by the department, the name of  
1081 the applicant and the applicant's address or the address of the  
1082 applicant's principal place of business; a statement completely  
1083 identifying the nonnative plant to be cultivated; and a  
1084 statement of the estimated cost of removing and destroying the  
1085 plant that is the subject of the special permit and the basis  
1086 for calculating or determining that estimate. If the applicant



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1087 is a corporation, partnership, or other business entity, the  
1088 applicant must also provide in the application the name and  
1089 address of each officer, partner, or managing agent. The  
1090 applicant shall notify the department within 10 business days of  
1091 any change of address or change in the principal place of  
1092 business. The department shall mail all notices to the  
1093 applicant's last known address.

1094 2. As used in this subsection, the term "certificate of  
1095 deposit" means a certificate of deposit at any recognized  
1096 financial institution doing business in the United States. The  
1097 department may not accept a certificate of deposit in connection  
1098 with the issuance of a special permit unless the issuing  
1099 institution is properly insured by the Federal Deposit Insurance  
1100 Corporation or the Federal Savings and Loan Insurance  
1101 Corporation.

1102 (b) Upon obtaining a permit, the permitholder may annually  
1103 cultivate and maintain the nonnative plants as authorized by the  
1104 special permit. If the permitholder ceases to maintain or  
1105 cultivate the plants authorized by the special permit, if the  
1106 permit expires, or if the permitholder ceases to abide by the  
1107 conditions of the special permit, the permitholder shall  
1108 immediately remove and destroy the plants that are subject to  
1109 the permit, if any remain. The permitholder shall notify the  
1110 department of the removal and destruction of the plants within  
1111 10 days after such event.

1112 (c) If the department:

1113 1. Determines that the permitholder is no longer  
1114 maintaining or cultivating the plants subject to the special  
1115 permit and has not removed and destroyed the plants authorized



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1116 by the special permit;

1117 2. Determines that the continued maintenance or cultivation  
1118 of the plants presents an imminent danger to public health,  
1119 safety, or welfare;

1120 3. Determines that the permitholder has exceeded the  
1121 conditions of the authorized special permit; or

1122 4. Receives a notice of cancellation of the surety bond,  
1123

1124 the department may issue an immediate final order, which shall  
1125 be immediately appealable or enjoinable as provided by chapter  
1126 120, directing the permitholder to immediately remove and  
1127 destroy the plants authorized to be cultivated under the special  
1128 permit. A copy of the immediate final order must ~~shall~~ be mailed  
1129 to the permitholder and to the surety company or financial  
1130 institution that has provided security for the special permit,  
1131 if applicable.

1132 (d) If, upon issuance by the department of an immediate  
1133 final order to the permitholder, the permitholder fails to  
1134 remove and destroy the plants subject to the special permit  
1135 within 60 days after issuance of the order, or such shorter  
1136 period as is designated in the order as public health, safety,  
1137 or welfare requires, the department may enter the cultivated  
1138 acreage and remove and destroy the plants that are the subject  
1139 of the special permit. If the permitholder makes a written  
1140 request to the department for an extension of time to remove and  
1141 destroy the plants that demonstrates specific facts showing why  
1142 the plants could not reasonably be removed and destroyed in the  
1143 applicable timeframe, the department may extend the time for  
1144 removing and destroying plants subject to a special permit. The





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1145 reasonable costs and expenses incurred by the department for  
1146 removing and destroying plants subject to a special permit shall  
1147 be reimbursed to the department by the permitholder within 21  
1148 days after the date the permitholder and the surety company or  
1149 financial institution are served a copy of the department's  
1150 invoice for the costs and expenses incurred by the department to  
1151 remove and destroy the cultivated plants, along with a notice of  
1152 administrative rights, unless the permitholder or the surety  
1153 company or financial institution object to the reasonableness of  
1154 the invoice. In the event of an objection, the permitholder or  
1155 surety company or financial institution is entitled to an  
1156 administrative proceeding as provided by chapter 120. Upon entry  
1157 of a final order determining the reasonableness of the incurred  
1158 costs and expenses, the permitholder has ~~shall have~~ 15 days  
1159 after following service of the final order to reimburse the  
1160 department. Failure of the permitholder to timely reimburse the  
1161 department for the incurred costs and expenses entitles the  
1162 department to reimbursement from the applicable bond or  
1163 certificate of deposit.

1164 (e) Each permitholder shall maintain for each separate  
1165 growing location a bond or a certificate of deposit in an amount  
1166 determined by the department, but not more ~~less~~ than 150 percent  
1167 of the estimated cost of removing and destroying the cultivated  
1168 plants. The bond or certificate of deposit may not exceed \$5,000  
1169 per acre, unless a higher amount is determined by the department  
1170 to be necessary to protect the public health, safety, and  
1171 welfare or unless an exemption is granted by the department  
1172 based on conditions specified in the application which would  
1173 preclude the department from incurring the cost of removing and



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1174 destroying the cultivated plants and would prevent injury to the  
1175 public health, safety, and welfare. The aggregate liability of  
1176 the surety company or financial institution to all persons for  
1177 all breaches of the conditions of the bond or certificate of  
1178 deposit may not exceed the amount of the bond or certificate of  
1179 deposit. The original bond or certificate of deposit required by  
1180 this subsection shall be filed with the department. A surety  
1181 company shall give the department 30 days' written notice of  
1182 cancellation, by certified mail, in order to cancel a bond.  
1183 Cancellation of a bond does not relieve a surety company of  
1184 liability for paying to the department all costs and expenses  
1185 incurred or to be incurred for removing and destroying the  
1186 permitted plants covered by an immediate final order authorized  
1187 under paragraph (c). A bond or certificate of deposit must be  
1188 provided or assigned in the exact name in which an applicant  
1189 applies for a special permit. The penal sum of the bond or  
1190 certificate of deposit to be furnished to the department by a  
1191 permitholder in the amount specified in this paragraph must  
1192 guarantee payment of the costs and expenses incurred or to be  
1193 incurred by the department for removing and destroying the  
1194 plants cultivated under the issued special permit. The bond or  
1195 certificate of deposit assignment or agreement must be upon a  
1196 form prescribed or approved by the department and must be  
1197 conditioned to secure the faithful accounting for and payment of  
1198 all costs and expenses incurred by the department for removing  
1199 and destroying all plants cultivated under the special permit.  
1200 The bond or certificate of deposit assignment or agreement must  
1201 include terms binding the instrument to the Commissioner of  
1202 Agriculture. Such certificate of deposit shall be presented with



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1203 an assignment of the permitholder's rights in the certificate in  
1204 favor of the Commissioner of Agriculture on a form prescribed by  
1205 the department and with a letter from the issuing institution  
1206 acknowledging that the assignment has been properly recorded on  
1207 the books of the issuing institution and will be honored by the  
1208 issuing institution. Such assignment is irrevocable while a  
1209 special permit is in effect and for an additional period of 6  
1210 months after termination of the special permit if operations to  
1211 remove and destroy the permitted plants are not continuing and  
1212 if the department's invoice remains unpaid by the permitholder  
1213 under the issued immediate final order. If operations to remove  
1214 and destroy the plants are pending, the assignment remains in  
1215 effect until all plants are removed and destroyed and the  
1216 department's invoice has been paid. The bond or certificate of  
1217 deposit may be released by the assignee of the surety company or  
1218 financial institution to the permitholder, or to the  
1219 permitholder's successors, assignee, or heirs, if operations to  
1220 remove and destroy the permitted plants are not pending and no  
1221 invoice remains unpaid at the conclusion of 6 months after the  
1222 last effective date of the special permit. The department may  
1223 not accept a certificate of deposit that contains any provision  
1224 that would give to any person any prior rights or claim on the  
1225 proceeds or principal of such certificate of deposit. The  
1226 department shall determine by rule whether an annual bond or  
1227 certificate of deposit will be required. The amount of such bond  
1228 or certificate of deposit shall be increased, upon order of the  
1229 department, at any time if the department finds such increase to  
1230 be warranted by the cultivating operations of the permitholder.  
1231 In the same manner, the amount of such bond or certificate of



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1232 deposit may be adjusted downward or removed ~~decreased~~ when a  
1233 decrease in the cultivating operations of the permit holder  
1234 occurs or when research or practical field knowledge and  
1235 observations indicate a low risk of invasiveness by the  
1236 nonnative species warrants such decrease. Factors that may be  
1237 considered for change include multiple years or cycles of  
1238 successful large-scale contained cultivation; no observation of  
1239 plant, algae, or blue-green algae escape from managed areas; or  
1240 science-based evidence that established or approved adjusted  
1241 cultivation practices provide a similar level of containment of  
1242 the nonnative plant, algae, or blue-green algae. This paragraph  
1243 applies to any bond or certificate of deposit, regardless of the  
1244 anniversary date of its issuance, expiration, or renewal.

1245 (f) In order to carry out the purposes of this subsection,  
1246 the department or its agents may require from any permit holder  
1247 verified statements of the cultivated acreage subject to the  
1248 special permit and may review the permit holder's business or  
1249 cultivation records at her or his place of business during  
1250 normal business hours in order to determine the acreage  
1251 cultivated. The failure of a permit holder to furnish such  
1252 statement, to make such records available, or to make and  
1253 deliver a new or additional bond or certificate of deposit is  
1254 cause for suspension of the special permit. If the department  
1255 finds such failure to be willful, the special permit may be  
1256 revoked.

1257 Section 15. The Department of Agriculture and Consumer  
1258 Services shall conduct a comprehensive statewide forest  
1259 inventory analysis and study, using a geographic information  
1260 system, to identify where available biomass is located,



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1261 determine the available biomass resources, and ensure forest  
1262 sustainability within the state. The department shall submit the  
1263 results of the study to the President of the Senate, the Speaker  
1264 of the House of Representatives, and the Executive Office of the  
1265 Governor by July 1, 2013.

1266       Section 16. The Office of Energy within the Department of  
1267 Agriculture and Consumer Services, in consultation with the  
1268 Public Service Commission, the Florida Building Commission, and  
1269 the Florida Energy Systems Consortium, shall develop a  
1270 clearinghouse of information regarding cost savings associated  
1271 with various energy efficiency and conservation measures. The  
1272 department shall post the information on its website by July 1,  
1273 2013.

1274       Section 17. For the 2012-2013 fiscal year, the nonrecurring  
1275 sum of \$250,000 is appropriated from the Florida Public Service  
1276 Regulatory Trust Fund for the purpose of the Public Service  
1277 Commission, in consultation with the Department of Agriculture  
1278 and Consumer Services, contracting for an independent evaluation  
1279 of the Florida Energy Efficiency and Conservation Act to  
1280 determine if the act remains in the public interest. The  
1281 evaluation must consider the costs to ratepayers, the incentives  
1282 and disincentives associated with the provisions in the act, and  
1283 if the programs create benefits without undue burden on the  
1284 customer. The models and methods used to determine conservation  
1285 goals must be specifically addressed in the report. The  
1286 commission shall submit the report to the President of the  
1287 Senate, the Speaker of the House of Representatives, and the  
1288 Executive Office of the Governor by January 31, 2013.

1289       Section 18. This act shall take effect July 1, 2012.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to energy; amending s. 163.08, F.S.;  
revising the definition of the term "local  
government"; amending s. 186.801, F.S.; adding factors  
for the Public Service Commission to consider in  
reviewing the 10-year site plans submitted to the  
commission by electric utilities; amending s. 212.055,  
F.S.; providing for a portion of the proceeds of the  
local government infrastructure surtax to be used for  
financial assistance to residential and commercial  
property owners who make energy efficiency  
improvements or install renewable energy devices;  
defining the term "energy efficiency improvement";  
amending s. 212.08, F.S.; providing definitions for  
the terms "biodiesel," "ethanol," and "renewable  
fuel"; providing for tax exemptions in the form of a  
rebate for the sale or use of certain equipment,  
machinery, and other materials for renewable energy  
technologies; providing eligibility requirements and  
tax credit limits; authorizing the Department of  
Revenue and the Department of Agriculture and Consumer  
Services to adopt rules; directing the Department of  
Agriculture and Consumer Services to determine and  
publish certain information relating to exemptions;



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1319 providing for expiration of the exemption; amending s.  
1320 213.053, F.S.; expanding the authority of the  
1321 Department of Revenue to disclose certain information;  
1322 amending s. 220.192, F.S.; providing definitions;  
1323 reestablishing a corporate tax credit for certain  
1324 costs related to renewable energy technologies;  
1325 providing eligibility requirements and credit limits;  
1326 providing for use of authorized but unallocated credit  
1327 amounts; providing rulemaking authority to the  
1328 Department of Revenue and the Department of  
1329 Agriculture and Consumer Services; directing the  
1330 Department of Agriculture and Consumer Services to  
1331 determine and publish certain information; providing  
1332 for expiration of the tax credit; amending s. 220.193,  
1333 F.S.; reestablishing a corporate tax credit for  
1334 renewable energy production; providing definitions;  
1335 providing a tax credit for the production and sale of  
1336 renewable energy; providing requirements relating to  
1337 the priority and proration of such tax credits under  
1338 certain circumstances; providing for the use and  
1339 transfer of the tax credit; limiting the amount of tax  
1340 credits that may be granted to an individual taxpayer  
1341 per state fiscal year and for all taxpayers per state  
1342 fiscal year; increasing the cap for all taxpayers  
1343 during a specified period; providing for use of  
1344 authorized but unallocated credit amounts; providing  
1345 rulemaking authority to the Department of Revenue and  
1346 the Department of Agriculture and Consumer Services;  
1347 directing the Department of Agriculture and Consumer



1348 Services to provide certain information on its  
1349 website; providing for expiration of the tax credit;  
1350 amending s. 255.257, F.S.; directing the Department of  
1351 Management Services, in coordination with the  
1352 Department of Agriculture and Consumer Services, to  
1353 further develop the state energy management plan;  
1354 amending s. 288.106, F.S.; redefining the term "target  
1355 industry business," for purposes of a tax refund  
1356 program, to exclude certain electrical utilities;  
1357 amending s. 366.92, F.S.; deleting an obsolete  
1358 directive to the Public Service Commission to adopt  
1359 rules for a renewable portfolio standard; deleting  
1360 related definitions; removing a provision that allowed  
1361 full cost recovery for certain renewable energy  
1362 projects; creating s. 366.94, F.S.; providing that the  
1363 provision of electric vehicle charging to the public  
1364 by a nonutility is not the retail sale of electricity;  
1365 providing that the rates, terms, and conditions of  
1366 electric vehicle charging services by a nonutility are  
1367 not subject to regulation under ch. 366, F.S.;

1368 requiring the Department of Agriculture and Consumer  
1369 Services to develop rules for sales at electric  
1370 vehicle charging stations; prohibiting the obstruction  
1371 of a parking space at an electric vehicle charging  
1372 station; providing a penalty; requiring that the  
1373 Public Service Commission study the effects of  
1374 charging stations on energy consumption in the state  
1375 and the effects on the grid and report the results to  
1376 the President of the Senate, the Speaker of the House





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1377 of Representatives, and the Executive Office of the  
1378 Governor; amending s. 377.703, F.S.; requiring the  
1379 Department of Agriculture and Consumer Services to  
1380 annually prepare an assessment of the use of specified  
1381 energy-related tax credits; requiring specified  
1382 information to be included in such assessment;  
1383 amending s. 526.203, F.S.; revising the definitions of  
1384 the terms "blended gasoline" and "unblended gasoline";  
1385 defining the term "alternative fuel"; authorizing the  
1386 sale of unblended fuels for certain uses; authorizing  
1387 a terminal supplier, importer, wholesaler, or retail  
1388 dealer to sell or offer to sell unblended gasoline;  
1389 directing the Department of Agriculture and Consumer  
1390 Services to compile a list of retail fuel stations  
1391 that sell or offer to sell unblended gasoline and  
1392 provide that information on the department's website;  
1393 amending s. 581.083, F.S.; prohibiting the cultivation  
1394 of certain algae in plantings greater in size than 2  
1395 contiguous acres; providing exceptions; providing for  
1396 exemption from special permitting requirements by  
1397 rule; revising certain bonding requirements; requiring  
1398 the Department of Agriculture and Consumer Services to  
1399 conduct a statewide forest inventory; requiring the  
1400 Department of Agriculture and Consumer Services to  
1401 work with other specified entities to develop  
1402 information on cost savings for energy efficiency and  
1403 conservation measures and post it on the department's  
1404 website; providing an appropriation from the Florida  
1405 Public Service Regulatory Trust Fund for the purpose



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1406 of the Public Service Commission, in consultation with  
1407 the Department of Agriculture and Consumer Services,  
1408 to contract for an independent evaluation of the  
1409 Florida Energy Efficiency and Conservation Act;  
1410 requiring reports to the Legislature and the Executive  
1411 Office of the Governor; providing an effective date.