A bill to be entitled

An act relating to onsite sewage treatment and disposal systems; directing the Department of Health to contract for a study to develop and evaluate certain sewage and disposal systems; specifying requirements for the study; providing for periodic review of the study; requiring interim progress reports and a final report; requiring the department to provide specified services related to the study; providing an appropriation; amending s. 381.0065, F.S.; directing the Department of Health to adopt rules to establish a program for the periodic inspection of certain onsite sewage treatment and disposal systems; specifying program requirements; providing definitions; creating s. 381.00656, F.S.; establishing the Wekiva Onsite Sewage Treatment and Disposal System Compliance Grant Program in the Department of Health for the purpose of providing grants to low-income property owners contingent upon specific appropriation; specifying eligibility and grant amounts; requiring the department to adopt rules; directing the department, the Department of Environmental Protection, and the St. John's River Water Management District to conduct specified evaluations; amending s. 381.0101, F.S.; specifying an exemption for certain certification to conduct environmental health and sanitary evaluations; providing training requirements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) It is the intent of the Legislature to continue to research cost-effective methods to reduce nitrogen levels in Florida's waters and to augment the research performed exclusively within the Wekiva Springs Area. To that end, the Department of Health shall contract for a study to develop and evaluate passive onsite wastewater nitrogen reduction systems, which shall consist of technologies and strategies for nitrogen reduction that complement or can be added to conventional onsite wastewater treatment systems. The contract shall be initiated by a request for proposal. The scope of the study and its parameters shall be consistent with the requirements of this section and shall be approved by the department's research review and advisory committee. The study shall include the following:

(a) The identification, evaluation, and comparison of passive onsite wastewater nitrogen reduction systems that have a significantly lower life-cycle cost than the available performance-based treatment systems currently identified by the department for annual average nitrogen reductions of 70 percent or annual average effluent of less than 10 mg/L. Life-cycle cost shall be based on total system costs, including installation, operation, maintenance, and media replacement costs and shall be based on the life-cycle cost per unit mass of nitrogen reduction.

(b) A comprehensive review of passive onsite wastewater nitrogen reduction system methods, strategies, and costs reported for passive nitrogen reduction, and the field

evaluations of selected systems at appropriate demonstration sites as determined by the research review and advisory committee.

(c) The evaluation of technologies, including, but not limited to, the addition of organic carbon material and other alternative media through conventional components such as tanks or drainfields, effluent recirculation, alterations such as the addition of low-pressure dosing or drip irrigation, various plant material over the drainfield and other technologies, and combinations or process configurations as identified by the department, its contractor, the research review and advisory committee, or the review described in paragraph (b).

(d) A nitrogen reduction performance measurement, including the analyses of numerous influent and effluent samples from various process locations within each system tested in the field and a determination of the mean and measures of variance for each process and system tested.

(e) The evaluation and comparison of the fate and transport of nitrogen species from conventional onsite wastewater treatment systems, passive onsite wastewater nitrogen reduction systems, and performance-based treatment systems, including an estimate of denitrification rates in unsaturated soil and in groundwater below and downgradient of the systems. Data shall be analyzed and reported which considers nitrogen reduction and uptake provided by soils and the shallow groundwater below and downgradient of the various systems tested, especially in areas where nitrogen is of particular concern. From this data a simple model for predicting nitrogen

fate and transport from onsite wastewater systems shall be developed.

(f) The documentation and comparison of the costs and the performance of conventional onsite wastewater treatment systems, passive onsite wastewater nitrogen reduction systems, and performance-based treatment systems, including descriptions and comparisons of installation requirements, maintenance needs, operational requirements, and all costs related to the systems.

(2) The research review and advisory committee shall initially approve the study, including the request for proposal, and shall oversee performance of the project. The study shall be periodically peer reviewed by a five-person panel comprised of engineers and scientists with known expertise in wastewater treatment process design and performance assessment, including nitrogen removal processes and the fate and transport of nitrogen in the environment. The panel shall be comprised of one member designated by the Department of Health, one member designated by the Department of Environmental Protection, one member designated by the Florida Onsite Wastewater Association, one member designated by the Florida Home Builders Association, and one member designated by the Florida Association of Realtors. The panel shall provide advice to the research review and advisory committee.

(3) Field study of passive onsite nutrient reduction systems shall begin no later than January 1, 2009. Beginning on February 1, 2009, through February 1, 2011, interim progress reports approved by the research review and advisory committee shall be submitted to the Speaker of the House of

Representatives, the President of the Senate, and the Governor. The study shall be completed by December 1, 2011. A final report summarizing the study, including options, findings, and recommendations for use of the most cost-effective, user friendly, and environmentally beneficial alternative passive technologies for reducing nitrogen shall be approved and presented by the committee to the Speaker of the House of Representatives, the President of the Senate, and the Governor as soon as practicable after completion of the study.

(4) The Department of Health shall provide administrative support to the committee with respect to the study, including, but not limited to, the preparation of outlines for the study and the drafting of reports and the request for proposal. The department shall also be responsible for administering and providing quality control for any contracts approved by the committee. The research review and advisory committee shall have final decisionmaking authority over the scope and contents of the request for proposal.

(5) The study shall be performed over the course of three state budget cycles at a total cost not to exceed $5 million. For the 2008-2009 fiscal year, the sum of $1.7 million in nonrecurring funds is appropriated to the Department of Health from the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection for the purpose of funding the first budget cycle of the study pursuant to this section.

Section 2. Subsection (5) of section 381.0065, Florida Statutes, is renumbered as subsection (6), and a new subsection

(5) is added to that section to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.--

(5) PERIODIC INSPECTIONS.--

(a) No sooner than August 1, 2009, the department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to establish an onsite sewage treatment system inspection program that focuses on identifying and repairing failing systems by requiring owners of onsite sewage treatment systems to periodically have such systems inspected and pumped out. The program shall include the following requirements:

1. Onsite sewage treatment and disposal systems, except those systems that are required to obtain an operating permit, shall be subject to a 5-year cycle for periodic inspections and pump-outs. The schedule shall include a county-by-county implementation plan phased in over a 10-year period and shall give first priority to those areas within an identified springshed protection area, as defined by the Department of Environmental Protection.

2. The department's procedure for voluntary inspection and assessment of existing systems shall be applied to inspections required under this subsection, except as otherwise provided. The procedure shall not allow owners to request partial inspections or request the omission of portions of the inspection. All inspection procedures used by an inspector shall be documented, and nothing in this subsection shall be construed to limit the amount of detail an inspector may provide at his or her professional discretion. The inspection shall include a tank

inspection, a drainfield inspection, a written assessment of the condition of the system, and, if necessary, a disclosure statement pursuant to the department's procedure. When proof of a tank pumping, permitted new installation, or permitted repair or permitted modification can be documented within the previous 3 years, and when the document states the capacity of the tank and indicates that the condition of the tank does not constitute a sanitary or public health nuisance, the department and the inspector shall waive the pumping requirements. Owners shall be responsible for paying the cost of having the system inspected and pumped out pursuant to department rule.

3. Persons allowed to perform work under this subsection shall be master septic tank contractors, registered septic tank contractors, state licensed plumbers, and persons certified under s. 381.0101. A person conducting an inspection is prohibited from conducting repairs associated with any deficiencies found during an inspection.

4. Prior to any inspection, the department shall provide a minimum 60-day notice to owners that their systems will be required to be inspected and pumped out. The notice must include a provision that states that the inspection is designed to assess the fundamental operational condition of a system at a particular moment in time to identify failing systems and that the inspection is not designed to determine precise code compliance, require a complete upgrade or overhaul of a system to current code requirements, or provide information to demonstrate that the system will adequately serve the use to be placed upon it by the current or any subsequent owner. The

department shall also provide the owner of the system, along with the notice, a copy of its procedure which delineates the inspection procedures that will be applied under this subsection.

(b) For purposes of this subsection:

1. "Failure" means a condition existing within an onsite sewage treatment and disposal system prohibiting the system from functioning in a sanitary manner and resulting in the discharge of untreated or partially treated wastewater onto ground surface or into surface water or groundwater, or the failure of building plumbing to discharge properly. Upgrades shall not be required for a system that is not deemed to be in failure. This subparagraph shall not be construed to mean that, upon inspection, a system is considered to be in failure solely because the system does not have the minimum separation distance between the drainfield and groundwater table.

2. "Repair" means necessary replacement of or modifications or additions to a failing system to allow the system to function in accordance with its design or to eliminate a public health or pollution hazard, including the use of any treatment method to improve the functioning of any part of the system or to prolong or sustain the length of time the system functions. The term does not include service of mechanical or electrical parts of an approved onsite sewage treatment and disposal system or replacement of mechanical or electrical parts with similar parts, minor structural corrections to a tank or distribution box, use of any allowed additive by the system owner through the inside building plumbing, removal of the

contents of any tank or the installation of an approved outlet filter device without disturbing the drainfield, replacement of a broken lid to any tank, or splicing a drip emitter line without eliminating an emitter.

Section 3. Section 381.00656, Florida Statutes, is created to read:

381.00656 Wekiva Onsite Sewage Treatment and Disposal System Compliance Grant Program.—-

(1) Subject to specific appropriation, the Wekiva Onsite Sewage Treatment and Disposal System Compliance Grant Program is established in the Department of Health and shall be administered by the department. The purpose of the program is to provide grants to low-income property owners in the Wekiva Study Area or the Wekiva River Protection Area using onsite disposal systems to assist the property owners in complying with rules for onsite sewage treatment and disposal systems developed by the department, the Department of Environmental Protection, or the St. Johns River Water Management District. The grant program is effective upon final adoption of department rules and may be applied to costs incurred by property owners on or after such date.

(2) Any property owner in the Wekiva Study Area or the Wekiva River Protection Area having an income less than or equal to 200 percent of the federal poverty level who is required by rule of the department, the Department of Environmental Protection, or the St. Johns River Water Management District to alter, repair, or modify any existing onsite sewage treatment and disposal system on such property to a nitrogen-reducing,

performance-based treatment system may apply to the department for a grant to assist the owner with the cost of compliance.

(3) The amount of the grant is limited to the cost differential between the replacement of a comparable existing onsite sewage treatment and disposal system and that of an upgraded nitrogen-reducing, performance-based treatment system, but may not exceed $10,000 per property.

(4) The department shall adopt rules providing forms, procedures, and requirements for applying for and disbursing grants, including bid requirements, and for documenting compliance costs incurred.

(5) The department, in coordination with the Department of Environmental Protection and the St. Johns River Water Management District, shall continue to evaluate, by any means the department deems appropriate, the level of nitrogen deposited in the Wekiva Study Area by onsite sewage treatment and disposal systems.

Section 4. Subsection (3) of section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.--

(3) CERTIFICATION REQUIRED.--No person shall perform environmental health or sanitary evaluations in any primary program area of environmental health without being certified by the department as competent to perform such evaluations. The requirements of this section shall not be mandatory for persons performing inspections of public food service establishments licensed under chapter 509 or for persons working under the direct, responsible charge of an engineer licensed under chapter

471 who have successfully completed a soil morphology course approved by the department. Persons working under the direct, responsible charge of an engineer licensed under chapter 471 must receive a minimum of six continuing education units of department-approved training in soil morphology every 2 years.

Section 5. This act shall take effect July 1, 2008.