

1 A bill to be entitled
2 An act relating to economic incentives for energy
3 initiatives; amending s. 377.601, F.S.; revising
4 legislative intent relating to the state's energy policy;
5 amending s. 377.703, F.S.; conforming cross-references;
6 amending s. 212.08, F.S.; providing definitions; providing
7 sales and use tax exemptions for electric-powered
8 automobiles, natural gas vehicles, and fueling stations
9 for such automobiles and vehicles; extending the sales and
10 use tax exemptions for certain renewable energy
11 technologies; amending s. 220.192, F.S.; extending the
12 renewable energy technologies investment tax credit and
13 applying the credit to certain investments in solar energy
14 systems; defining the term "solar energy system"; revising
15 the eligible cost limit for investments in biodiesel and
16 ethanol; transferring certain duties relating to such tax
17 credits from the Department of Environmental Protection to
18 the Florida Energy and Climate Commission; amending s.
19 220.193, F.S.; extending the renewable energy production
20 credit; amending s. 366.02, F.S.; revising the definition
21 of the term "public utility" for purposes of regulating
22 such utilities; creating s. 366.90, F.S.; providing
23 legislative intent relating to renewable energy production
24 of electricity; amending s. 366.91, F.S.; deleting
25 legislative intent provisions to conform to changes made
26 by the act; revising definitions of the terms "biomass"
27 and "renewable energy"; requiring public utilities to
28 purchase renewable energy from producers at full avoided

29 | cost under certain circumstances; providing that renewable
30 | energy producers are entitled to sell electrical energy to
31 | a public utility at full avoided cost under certain
32 | circumstances; providing legislative findings; providing
33 | for the calculation of full avoided cost for such
34 | purchases of renewable energy; declaring that certain
35 | actions taken by the Public Service Commission are not
36 | actions relating to utility rates or services; amending s.
37 | 366.92, F.S.; deleting the legislative intent provisions;
38 | deleting and revising definitions; deleting provisions for
39 | the renewable portfolio standard and renewable energy
40 | credits; providing a mechanism for providers to recover
41 | costs to produce or purchase specified amounts of
42 | renewable energy through the environmental cost-recovery
43 | clause under certain conditions; requiring providers to
44 | include specified information related to renewable energy
45 | development in a certain report; authorizing a developer
46 | of solar energy generation to locate a solar energy
47 | generation facility on the premises of a host consumer
48 | under certain circumstances; requiring the commission to
49 | adopt rules and submit reports to the Legislature;
50 | amending s. 403.503, F.S.; revising the definition of
51 | "electrical power plant" for purposes of the Florida
52 | Electrical Power Plant Siting Act; amending ss. 288.9602
53 | and 288.9603, F.S.; revising legislative findings and
54 | declarations and definitions for purposes of the Florida
55 | Development Finance Corporation Act; amending s. 288.9604,
56 | F.S.; revising requirements for the establishment and

57 organization of the Florida Development Finance
 58 Corporation; amending s. 288.9605, F.S.; revising the
 59 powers of the corporation; amending s. 288.9606, F.S.;
 60 revising requirements for the corporation's issuance of
 61 revenue bonds; amending s. 288.9607, F.S.; limiting the
 62 corporation's approval of guaranties for debt service for
 63 bonds or other indebtedness for any one capital project;
 64 deleting provisions for the corporation's investment of
 65 certain funds in the State Transportation Trust Fund;
 66 authorizing guarantes to be used in conjunction with
 67 federal guaranty programs; amending s. 288.9608, F.S.;
 68 creating the Energy, Technology, and Economic Development
 69 Guaranty Fund; providing for the deposit of certain moneys
 70 in the fund; deleting requirements for the corporation's
 71 debt service reserve account and Revenue Bond Guaranty
 72 Reserve Account; amending ss. 288.9609, 288.9610, 206.46,
 73 215.47, 339.08, and 339.135, F.S.; conforming provisions
 74 to changes made by the act; providing for severability;
 75 providing an effective date.

76

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

78

79 Section 1. Section 377.601, Florida Statutes, is amended
 80 to read:

81 377.601 Legislative intent.—

82 (1) The purpose of the state's energy policy is to ensure
 83 an adequate and reliable supply of energy for the state in a
 84 manner that promotes the health and welfare of the public,

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85 promotes sustainable economic growth, and minimizes and
86 mitigates any adverse impacts. The Legislature intends that
87 governance of the state's energy policy be efficiently directed
88 toward achieving this purpose. ~~The Legislature finds that the~~
89 ~~state's energy security can be increased by lessening dependence~~
90 ~~on foreign oil; that the impacts of global climate change can be~~
91 ~~reduced through the reduction of greenhouse gas emissions; and~~
92 ~~that the implementation of alternative energy technologies can~~
93 ~~be a source of new jobs and employment opportunities for many~~
94 ~~Floridians. The Legislature further finds that the state is~~
95 ~~positioned at the front line against potential impacts of global~~
96 ~~climate change. Human and economic costs of those impacts can be~~
97 ~~averted by global actions and, where necessary, adapted to by a~~
98 ~~concerted effort to make Florida's communities more resilient~~
99 ~~and less vulnerable to these impacts. In focusing the~~
100 ~~government's policy and efforts to benefit and protect our~~
101 ~~state, its citizens, and its resources, the Legislature believes~~
102 ~~that a single government entity with a specific focus on energy~~
103 ~~and climate change is both desirable and advantageous. Further,~~
104 ~~the Legislature finds that energy infrastructure provides the~~
105 ~~foundation for secure and reliable access to the energy supplies~~
106 ~~and services on which Florida depends. Therefore, there is~~
107 ~~significant value to Florida consumers that comes from~~
108 ~~investment in Florida's energy infrastructure that increases~~
109 ~~system reliability, enhances energy independence and~~
110 ~~diversification, stabilizes energy costs, and reduces greenhouse~~
111 ~~gas emissions.~~

112 (2) In furtherance of this purpose, the state's energy

113 policy shall be implemented through effective, efficient, and
 114 reliable governance and shall be guided by the following goals
 115 in order of their priority:

- 116 (a) Ensuring an affordable energy supply.
- 117 (b) Ensuring adequate supply and capacity.
- 118 (c) Ensuring a secure and reliable energy supply.
- 119 (d) Minimizing energy cost volatility.
- 120 (e) Minimizing the negative impacts of energy production
 121 on the state's environment, social fabric, and the public health
 122 and welfare.
- 123 (f) Maximizing economic synergies for the state associated
 124 with its energy policy.

125 (g) Reducing the net export of energy expenditures.

126 (3) It is further the policy of the state ~~of Florida~~ to:

127 (a) Develop and promote the effective use of energy in the
 128 state, discourage all forms of energy waste, and recognize and
 129 address the potential of global climate change wherever
 130 possible.

131 (b) Play a leading role in developing and instituting
 132 energy management programs aimed at promoting energy
 133 conservation, energy security, and the reduction of greenhouse
 134 gas emissions.

135 (c) Include energy considerations in all state, regional,
 136 and local planning.

137 (d) Utilize and manage effectively energy resources used
 138 within state agencies.

139 (e) Encourage local governments to include energy
 140 considerations in all planning and to support their work in

141 promoting energy management programs.

142 (f) Include the full participation of citizens in the
143 development and implementation of energy programs.

144 (g) Consider in its decisions the energy needs of each
145 economic sector, including residential, industrial, commercial,
146 agricultural, and governmental uses, and reduce those needs
147 whenever possible.

148 (h) Promote energy education and the public dissemination
149 of information on energy and its environmental, economic, and
150 social impact.

151 (i) Encourage the research, development, demonstration,
152 and application of alternative energy resources, particularly
153 renewable energy resources.

154 (j) Consider, in its decisionmaking, the social, economic,
155 and environmental impacts of energy-related activities,
156 including the whole-life-cycle impacts of any potential energy
157 use choices, so that detrimental effects of these activities are
158 understood and minimized.

159 (k) Develop and maintain energy emergency preparedness
160 plans to minimize the effects of an energy shortage within
161 Florida.

162 Section 2. Subsection (1) and paragraph (f) of subsection
163 (2) of section 377.703, Florida Statutes, is amended to read:

164 377.703 Additional functions of the Florida Energy and
165 Climate Commission.—

166 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and
167 demand questions have become a major area of concern to the
168 state which must be dealt with by effective and well-coordinated

169 state action, it is the intent of the Legislature to promote the
 170 efficient, effective, and economical management of energy
 171 problems, centralize energy coordination responsibilities,
 172 pinpoint responsibility for conducting energy programs, and
 173 ensure the accountability of state agencies for the
 174 implementation of s. 377.601~~(2)~~, the state energy policy. It is
 175 the specific intent of the Legislature that nothing in this act
 176 shall in any way change the powers, duties, and responsibilities
 177 assigned by the Florida Electrical Power Plant Siting Act, part
 178 II of chapter 403, or the powers, duties, and responsibilities
 179 of the Florida Public Service Commission.

180 (2) FLORIDA ENERGY AND CLIMATE COMMISSION; DUTIES.—The
 181 commission shall perform the following functions consistent with
 182 the development of a state energy policy:

183 (f) The commission shall submit an annual report to the
 184 Governor and the Legislature reflecting its activities and
 185 making recommendations of policies for improvement of the
 186 state's response to energy supply and demand and its effect on
 187 the health, safety, and welfare of the people of Florida. The
 188 report shall include a report from the Florida Public Service
 189 Commission on electricity and natural gas and information on
 190 energy conservation programs conducted and underway in the past
 191 year and shall include recommendations for energy conservation
 192 programs for the state, including, but not limited to, the
 193 following factors:

194 1. Formulation of specific recommendations for improvement
 195 in the efficiency of energy utilization in governmental,
 196 residential, commercial, industrial, and transportation sectors.

197 2. Collection and dissemination of information relating to
198 energy conservation.

199 3. Development and conduct of educational and training
200 programs relating to energy conservation.

201 4. An analysis of the ways in which state agencies are
202 seeking to implement s. 377.601~~(2)~~, the state energy policy, and
203 recommendations for better fulfilling this policy.

204 Section 3. Paragraph (ccc) of subsection (7) of section
205 212.08, Florida Statutes, is amended to read:

206 212.08 Sales, rental, use, consumption, distribution, and
207 storage tax; specified exemptions.—The sale at retail, the
208 rental, the use, the consumption, the distribution, and the
209 storage to be used or consumed in this state of the following
210 are hereby specifically exempt from the tax imposed by this
211 chapter.

212 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
213 entity by this chapter do not inure to any transaction that is
214 otherwise taxable under this chapter when payment is made by a
215 representative or employee of the entity by any means,
216 including, but not limited to, cash, check, or credit card, even
217 when that representative or employee is subsequently reimbursed
218 by the entity. In addition, exemptions provided to any entity by
219 this subsection do not inure to any transaction that is
220 otherwise taxable under this chapter unless the entity has
221 obtained a sales tax exemption certificate from the department
222 or the entity obtains or provides other documentation as
223 required by the department. Eligible purchases or leases made
224 with such a certificate must be in strict compliance with this

225 subsection and departmental rules, and any person who makes an
 226 exempt purchase with a certificate that is not in strict
 227 compliance with this subsection and the rules is liable for and
 228 shall pay the tax. The department may adopt rules to administer
 229 this subsection.

230 (ccc) Equipment, machinery, and other materials for
 231 renewable energy technologies.—

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

233 a. "Biodiesel" means the mono-alkyl esters of long-chain
 234 fatty acids derived from plant or animal matter for use as a
 235 source of energy and meeting the specifications for biodiesel
 236 and biodiesel blends with petroleum products as adopted by the
 237 Department of Agriculture and Consumer Services. Biodiesel may
 238 refer to biodiesel blends designated BXX, where XX represents
 239 the volume percentage of biodiesel fuel in the blend.

240 b. "Electric-powered automobile" means an automobile
 241 powered solely by electricity that is approved by the Federal
 242 Government for highway travel.

243 ~~c.~~ "Ethanol" means an anhydrous denatured alcohol
 244 produced by the conversion of carbohydrates meeting the
 245 specifications for fuel ethanol and fuel ethanol blends with
 246 petroleum products as adopted by the Department of Agriculture
 247 and Consumer Services. Ethanol may refer to fuel ethanol blends
 248 designated EXX, where XX represents the volume percentage of
 249 fuel ethanol in the blend.

250 ~~d.~~ "Hydrogen fuel cells" means equipment using hydrogen
 251 or a hydrogen-rich fuel in an electrochemical process to
 252 generate energy, electricity, or the transfer of heat.

253 e. "Natural gas vehicle" means an automobile or other
 254 motor vehicle powered by natural gas or compressed natural gas.

255 2. The sale or use of the following in the state is exempt
 256 from the tax imposed by this chapter:

257 a. Natural gas vehicles, compressed natural gas fueling
 258 stations, electric-powered automobiles, and electric-fueling
 259 stations for automobiles, up to a limit of \$2 million in tax
 260 each state fiscal year for all taxpayers ~~Hydrogen-powered~~
 261 ~~vehicles, materials incorporated into hydrogen-powered vehicles,~~
 262 ~~and hydrogen-fueling stations, up to a limit of \$2 million in~~
 263 ~~tax each state fiscal year for all taxpayers.~~

264 b. Commercial stationary hydrogen fuel cells, up to a
 265 limit of \$1 million in tax each state fiscal year for all
 266 taxpayers.

267 c. Materials used in the distribution of biodiesel (B10-
 268 B100) and ethanol (E10-E100), including fueling infrastructure,
 269 transportation, and storage, up to a limit of \$1 million in tax
 270 each state fiscal year for all taxpayers. Gasoline fueling
 271 station pump retrofits for ethanol (E10-E100) distribution
 272 qualify for the exemption provided in this sub-subparagraph.

273 3. The Florida Energy and Climate Commission shall provide
 274 to the department a list of items eligible for the exemption
 275 provided in this paragraph.

276 4.a. The exemption provided in this paragraph shall be
 277 available to a purchaser only through a refund of previously
 278 paid taxes. An eligible item is subject to refund one time. A
 279 person who has received a refund on an eligible item shall
 280 notify the next purchaser of the item that such item is no

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281 longer eligible for a refund of paid taxes. This notification
282 shall be provided to each subsequent purchaser on the sales
283 invoice or other proof of purchase.

284 b. To be eligible to receive the exemption provided in
285 this paragraph, a purchaser shall file an application with the
286 Florida Energy and Climate Commission. The application shall be
287 developed by the Florida Energy and Climate Commission, in
288 consultation with the department, and shall require:

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

291 (II) A specific description of the purchase for which a
292 refund is sought, including, when applicable, a serial number or
293 other permanent identification number.

294 (III) The sales invoice or other proof of purchase showing
295 the amount of sales tax paid, the date of purchase, and the name
296 and address of the sales tax dealer from whom the property was
297 purchased.

298 (IV) A sworn statement that the information provided is
299 accurate and that the requirements of this paragraph have been
300 met.

301 c. Within 30 days after receipt of an application, the
302 Florida Energy and Climate Commission shall review the
303 application and shall notify the applicant of any deficiencies.
304 Upon receipt of a completed application, the Florida Energy and
305 Climate Commission shall evaluate the application for exemption
306 and issue a written certification that the applicant is eligible
307 for a refund or issue a written denial of such certification
308 within 60 days after receipt of the application. The Florida

309 Energy and Climate Commission shall provide the department with
 310 a copy of each certification issued upon approval of an
 311 application.

312 d. Each certified applicant shall be responsible for
 313 forwarding a certified copy of the application and copies of all
 314 required documentation to the department within 6 months after
 315 certification by the Florida Energy and Climate Commission.

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

318 f. The Florida Energy and Climate Commission may adopt the
 319 form for the application for a certificate, requirements for the
 320 content and format of information submitted to the Florida
 321 Energy and Climate Commission in support of the application,
 322 other procedural requirements, and criteria by which the
 323 application will be determined by rule. The department may adopt
 324 all other rules pursuant to ss. 120.536(1) and 120.54 to
 325 administer this paragraph, including rules establishing
 326 additional forms and procedures for claiming this exemption.

327 g. The Florida Energy and Climate Commission shall be
 328 responsible for ensuring that the total amounts of the
 329 exemptions authorized do not exceed the limits as specified in
 330 subparagraph 2.

331 5. The Florida Energy and Climate Commission shall
 332 determine and publish on a regular basis the amount of sales tax
 333 funds remaining in each fiscal year.

334 6. This paragraph expires July 1, 2016 ~~2010~~.

335 Section 4. Paragraph (c) of subsection (1) of section
 336 220.192, Florida Statutes, is amended, paragraph (f) of that

337 subsection is redesignated as paragraph (g), a new paragraph (f)
 338 is added to that subsection, and subsections (2), (4), and (5)
 339 of that section are amended, to read:

340 220.192 Renewable energy technologies investment tax
 341 credit.—

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

343 (c) "Eligible costs" means:

344 1. Seventy-five percent of all capital costs, operation
 345 and maintenance costs, and research and development costs
 346 incurred between July 1, 2006, and June 30, 2016 ~~2010~~, up to a
 347 limit of \$3 million per state fiscal year for all taxpayers, in
 348 connection with an investment in hydrogen-powered vehicles and
 349 hydrogen vehicle fueling stations in the state, including, but
 350 not limited to, the costs of constructing, installing, and
 351 equipping such technologies in the state.

352 2. Seventy-five percent of all capital costs, operation
 353 and maintenance costs, and research and development costs
 354 incurred between July 1, 2006, and June 30, 2016 ~~2010~~, up to a
 355 limit of \$1.5 million per state fiscal year for all taxpayers,
 356 and limited to a maximum of \$12,000 per fuel cell, in connection
 357 with an investment in commercial stationary hydrogen fuel cells
 358 in the state, including, but not limited to, the costs of
 359 constructing, installing, and equipping such technologies in the
 360 state.

361 3. Seventy-five percent of all capital costs, operation
 362 and maintenance costs, and research and development costs
 363 incurred between July 1, 2006, and June 30, 2016 ~~2010~~, up to a
 364 limit of \$6 ~~\$6.5~~ million per state fiscal year for all

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365 taxpayers, in connection with an investment in the production,
366 storage, and distribution of biodiesel (B10-B100) and ethanol
367 (E10-E100) in the state, including the costs of constructing,
368 installing, and equipping such technologies in the state.
369 Gasoline fueling station pump retrofits for ethanol (E10-E100)
370 distribution qualify as an eligible cost under this
371 subparagraph.

372 4. Fifty percent of all capital costs incurred between
373 July 1, 2010, and June 30, 2016, in connection with an
374 investment in solar energy systems in the state, up to a limit
375 of \$500,000 per system and up to a limit of \$7.5 million per
376 state fiscal year for all taxpayers. To be eligible, such system
377 must comply with state interconnection standards as provided by
378 the Public Service Commission. The eligible costs shall be
379 reapportioned equally over 5 years.

380 (f) "Solar energy system" means equipment that provides
381 for the collection and use of incident solar energy for water
382 heating, space heating or cooling, or other applications that
383 would normally require a conventional source of energy such as
384 petroleum products, natural gas, or electricity that performs
385 primarily with solar energy. In other systems in which solar
386 energy is used in a supplemental way, only those components that
387 collect and transfer solar energy are included in this
388 definition.

389 (2) TAX CREDIT.—

390 (a) For tax years beginning on or after January 1, 2007, a
391 credit against the tax imposed by this chapter shall be granted
392 in an amount equal to the eligible costs defined in

393 subparagraphs (1)(c)1.-3. Such credits may be used in tax years
 394 beginning January 1, 2007, and ending December 31, ~~2016~~ 2010,
 395 after which the credit shall expire. If the credit is not fully
 396 used in any one tax year because of insufficient tax liability
 397 on the part of the corporation, the unused amount may be carried
 398 forward and used in tax years beginning January 1, 2007, and
 399 ending December 31, ~~2018~~ 2012, after which the credit carryover
 400 expires and may not be used. A taxpayer that files a
 401 consolidated return in this state as a member of an affiliated
 402 group under s. 220.131(1) may be allowed the credit on a
 403 consolidated return basis up to the amount of tax imposed upon
 404 the consolidated group. Any eligible cost for which a credit is
 405 claimed and which is deducted or otherwise reduces federal
 406 taxable income shall be added back in computing adjusted federal
 407 income under s. 220.13.

408 (b) For tax years beginning on or after January 1, 2010, a
 409 credit against the tax imposed by this chapter shall be granted
 410 in an amount equal to the eligible costs defined in subparagraph
 411 (1)(c)4. Such credits may be used in tax years beginning January
 412 1, 2010, and ending December 31, 2016, after which the credit
 413 shall expire. If the credit is not fully used in any one tax
 414 year because of insufficient tax liability on the part of the
 415 corporation, the unused amount may be carried forward and used
 416 in tax years beginning January 1, 2010, and ending December 31,
 417 2021, after which the credit carryover expires and may not be
 418 used. A taxpayer that files a consolidated return in this state
 419 as a member of an affiliated group under s. 220.131(1) may be
 420 allowed the credit on a consolidated return basis up to the

421 amount of tax imposed upon the consolidated group. Any eligible
 422 cost for which a credit is claimed and which is deducted or
 423 otherwise reduces federal taxable income shall be added back in
 424 computing adjusted federal income under s. 220.13.

425 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
 426 this section, each taxpayer must apply to the Florida Energy and
 427 Climate Commission ~~Department of Environmental Protection~~ for an
 428 allocation of each type of annual credit by the date established
 429 by the Florida Energy and Climate Commission ~~Department of~~
 430 ~~Environmental Protection~~. The application form may be
 431 established by the Florida Energy and Climate Commission
 432 ~~Department of Environmental Protection~~ and shall include an
 433 affidavit from each taxpayer certifying that all information
 434 contained in the application, including all records of eligible
 435 costs claimed as the basis for the tax credit, are true and
 436 correct. Approval of the credits under this section shall be
 437 accomplished on a first-come, first-served basis, based upon the
 438 date complete applications are received by the Florida Energy
 439 and Climate Commission ~~Department of Environmental Protection~~. A
 440 taxpayer shall submit only one complete application based upon
 441 eligible costs incurred within a particular state fiscal year.
 442 Incomplete placeholder applications will not be accepted and
 443 will not secure a place in the first-come, first-served
 444 application line. If a taxpayer does not receive a tax credit
 445 allocation due to the exhaustion of the annual tax credit
 446 authorizations, then such taxpayer may reapply in the following
 447 year for those eligible costs and will have priority over other
 448 applicants for the allocation of credits.

449 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
 450 CREDITS.—

451 (a) In addition to its existing audit and investigation
 452 authority, the Department of Revenue may perform any additional
 453 financial and technical audits and investigations, including
 454 examining the accounts, books, and records of the tax credit
 455 applicant, that are necessary to verify the eligible costs
 456 included in the tax credit return and to ensure compliance with
 457 this section. The Florida Energy and Climate Commission
 458 ~~Department of Environmental Protection~~ shall provide technical
 459 assistance when requested by the Department of Revenue on any
 460 technical audits or examinations performed pursuant to this
 461 section.

462 (b) It is grounds for forfeiture of previously claimed and
 463 received tax credits if the Department of Revenue determines, as
 464 a result of either an audit or examination or from information
 465 received from the Florida Energy and Climate Commission
 466 ~~Department of Environmental Protection~~, that a taxpayer received
 467 tax credits pursuant to this section to which the taxpayer was
 468 not entitled. The taxpayer is responsible for returning
 469 forfeited tax credits to the Department of Revenue, and such
 470 funds shall be paid into the General Revenue Fund of the state.

471 (c) The Florida Energy and Climate Commission ~~Department~~
 472 ~~of Environmental Protection~~ may revoke or modify any written
 473 decision granting eligibility for tax credits under this section
 474 if it is discovered that the tax credit applicant submitted any
 475 false statement, representation, or certification in any
 476 application, record, report, plan, or other document filed in an

477 attempt to receive tax credits under this section. The Florida
 478 Energy and Climate Commission ~~Department of Environmental~~
 479 ~~Protection~~ shall immediately notify the Department of Revenue of
 480 any revoked or modified orders affecting previously granted tax
 481 credits. Additionally, the taxpayer must notify the Department
 482 of Revenue of any change in its tax credit claimed.

483 (d) The taxpayer shall file with the Department of Revenue
 484 an amended return or such other report as the Department of
 485 Revenue prescribes by rule and shall pay any required tax and
 486 interest within 60 days after the taxpayer receives notification
 487 from the Florida Energy and Climate Commission ~~Department of~~
 488 ~~Environmental Protection~~ that previously approved tax credits
 489 have been revoked or modified. If the revocation or modification
 490 order is contested, the taxpayer shall file an amended return or
 491 other report as provided in this paragraph within 60 days after
 492 a final order is issued following proceedings.

493 (e) A notice of deficiency may be issued by the Department
 494 of Revenue at any time within 3 years after the taxpayer
 495 receives formal notification from the Florida Energy and Climate
 496 Commission ~~Department of Environmental Protection~~ that
 497 previously approved tax credits have been revoked or modified.
 498 If a taxpayer fails to notify the Department of Revenue of any
 499 changes to its tax credit claimed, a notice of deficiency may be
 500 issued at any time.

501 Section 5. Paragraphs (b) and (g) of subsection (3) of
 502 section 220.193, Florida Statutes, are amended to read:

503 220.193 Florida renewable energy production credit.—

504 (3) An annual credit against the tax imposed by this

505 section shall be allowed to a taxpayer, based on the taxpayer's
 506 production and sale of electricity from a new or expanded
 507 Florida renewable energy facility. For a new facility, the
 508 credit shall be based on the taxpayer's sale of the facility's
 509 entire electrical production. For an expanded facility, the
 510 credit shall be based on the increases in the facility's
 511 electrical production that are achieved after May 1, 2006.

512 (b) The credit may be claimed for electricity produced and
 513 sold on or after January 1, 2007. Beginning in 2008 and
 514 continuing until 2017 ~~2011~~, each taxpayer claiming a credit
 515 under this section must first apply to the department by
 516 February 1 of each year for an allocation of available credit.
 517 The department, in consultation with the commission, shall
 518 develop an application form. The application form shall, at a
 519 minimum, require a sworn affidavit from each taxpayer certifying
 520 the increase in production and sales that form the basis of the
 521 application and certifying that all information contained in the
 522 application is true and correct.

523 (g) Notwithstanding any other provision of this section,
 524 credits for the production and sale of electricity from a new or
 525 expanded Florida renewable energy facility may be earned between
 526 January 1, 2007, and June 30, 2016 ~~2010~~. The combined total
 527 amount of tax credits which may be granted for all taxpayers
 528 under this section is limited to \$5 million per state fiscal
 529 year.

530 Section 6. Section 366.02, Florida Statutes, is amended to
 531 read:

532 366.02 Definitions.—As used in this chapter, the term:

533 (1) "Public utility" means every person, corporation,
 534 partnership, association, or other legal entity and their
 535 lessees, trustees, or receivers supplying electricity or gas
 536 (natural, manufactured, or similar gaseous substance) to or for
 537 the public within this state.~~;~~ ~~but~~ The term "~~public utility~~"
 538 does not include: ~~either~~

539 (a) A cooperative now or hereafter organized and existing
 540 under the Rural Electric Cooperative Law of the state.~~;~~

541 (b) A municipality or any agency thereof.~~;~~

542 (c) Any dependent or independent special natural gas
 543 district.~~;~~

544 (d) Any natural gas transmission pipeline company making
 545 only sales or transportation delivery of natural gas at
 546 wholesale and to direct industrial consumers.~~;~~

547 (e) Any entity selling or arranging for sales of natural
 548 gas which neither owns nor operates natural gas transmission or
 549 distribution facilities within the state.~~;~~ ~~or~~

550 (f) A person supplying liquefied petroleum gas, in either
 551 liquid or gaseous form, irrespective of the method of
 552 distribution or delivery, or owning or operating facilities
 553 beyond the outlet of a meter through which natural gas is
 554 supplied for compression and delivery into motor vehicle fuel
 555 tanks or other transportation containers, unless such person
 556 also supplies electricity or manufactured or natural gas.

557 (g) The developer of a solar energy generation facility
 558 that has a gross power rating of 2 megawatts or less, is located
 559 on the premises of a host consumer, and supplies electricity
 560 exclusively for sale to the host consumer for consumption only

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561 on such premises and contiguous property owned or leased by the
 562 host consumer, regardless of interruptions in contiguity caused
 563 by easements, public thoroughfares, transportation rights-of-
 564 way, or utility rights-of-way, except if such premises or
 565 contiguous property includes a multifamily residential building.

566 (2) "Electric utility" means any municipal electric
 567 utility, investor-owned electric utility, or rural electric
 568 cooperative which owns, maintains, or operates an electric
 569 generation, transmission, or distribution system within the
 570 state.

571 (3) "Commission" means the Florida Public Service
 572 Commission.

573 Section 7. Section 366.90, Florida Statutes, is created to
 574 read:

575 366.90 Renewable energy for electricity production.—In
 576 furtherance of the energy policy goals established in s.
 577 377.601, the Legislature finds that it is in the public interest
 578 to promote the development of renewable energy resources in the
 579 state, for purposes of electricity production, through the
 580 mechanisms established in ss. 366.91 and 366.92. The Legislature
 581 further finds that renewable energy resources have the potential
 582 to help diversify fuel types to alleviate the state's growing
 583 dependence on natural gas and other fossil fuels for the
 584 production of electricity, minimize the volatility of fuel
 585 costs, encourage investment within the state, improve
 586 environmental conditions, and make the state a leader in new and
 587 innovative technologies.

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588 Section 8. Section 366.91, Florida Statutes, is amended to
589 read:

590 366.91 Renewable energy.—

591 ~~(1) The Legislature finds that it is in the public~~
592 ~~interest to promote the development of renewable energy~~
593 ~~resources in this state. Renewable energy resources have the~~
594 ~~potential to help diversify fuel types to meet Florida's growing~~
595 ~~dependency on natural gas for electric production, minimize the~~
596 ~~volatility of fuel costs, encourage investment within the state,~~
597 ~~improve environmental conditions, and make Florida a leader in~~
598 ~~new and innovative technologies.~~

599 (1)~~(2)~~ As used in this section, the term:

600 (a) "Biomass" means a power source that is comprised of,
601 but not limited to, combustible residues or gases from forest
602 products manufacturing, waste, byproducts, or products from
603 agricultural and orchard crops, waste or coproducts from
604 livestock and poultry operations, waste or byproducts from food
605 processing, recycling byproducts, urban wood waste, municipal
606 solid waste, municipal liquid waste treatment operations, and
607 landfill gas.

608 (b) "Customer-owned renewable generation" means an
609 electric generating system located on a customer's premises that
610 is primarily intended to offset part or all of the customer's
611 electricity requirements with renewable energy.

612 (c) "Net metering" means a metering and billing
613 methodology whereby customer-owned renewable generation is
614 allowed to offset the customer's electricity consumption on
615 site.

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616 (d) "Renewable energy" means electrical energy produced
617 from a method that uses one or more of the following fuels or
618 energy sources: hydrogen produced from sources other than fossil
619 fuels, biomass, solar energy, geothermal energy, wind energy,
620 ocean energy, and hydroelectric power. The term includes the
621 alternative energy resource, waste heat, from sulfuric acid
622 manufacturing operations and electrical energy produced using
623 pipeline-quality synthetic gas produced from waste petroleum
624 coke with carbon capture and sequestration.

625 ~~(2) (a) (3)~~ On or before July 1, 2010 ~~January 1, 2006~~, each
626 public utility must continuously offer to a purchase and must
627 purchase contract to producers of renewable energy at the full
628 avoided cost calculated as provided in paragraph (5) (b), upon
629 request of a renewable energy producer that meets the operating
630 requirements of paragraph (4) (a) or paragraph (4) (b). The
631 commission ~~may shall~~ establish by rule requirements relating to
632 the purchase of renewable energy capacity and energy by public
633 utilities from renewable energy producers ~~and may adopt rules to~~
634 ~~administer this section. The contract shall contain payment~~
635 ~~provisions for energy and capacity which are based upon the~~
636 ~~utility's full avoided costs, as defined in s. 366.051; however,~~
637 ~~capacity payments are not required if, due to the operational~~
638 ~~characteristics of the renewable energy generator or the~~
639 ~~anticipated peak and off-peak availability and capacity factor~~
640 ~~of the utility's avoided unit, the producer is unlikely to~~
641 ~~provide any capacity value to the utility or the electric grid~~
642 ~~during the contract term. Each contract must provide a contract~~
643 ~~term of at least 10 years.~~ Prudent and reasonable costs

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644 associated with the purchase of a renewable energy contract
645 shall be recoverable ~~recovered~~ from the ratepayers of the
646 purchasing ~~contracting~~ utility, without differentiation among
647 customer classes, through the appropriate cost-recovery clause
648 mechanism administered by the commission.

649 (b) Effective July 1, 2010, a renewable energy producer
650 that meets the operating requirements in paragraph (4) (a) or
651 paragraph (4) (b) is entitled to sell electrical energy to a
652 public utility at full avoided cost calculated as provided in
653 paragraph (5) (b).

654 (3) ~~(4)~~ On or before January 1, 2006, each municipal
655 electric utility and rural electric cooperative whose annual
656 sales, as of July 1, 1993, to retail customers were greater than
657 2,000 gigawatt hours must continuously offer a purchase contract
658 to producers of renewable energy containing payment provisions
659 for energy and capacity which are based upon the utility's or
660 cooperative's full avoided costs, as determined by the governing
661 body of the municipal utility or cooperative; however, capacity
662 payments are not required if, due to the operational
663 characteristics of the renewable energy generator or the
664 anticipated peak and off-peak availability and capacity factor
665 of the utility's avoided unit, the producer is unlikely to
666 provide any capacity value to the utility or the electric grid
667 during the contract term. Each contract must provide a contract
668 term of at least 10 years.

669 (4) (a) A renewable energy producer that generates and
670 delivers to the grid a fixed amount of electrical capacity at a
671 rate of production, such that the amount of energy produced per

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672 1 megawatt of fixed capacity is 7,000 megawatt hours or more per
673 year, is entitled to sell to any public utility at full avoided
674 cost such fixed amount of capacity and energy.

675 (b) A renewable energy producer that generates electrical
676 energy using waste heat from sulfuric acid manufacturing
677 operations, such that the amount of electrical energy produced
678 at the site per 1 megawatt of system generating capacity is
679 5,500 megawatt hours or more per year and that exports less than
680 50 percent of the total electrical energy produced to the grid,
681 is entitled to sell to any public utility at full avoided cost
682 any excess energy up to an amount equal to the energy used to
683 serve its own requirements.

684 (5) (a) The Legislature finds that, based on analysis of
685 past, current, and future projections of retail electric rates,
686 a high degree of correlation exists between the retail electric
687 rates of public utilities in the state and avoided cost. The
688 Legislature further finds that 80 percent of the weighted
689 average of firm service retail electric rates of each public
690 utility, including all adjustment, recovery, and similar add-on
691 charges, directly correlates with each utility's full avoided
692 cost for acquiring energy from renewable energy producers that
693 meet the operating requirements of paragraph (4) (a) or paragraph
694 (4) (b) and that this 80-percent calculation is an
695 administratively efficient, transparent, prudent, and preferred
696 methodology for calculating full avoided cost.

697 (b) The full avoided cost to which such renewable energy
698 producers are entitled shall be calculated by multiplying 0.80
699 by the weighted average of firm service retail electric rates in

700 cents per kilowatt hour, including all adjustment, recovery, and
 701 similar add-on charges, of the purchasing utility.

702 (6)~~(5)~~ On or before January 1, 2009, each public utility
 703 shall develop a standardized interconnection agreement and net
 704 metering program for customer-owned renewable generation. The
 705 commission shall establish requirements relating to the
 706 expedited interconnection and net metering of customer-owned
 707 renewable generation by public utilities and may adopt rules to
 708 administer this section.

709 (7)~~(6)~~ On or before July 1, 2009, each municipal electric
 710 utility and each rural electric cooperative that sells
 711 electricity at retail shall develop a standardized
 712 interconnection agreement and net metering program for customer-
 713 owned renewable generation. Each governing authority shall
 714 establish requirements relating to the expedited interconnection
 715 and net metering of customer-owned generation. By April 1 of
 716 each year, each municipal electric utility and rural electric
 717 cooperative utility serving retail customers shall file a report
 718 with the commission detailing customer participation in the
 719 interconnection and net metering program, including, but not
 720 limited to, the number and total capacity of interconnected
 721 generating systems and the total energy net metered in the
 722 previous year.

723 (8)~~(7)~~ Under the provisions of subsections (6) and (7) ~~(5)~~
 724 ~~and (6)~~, when a utility purchases power generated from biogas
 725 produced by the anaerobic digestion of agricultural waste,
 726 including food waste or other agricultural byproducts, net
 727 metering shall be available at a single metering point or as a

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728 part of conjunctive billing of multiple points for a customer at
 729 a single location, so long as the provision of such service and
 730 its associated charges, terms, and other conditions are not
 731 reasonably projected to result in higher cost electric service
 732 to the utility's general body of ratepayers or adversely affect
 733 the adequacy or reliability of electric service to all
 734 customers, as determined by the commission for public utilities,
 735 or as determined by the governing authority of the municipal
 736 electric utility or rural electric cooperative that serves at
 737 retail.

738 (9)~~(8)~~ A ~~contracting producer of~~ renewable energy producer
 739 must pay the actual costs of its interconnection with the
 740 transmission grid or distribution system.

741 (10) An action taken by the commission under this section
 742 is not an action relating to rates or services of utilities
 743 providing electrical service.

744 Section 9. Section 366.92, Florida Statutes, is amended to
 745 read:

746 366.92 Florida renewable energy policy.—

747 ~~(1) It is the intent of the Legislature to promote the~~
 748 ~~development of renewable energy; protect the economic viability~~
 749 ~~of Florida's existing renewable energy facilities; diversify the~~
 750 ~~types of fuel used to generate electricity in Florida; lessen~~
 751 ~~Florida's dependence on natural gas and fuel oil for the~~
 752 ~~production of electricity; minimize the volatility of fuel~~
 753 ~~costs; encourage investment within the state; improve~~
 754 ~~environmental conditions; and, at the same time, minimize the~~
 755 ~~costs of power supply to electric utilities and their customers.~~

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756 (1)~~(2)~~ As used in this section, the term:

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

759 (a)~~(b)~~ "Provider" means a "utility" as defined in s.
760 366.8255(1) (a).

761 (b)~~(e)~~ "Renewable energy" means renewable energy as
762 defined in s. 366.91~~(2)~~(d) that is produced in the state.

763 ~~(d) "Renewable energy credit" or "REC" means a product~~
764 ~~that represents the unbundled, separable, renewable attribute of~~
765 ~~renewable energy produced in Florida and is equivalent to 1~~
766 ~~megawatt-hour of electricity generated by a source of renewable~~
767 ~~energy located in Florida.~~

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

772 ~~(3) The commission shall adopt rules for a renewable~~
773 ~~portfolio standard requiring each provider to supply renewable~~
774 ~~energy to its customers directly, by procuring, or through~~
775 ~~renewable energy credits. In developing the RPS rule, the~~
776 ~~commission shall consult the Department of Environmental~~
777 ~~Protection and the Florida Energy and Climate Commission. The~~
778 ~~rule shall not be implemented until ratified by the Legislature.~~
779 ~~The commission shall present a draft rule for legislative~~
780 ~~consideration by February 1, 2009.~~

781 ~~(a) In developing the rule, the commission shall evaluate~~
782 ~~the current and forecasted levelized cost in cents per kilowatt~~
783 ~~hour through 2020 and current and forecasted installed capacity~~

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784 ~~in kilowatts for each renewable energy generation method through~~
785 ~~2020.~~

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

787 ~~1. Shall include methods of managing the cost of~~
788 ~~compliance with the renewable portfolio standard, whether~~
789 ~~through direct supply or procurement of renewable power or~~
790 ~~through the purchase of renewable energy credits. The commission~~
791 ~~shall have rulemaking authority for providing annual cost~~
792 ~~recovery and incentive-based adjustments to authorized rates of~~
793 ~~return on common equity to providers to incentivize renewable~~
794 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~
795 ~~ratification of the rules developed pursuant to this subsection,~~
796 ~~the commission may approve projects and power sales agreements~~
797 ~~with renewable power producers and the sale of renewable energy~~
798 ~~credits needed to comply with the renewable portfolio standard.~~
799 ~~In the event of any conflict, this subparagraph shall supersede~~
800 ~~s. 366.91(3) and (4). However, nothing in this section shall~~
801 ~~alter the obligation of each public utility to continuously~~
802 ~~offer a purchase contract to producers of renewable energy.~~

803 ~~2. Shall provide for appropriate compliance measures and~~
804 ~~the conditions under which noncompliance shall be excused due to~~
805 ~~a determination by the commission that the supply of renewable~~
806 ~~energy or renewable energy credits was not adequate to satisfy~~
807 ~~the demand for such energy or that the cost of securing~~
808 ~~renewable energy or renewable energy credits was cost~~
809 ~~prohibitive.~~

810 ~~3. May provide added weight to energy provided by wind and~~
811 ~~solar photovoltaic over other forms of renewable energy, whether~~

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812 ~~directly supplied or procured or indirectly obtained through the~~
813 ~~purchase of renewable energy credits.~~

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

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

819 ~~6. Shall ensure that energy credited toward compliance~~
820 ~~with the requirements of this section is not credited toward any~~
821 ~~other purpose.~~

822 ~~7. Shall include procedures to track and account for~~
823 ~~renewable energy credits, including ownership of renewable~~
824 ~~energy credits that are derived from a customer-owned renewable~~
825 ~~energy facility as a result of any action by a customer of an~~
826 ~~electric power supplier that is independent of a program~~
827 ~~sponsored by the electric power supplier.~~

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

831 ~~(c) Beginning on April 1 of the year following final~~
832 ~~adoption of the commission's renewable portfolio standard rule,~~
833 ~~each provider shall submit a report to the commission describing~~
834 ~~the steps that have been taken in the previous year and the~~
835 ~~steps that will be taken in the future to add renewable energy~~
836 ~~to the provider's energy supply portfolio. The report shall~~
837 ~~state whether the provider was in compliance with the renewable~~
838 ~~portfolio standard during the previous year and how it will~~
839 ~~comply with the renewable portfolio standard in the upcoming~~

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840 year.

841 ~~(2)(4)~~ Subject to the provisions of this subsection ~~In~~
842 ~~order to demonstrate the feasibility and viability of clean~~
843 ~~energy systems,~~ the commission shall provide for full cost
844 recovery under the environmental cost-recovery clause of all
845 reasonable and prudent costs incurred by a provider to produce
846 or purchase for renewable energy for purposes of supplying
847 electrical energy to its retail customers ~~projects that are zero~~
848 ~~greenhouse gas emitting at the point of generation, up to a~~
849 ~~total of 110 megawatts statewide, and for which the provider has~~
850 ~~secured necessary land, zoning permits, and transmission rights~~
851 ~~within the state. Such costs shall be deemed reasonable and~~
852 ~~prudent for purposes of cost recovery so long as the provider~~
853 ~~has used reasonable and customary industry practices in the~~
854 ~~design, procurement, and construction of the project in a cost-~~
855 ~~effective manner appropriate to the location of the facility.~~
856 ~~The provider shall report to the commission as part of the cost-~~
857 ~~recovery proceedings the construction costs, in-service costs,~~
858 ~~operating and maintenance costs, hourly energy production of the~~
859 ~~renewable energy project, and any other information deemed~~
860 ~~relevant by the commission. Any provider constructing a clean~~
861 ~~energy facility pursuant to this section shall file for cost~~
862 ~~recovery no later than July 1, 2009.~~

863 (a) A provider may petition the commission through
864 December 31, 2013, for recovery of costs to produce or purchase
865 up to a total of 735 megawatts of renewable energy statewide,
866 subject to the cost cap in paragraph (d). If a provider does not
867 seek approval to produce or purchase the total amount of

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868 renewable energy capacity designated for a specific period under
869 this paragraph, the remaining capacity designated for that
870 period shall be carried forward to the succeeding period but not
871 beyond December 31, 2013. A provider may petition the
872 commission:

873 1. Beginning July 1, 2010, through December 31, 2011, for
874 recovery of costs to produce or purchase up to a total of 300
875 megawatts of renewable energy statewide and an additional 15
876 megawatts of rooftop or pole-mounted solar energy applications.

877 2. Beginning January 1, 2012, through December 31, 2012,
878 for recovery of costs to produce or purchase up to an additional
879 200 megawatts of renewable energy statewide and an additional 10
880 megawatts of rooftop or pole-mounted solar energy applications.

881 3. Beginning January 1, 2013, through December 31, 2013,
882 for recovery of costs to produce or purchase up to an additional
883 200 megawatts of renewable energy statewide and an additional 10
884 megawatts of rooftop or pole-mounted solar energy applications.

885 (b) In addition to the full cost recovery for such
886 renewable energy projects, a return on equity of at least 50
887 basis points above the top of the range of the provider's last
888 authorized rate of return on equity approved by the commission
889 for energy projects shall be approved and provided for such
890 renewable energy projects if a majority value of the energy-
891 producing components incorporated into such projects are
892 manufactured or assembled in the state.

893 (c) A provider has sole discretion to determine the type
894 and technology of the renewable energy resource that it intends
895 to use. A provider also has sole discretion to determine whether

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896 to construct new renewable energy generating facilities, convert
897 existing fossil fuel generating facilities to renewable energy
898 generating facilities, or contract for the purchase of renewable
899 energy from third-party generating facilities in the state.

900 (d) For the production or purchase of renewable energy
901 under this subsection, a provider may recover costs up to and in
902 excess of its full avoided cost, as defined in s. 366.051 and
903 approved by the commission, if the recovery of costs in excess
904 of the provider's full avoided cost does not at any time exceed
905 2 percent of the provider's total revenues from the retail sale
906 of electricity for calendar year 2009. For purposes of cost
907 recovery under this subsection, costs shall be computed using a
908 methodology that, for a renewable energy generating facility,
909 averages the revenue requirements of the facility over its
910 economic life and, for a renewable energy purchase, averages the
911 revenue requirements of the purchase over the life of the
912 contract.

913 (e) Cost recovery under this subsection is limited to new
914 construction or conversion projects for which construction is
915 commenced on or after July 1, 2010, and to purchases made on or
916 after that date. All renewable energy projects for which costs
917 are approved by the commission for recovery through the
918 environmental cost recovery clause before July 1, 2010, are not
919 subject to or included in the calculation of the cost cap.

920 (f) The costs incurred by a provider to produce or
921 purchase renewable energy under this subsection are deemed to be
922 prudent for purposes of cost recovery if the provider uses
923 reasonable and customary industry practices in the design,

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924 procurement, and construction of the project in a cost-effective
925 manner for the type of renewable energy resource and appropriate
926 to the location of the facility.

927 (g) Subject to the cost cap in paragraph (d), the
928 commission shall allow a provider to recover the costs
929 associated with the production or purchase of renewable energy
930 under this subsection as follows:

931 1. For new renewable energy generating facilities, the
932 commission shall allow recovery of reasonable and prudent costs,
933 including, but not limited to, the siting, licensing,
934 engineering, design, permitting, construction, operation, and
935 maintenance of such facilities, including any applicable taxes
936 and a return based on the provider's last authorized rate of
937 return.

938 2. For conversion of existing fossil fuel generating
939 facilities to renewable energy generating facilities, the
940 commission shall allow recovery of reasonable and prudent
941 conversion costs, including the costs of retirement of the
942 fossil fuel plant that exceed any amounts accrued by the
943 provider for such purposes through rates previously set by the
944 commission.

945 3. For purchase of renewable energy from third-party
946 generating facilities in the state, the commission shall allow
947 recovery of reasonable and prudent costs associated with the
948 purchase.

949 (h) In a proceeding to recover costs incurred under this
950 subsection, a provider must provide the commission all cost
951 information, hourly energy production information, and other

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952 information deemed relevant by the commission with respect to
953 each project.

954 (i) When a provider purchases renewable energy under this
955 subsection at a cost in excess of its full avoided cost, the
956 seller must surrender to the provider all renewable attributes
957 of the renewable energy purchased.

958 (j) Revenues derived from any renewable energy credit,
959 carbon credit, or other mechanism that attributes value to the
960 production of renewable energy, either existing or hereafter
961 devised, received by a provider by virtue of the production or
962 purchase of renewable energy for which cost recovery is approved
963 under this subsection shall be shared with the provider's
964 ratepayers such that the ratepayers are credited at least 75
965 percent of such revenues.

966 (k) Section 403.519 does not apply to a renewable energy
967 generating facility constructed or converted from an existing
968 fossil fuel generating facility under this subsection, and the
969 commission is not required to submit a report for such a project
970 under s. 403.507(4) (a).

971 (3) Each provider shall, in its 10-year site plan
972 submitted to the commission pursuant to s. 186.801, provide the
973 following information:

974 (a) The amount of renewable energy resources the provider
975 produces or purchases.

976 (b) The amount of renewable energy resources the provider
977 plans to produce or purchase over the 10-year planning horizon
978 and the means by which such production or purchases will be
979 achieved.

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980 (c) A statement indicating how the production and purchase
981 of renewable energy resources impact the provider's present and
982 future capacity and energy needs.

983 (4) (a) A developer of solar energy generation may locate a
984 solar energy generation facility that has a gross power rating
985 of 2 megawatts or less on the premises of a host consumer and
986 supply electricity exclusively for sale to the host consumer for
987 consumption only on the premises or contiguous property owned or
988 leased by the host consumer, regardless of interruptions in
989 contiguity caused by easements, public thoroughfares,
990 transportation rights-of-way, or utility rights-of-way, if such
991 premises or contiguous property does not include a multifamily
992 residential building.

993 (b) The commission shall adopt rules to implement this
994 subsection. In adopting such rules, the commission shall
995 establish, at a minimum:

996 1. Requirements related to interconnection and metering.

997 2. A mechanism for setting rates for any service provided
998 to the consumer by the utility if such service is required by
999 the consumer, which rates shall ensure that the utility's
1000 general body of ratepayers does not subsidize any redundant
1001 utility generating capacity necessary to serve the consumer.

1002 3. Requirements for notice to the commission of the size
1003 and location of each renewable energy generation facility
1004 planned under this subsection, the identity and historical and
1005 projected load characteristics of each host consumer, and any
1006 other information deemed necessary by the commission to satisfy
1007 its obligations under s. 364.04(5).

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1008 (c) Beginning January 1, 2011, and at least once every 6
 1009 months thereafter, the commission shall submit a report to the
 1010 Legislature of activity under this subsection, which shall
 1011 address the impacts of such activity on the electric power grid
 1012 of the state, individual utility systems, and each utility's
 1013 general body of ratepayers, and shall include recommendations
 1014 concerning implementation of this program.

1015 (5) Each municipal electric utility and rural electric
 1016 cooperative shall develop standards for the promotion,
 1017 encouragement, and expansion of the use of renewable energy
 1018 resources and energy conservation and efficiency measures. On or
 1019 before April 1, 2009, and annually thereafter, each municipal
 1020 electric utility and electric cooperative shall submit to the
 1021 commission a report that identifies such standards.

1022 (6) ~~Nothing in~~ This section and any action taken under
 1023 this section may not shall be construed to impede or impair the
 1024 terms and conditions of, or serve as a basis for renegotiating
 1025 or repricing, an existing contract contracts.

1026 (7) The commission may adopt rules to administer and
 1027 implement the provisions of this section.

1028 Section 10. Subsection (14) of section 403.503, Florida
 1029 Statutes, is amended to read:

1030 403.503 Definitions relating to Florida Electrical Power
 1031 Plant Siting Act.—As used in this act:

1032 (14) "Electrical power plant" means, for the purpose of
 1033 certification, any steam ~~or solar~~ electrical generating facility
 1034 using any process or fuel, including nuclear materials, except
 1035 that this term does not include any steam ~~or solar~~ electrical

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1036 | generating facility of less than 75 megawatts in capacity or any
 1037 | solar electrical generating facility of any sized capacity
 1038 | unless the applicant for such a facility elects to apply for
 1039 | certification under this act. This term also includes the site;
 1040 | all associated facilities that will be owned by the applicant
 1041 | that are physically connected to the site; all associated
 1042 | facilities that are indirectly connected to the site by other
 1043 | proposed associated facilities that will be owned by the
 1044 | applicant; and associated transmission lines that will be owned
 1045 | by the applicant which connect the electrical power plant to an
 1046 | existing transmission network or rights-of-way to which the
 1047 | applicant intends to connect. At the applicant's option, this
 1048 | term may include any offsite associated facilities that will not
 1049 | be owned by the applicant; offsite associated facilities that
 1050 | are owned by the applicant but that are not directly connected
 1051 | to the site; any proposed terminal or intermediate substations
 1052 | or substation expansions connected to the associated
 1053 | transmission line; or new transmission lines, upgrades, or
 1054 | improvements of an existing transmission line on any portion of
 1055 | the applicant's electrical transmission system necessary to
 1056 | support the generation injected into the system from the
 1057 | proposed electrical power plant.

1058 | Section 11. Section 288.9602, Florida Statutes, is amended
 1059 | to read:

1060 | 288.9602 Findings and declarations of necessity.—The
 1061 | Legislature finds and declares that:

1062 | (1) There is a need to enhance economic activity in the
 1063 | ~~cities and counties of the~~ state by attracting manufacturing,

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1064 development, redevelopment of brownfield areas, business
1065 enterprise management, and other activities conducive to
1066 economic promotion in order to provide a stronger, more
1067 balanced, and stable economy in the ~~eities and counties of the~~
1068 state.

1069 (2) A significant portion of businesses located in the
1070 ~~eities and counties of the~~ state or desiring to locate in the
1071 ~~eities and counties of the~~ state encounter difficulty in
1072 obtaining financing on terms competitive with those available to
1073 businesses located in other states and nations or are unable to
1074 obtain such financing at all.

1075 (3) The difficulty in obtaining such financing impairs the
1076 expansion of economic activity and the creation of jobs and
1077 income in communities throughout the state.

1078 (4) The businesses most often affected by these financing
1079 difficulties are small businesses critical to the economic
1080 development of the state ~~eities and counties of Florida~~.

1081 (5) The economic well-being of the people in, and the
1082 commercial and industrial resources of, ~~the eities and counties~~
1083 ~~of~~ the state would be enhanced by the provision of financing to
1084 businesses on terms competitive with those available in the most
1085 developed financial markets worldwide.

1086 (6) In order to improve the prosperity and welfare of ~~the~~
1087 ~~eities and counties of~~ this state and its inhabitants, to
1088 improve and promote the financing of projects related to the
1089 economic development of ~~the eities and counties of~~ this state,
1090 including redevelopment of brownfield areas, and to increase the
1091 purchasing power and opportunities for gainful employment of

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1092 citizens of ~~the cities and counties~~ of this state, it is
1093 necessary and in the public interest to facilitate the financing
1094 of such projects as provided for in this act and to do so
1095 without regard to the boundaries between counties,
1096 municipalities, special districts, and other local governmental
1097 bodies or agencies in order to more effectively and efficiently
1098 serve the interests of the greatest number of people in the
1099 widest area practicable.

1100 (7) In order to promote and stimulate development and
1101 advance the business prosperity and economic welfare of ~~the~~
1102 ~~cities and counties~~ of this state and its inhabitants; to
1103 encourage and assist new business and industry in this state
1104 through loans, investments, or other business transactions; to
1105 rehabilitate and assist existing businesses; to stimulate and
1106 assist in the expansion of all kinds of for-profit and not-for-
1107 profit business activity; and to create maximum opportunities
1108 for employment, encouragement of thrift, and improvement of the
1109 standard of living of the citizens of Florida, it is necessary
1110 and in the public interest to facilitate the cooperation and
1111 action between organizations, public and private, in the
1112 promotion, development, and conduct of all kinds of for-profit
1113 and not-for-profit business activity in the state.

1114 (8) In order to efficiently and effectively achieve the
1115 purposes of this act, it is necessary and in the public interest
1116 to create a special development finance authority to cooperate
1117 and act in conjunction with public agencies of this state and
1118 local governments of this state, through interlocal agreements
1119 pursuant to the Florida Interlocal Cooperation Act of 1969, in

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1120 the promotion and advancement of projects related to economic
 1121 development, including redevelopment of brownfield areas,
 1122 throughout the state.

1123 (9) The purposes to be achieved by the special development
 1124 finance authority through such projects and such financings of
 1125 business and industry in compliance with the criteria and the
 1126 requirements of this act are predominantly the public purposes
 1127 stated in this section, and such purposes implement the
 1128 governmental purposes under the State Constitution of providing
 1129 for the health, safety, and welfare of the people of the state,
 1130 ~~including implementing the purpose of s. 10(c), Art. VII of the~~
 1131 ~~State Constitution and simultaneously provide new and innovative~~
 1132 ~~means for the investment of public trust funds in accordance~~
 1133 ~~with s. 10(a), Art. VII of the State Constitution.~~

1134 Section 12. Subsections (6), (11), and (12) of section
 1135 288.9603, Florida Statutes, are amended to read:

1136 288.9603 Definitions.—

1137 (6) "Debt service" shall mean for any bonds issued by the
 1138 corporation or for any bonds or other form of indebtedness and
 1139 for which a guaranty has been issued pursuant to ss. 288.9606,
 1140 288.9607, and 288.9608, for any period for which such
 1141 determination is to be made, the aggregate amount of all
 1142 interest charges due or which shall become due on or with
 1143 respect to such bonds or indebtedness during the period for
 1144 which such determination is being made, plus the aggregate
 1145 amount of scheduled principal payments due or which shall become
 1146 due on or with respect to such bonds or indebtedness during the
 1147 period for which such determination is being made. Scheduled

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1148 principal payments may include only principal payments that are
 1149 scheduled as part of the terms of the original bond or
 1150 indebtedness issue and that result in the reduction of the
 1151 outstanding principal balance of the bonds or indebtedness.

1152 (11) "Guaranty agreement" means an agreement by and
 1153 between the corporation and an applicant ~~a public agency~~
 1154 pursuant to the provisions of s. 288.9607.

1155 (12) "Guaranty agreement fund" means the Energy,
 1156 Technology, and Economic Development Revenue Bond Guaranty Fund
 1157 ~~Reserve Account~~ established by the corporation pursuant to s.
 1158 288.9608.

1159 Section 13. Section 288.9604, Florida Statutes, is amended
 1160 to read:

1161 288.9604 Creation of the authority.—

1162 (1) ~~Upon a finding of necessity by a city or county of~~
 1163 ~~this state, selected pursuant to subsection (2),~~ There is
 1164 created a public body corporate and politic known as the
 1165 "Florida Development Finance Corporation." The corporation shall
 1166 be constituted as a public instrumentality ~~of local government,~~
 1167 and the exercise by the corporation of the powers conferred by
 1168 this act shall be deemed and held to be the performance of an
 1169 essential public function. The corporation has the power to
 1170 function within the corporate limits of any public agency with
 1171 which it has entered into an interlocal agreement for any of the
 1172 purposes of this act.

1173 ~~(2) A city or county of Florida shall be selected by a~~
 1174 ~~search committee of Enterprise Florida, Inc. This city or county~~
 1175 ~~shall be authorized to activate the corporation. The search~~

1176 ~~committee shall be composed of two commercial banking~~
 1177 ~~representatives, the Senate member of the partnership, the House~~
 1178 ~~of Representatives member of the partnership, and a member who~~
 1179 ~~is an industry or economic development professional.~~

1180 (2)~~(3)~~ Upon activation of the corporation, The Governor,
 1181 subject to confirmation by the Senate, shall appoint the board
 1182 of directors of the corporation, who shall be five in number.
 1183 The terms of office for the directors shall be for 4 years from
 1184 the date of their appointment. A vacancy occurring during a term
 1185 shall be filled for the unexpired term. A director shall be
 1186 eligible for reappointment. At least three of the directors of
 1187 the corporation shall be bankers who have been selected by the
 1188 Governor from a list of bankers who were nominated by Enterprise
 1189 Florida, Inc., and one of the directors shall be an economic
 1190 development specialist. The chairperson of the Florida Black
 1191 Business Investment Board shall be an ex officio member of the
 1192 board of the corporation.

1193 (3)~~(4)~~(a) A director shall receive no compensation for his
 1194 or her services, but is entitled to the necessary expenses,
 1195 including travel expenses, incurred in the discharge of his or
 1196 her duties. Each director shall hold office until his or her
 1197 successor has been appointed.

1198 (b) The powers of the corporation shall be exercised by
 1199 the directors thereof. A majority of the directors constitutes a
 1200 quorum for the purposes of conducting business and exercising
 1201 the powers of the corporation and for all other purposes. Action
 1202 may be taken by the corporation upon a vote of a majority of the
 1203 directors present, unless in any case the bylaws require a

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1204 larger number. Any person may be appointed as director if he or
1205 she resides, or is engaged in business, which means owning a
1206 business, practicing a profession, or performing a service for
1207 compensation or serving as an officer or director of a
1208 corporation or other business entity so engaged, within the
1209 state.

1210 (c) The directors of the corporation shall annually elect
1211 one of their members as chair and one as vice chair. The
1212 corporation may employ a president, technical experts, and such
1213 other agents and employees, permanent and temporary, as it
1214 requires and determine their qualifications, duties, and
1215 compensation. For such legal services as it requires, the
1216 corporation may employ or retain its own counsel and legal
1217 staff. The corporation shall file with the governing body of
1218 each public agency with which it has entered into an interlocal
1219 agreement and with the Governor, the Speaker of the House of
1220 Representatives, the President of the Senate, the Minority
1221 Leaders of the Senate and House of Representatives, and the
1222 Auditor General, on or before 90 days after the close of the
1223 fiscal year of the corporation, a report of its activities for
1224 the preceding fiscal year, which report shall include a complete
1225 financial statement setting forth its assets, liabilities,
1226 income, and operating expenses as of the end of such fiscal
1227 year.

1228 (4)~~(5)~~ The board may remove a director for inefficiency,
1229 neglect of duty, or misconduct in office only after a hearing
1230 and only if he or she has been given a copy of the charges at
1231 least 10 days before ~~prior to~~ such hearing and has had an

1232 opportunity to be heard in person or by counsel. The removal of
 1233 a director shall create a vacancy on the board which shall be
 1234 filled pursuant to subsection (4) ~~(3)~~.

1235 Section 14. Section 288.9605, Florida Statutes, is amended
 1236 to read:

1237 288.9605 Corporation powers.—

1238 (1) The powers of the corporation created by s. 288.9604
 1239 shall include all the powers necessary or convenient to carry
 1240 out and effectuate the purposes and provisions of this act.

1241 (2) The corporation is authorized and empowered to:

1242 (a) Have perpetual succession as a body politic and
 1243 corporate and adopt bylaws for the regulation of its affairs and
 1244 the conduct of its business.

1245 (b) Adopt an official seal and alter the same at its
 1246 pleasure.

1247 (c) Maintain an office at such place or places as it may
 1248 designate.

1249 (d) Sue and be sued in its own name and plead and be
 1250 impleaded.

1251 (e) Enter into interlocal agreements pursuant to s.
 1252 163.01(7) with public agencies of this state for the exercise of
 1253 any power, privilege, or authority consistent with the purposes
 1254 of this act.

1255 (f) Issue, from time to time, revenue bonds, notes, or
 1256 other evidence of indebtedness, including, but not limited to,
 1257 taxable bonds and bonds the interest on which is exempt from
 1258 federal income taxation, for the purpose of financing and
 1259 refinancing any capital projects that promote economic

1260 development within the state, thereby benefitting the citizens
 1261 of the state, for applicants and exercise all powers in
 1262 connection with the authorization, issuance, and sale of bonds,
 1263 subject to the provisions of s. 288.9606.

1264 (g) Issue bond anticipation notes in connection with the
 1265 authorization, issuance, and sale of such bonds, pursuant to the
 1266 provisions of s. 288.9606.

1267 (h) Make and execute contracts and other instruments
 1268 necessary or convenient to the exercise of its powers under the
 1269 act.

1270 (i) Disseminate information about itself and its
 1271 activities.

1272 (j) Acquire, by purchase, lease, option, gift, grant,
 1273 bequest, devise, or otherwise, real property, together with any
 1274 improvements thereon, or personal property for its
 1275 administrative purposes or in furtherance of the purposes of
 1276 this act, ~~together with any improvements thereon.~~

1277 (k) Hold, improve, clear, or prepare for development any
 1278 such property.

1279 (l) Mortgage, pledge, hypothecate, or otherwise encumber
 1280 or dispose of any real or personal property.

1281 (m) Insure or provide for insurance of any real or
 1282 personal property or operations of the corporation or any
 1283 private enterprise against any risks or hazards, including the
 1284 power to pay premiums on any such insurance.

1285 (n) Establish and fund a guaranty fund in furtherance of
 1286 the purposes of this act.

1287 (o) Invest funds held in reserve or sinking funds or any

1288 such funds not required for immediate disbursement in property
 1289 or securities in such manner as the board shall determine,
 1290 subject to the authorizing resolution on any bonds issued, and
 1291 to terms established in the investment agreement pursuant to ss.
 1292 288.9606, 288.9607, and 288.9608, and redeem such bonds as have
 1293 been issued pursuant to s. 288.9606 at the redemption price
 1294 established therein or purchase such bonds at less than
 1295 redemption price, all such bonds so redeemed or purchased to be
 1296 canceled.

1297 (p) Borrow money and apply for and accept advances, loans,
 1298 grants, contributions, and any other form of financial
 1299 assistance from the Federal Government or the state, county, or
 1300 other public agency ~~body~~ or from any sources, public or private,
 1301 for the purposes of this act and give such security as may be
 1302 required and enter into and carry out contracts or agreements in
 1303 connection therewith; and include in any contract for financial
 1304 assistance with the Federal Government or the state, county, or
 1305 other public agency for, or with respect to, any purposes under
 1306 this act and related activities such conditions imposed pursuant
 1307 to federal laws as the county or municipality or other public
 1308 agency deems reasonable and appropriate which are not
 1309 inconsistent with the provisions of this act.

1310 (q) Make or have all surveys and plans necessary for the
 1311 carrying out of the purposes of this act, contract with any
 1312 person, public or private, in making and carrying out such
 1313 plans, and adopt, approve, modify, and amend such plans.

1314 (r) Develop, test, and report methods and techniques and
 1315 carry out demonstrations and other activities for the promotion

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1316 of any of the purposes of this act.

1317 (s) Apply for, accept, and utilize grants from the Federal
 1318 Government or the state, county, or other public agency
 1319 available for any of the purposes of this act.

1320 (t) Make expenditures necessary to carry out the purposes
 1321 of this act.

1322 (u) Exercise all or any part or combination of powers
 1323 granted in this act.

1324 (v) Enter into investment agreements with the Florida
 1325 Black Business Investment Board concerning the issuance of bonds
 1326 and other forms of indebtedness and capital for the purposes of
 1327 ss. 288.707-288.714.

1328 (w) Determine the situations and circumstances for
 1329 participation in partnerships by agreement with local
 1330 governments, financial institutions, and others associated with
 1331 the redevelopment of brownfield areas pursuant to the
 1332 Brownfields Redevelopment Act for a limited state guaranty of
 1333 revenue bonds, loan guarantees, or loan loss reserves.

1334 Section 15. Subsections (3) and (5) of section 288.9606,
 1335 Florida Statutes, are amended, and subsection (7) is added to
 1336 that section, to read:

1337 288.9606 Issue of revenue bonds.—

1338 (3) Bonds issued under this section shall be authorized by
 1339 a public agency of this state pursuant to the terms of an
 1340 interlocal agreement, unless such bonds are issued pursuant to
 1341 subsection (7); may be issued in one or more series; and shall
 1342 bear such date or dates, be payable upon demand or mature at
 1343 such time or times, bear interest rate or rates, be in such

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1344 denomination or denominations, be in such form either with or
 1345 without coupon or registered, carry such conversion or
 1346 registration privileges, have such rank or priority, be executed
 1347 in such manner, be payable in such medium of payments at such
 1348 place or places, be subject to such terms of redemption, with or
 1349 without premium, be secured in such manner, and have such other
 1350 characteristics as may be provided by the corporation ~~interlocal~~
 1351 ~~agreement issued pursuant thereto~~. Bonds issued under this
 1352 section may be sold in such manner, either at public or private
 1353 sale, and for such price as the corporation may determine will
 1354 effectuate the purpose of this act.

1355 (5) In any suit, action, or proceeding involving the
 1356 validity or enforceability of any bond issued under this act, or
 1357 the security therefor, any such bond reciting in substance that
 1358 it has been issued by the corporation in connection with any
 1359 purpose of the act shall be conclusively deemed to have been
 1360 issued for such purpose, and such purpose shall be conclusively
 1361 deemed to have been carried out in accordance with the act. The
 1362 complaint in any action to validate such bonds shall be filed
 1363 only in the Circuit Court for Leon County. The notice required
 1364 to be published by s. 75.06 shall be published only in Leon
 1365 County, and the complaint and order of the circuit court shall
 1366 be served only on the State Attorney of the Second Judicial
 1367 Circuit and on the state attorney of each circuit in each county
 1368 where the public agencies which were initially a party to the
 1369 interlocal agreement are located. Notice of such proceedings
 1370 shall be published in the manner and the time required by s.
 1371 75.06, in Leon County and in each county where the public

1372 agencies which were initially a party to the interlocal
 1373 agreement are located. Obligations of the corporation pursuant
 1374 to a loan agreement as described in this subsection may be
 1375 validated as provided in chapter 75. The validation of at least
 1376 the first bonds approved by the corporation shall be appealed to
 1377 the Florida Supreme Court. ~~The complaint in the validation~~
 1378 ~~proceeding shall specifically address the constitutionality of~~
 1379 ~~using the investment of the earnings accrued and collected upon~~
 1380 ~~the investment of the minimum balance funds required to be~~
 1381 ~~maintained in the State Transportation Trust Fund to guarantee~~
 1382 ~~such bonds. If such proceeding results in an adverse ruling and~~
 1383 ~~such bonds and guaranty are found to be unconstitutional,~~
 1384 ~~invalid, or unenforceable, then the corporation shall no longer~~
 1385 ~~be authorized to use the investment of the earnings accrued and~~
 1386 ~~collected upon the investment of the minimum balance of the~~
 1387 ~~State Transportation Trust Fund to guarantee any bonds.~~

1388 (7) Notwithstanding any provision of this section, the
 1389 corporation in its corporate capacity may, without authorization
 1390 from a public agency under s. 163.01(7), issue revenue bonds or
 1391 other evidence of indebtedness under this section to:

1392 (a) Finance the undertaking of any project within the
 1393 state that promotes renewable energy as defined in s. 377.803 or
 1394 s. 366.91;

1395 (b) Finance the undertaking of any project within the
 1396 state that is a project contemplated or allowed under s. 406 of
 1397 the American Recovery and Reinvestment Act of 2009; or

1398 (c) If permitted by federal law, finance qualifying
 1399 improvement projects within the state under s. 163.08.

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1400 Section 16. Section 288.9607, Florida Statutes, is amended
 1401 to read:

1402 288.9607 Guaranty of bond issues.—

1403 (1) The corporation may ~~is hereby authorized to~~ approve or
 1404 deny, by a majority vote of the membership of the directors, a
 1405 guaranty of debt service payments for bonds or other
 1406 indebtedness used to finance any capital project that promotes
 1407 economic development in the state, including, but not limited
 1408 to, those capital projects for which revenue bonds are the
 1409 guaranty of any revenue bonds issued under pursuant to this act,
 1410 if any such guaranty does not exceed 5 percent of the total
 1411 aggregate principal amount of bonds or other indebtedness
 1412 relating to any one capital project. ~~The guaranty may also be of~~
 1413 ~~the obligations of the corporation with respect to any letter of~~
 1414 ~~credit, bond insurance, or other form of credit enhancement~~
 1415 ~~provided by any person with respect to any revenue bonds issued~~
 1416 ~~by the corporation pursuant to this act.~~

1417 (2) Any applicant ~~for financing from the corporation,~~
 1418 requesting a guaranty of ~~the bonds issued by~~ the corporation
 1419 under this act must submit a guaranty application, in a form
 1420 acceptable to the corporation, together with supporting
 1421 documentation to the corporation as provided in this section.

1422 (3) All applicants which have entered into a guaranty
 1423 agreement with the corporation shall pay a guaranty premium on
 1424 such terms and at such rates as the corporation shall determine
 1425 before ~~prior to~~ the issuance of the guaranty ~~bonds~~. The
 1426 corporation may adopt such guaranty premium structures as it
 1427 deems appropriate, including, without limitation, guaranty

1428 premiums which are payable one time upon the issuance of the
 1429 guaranty bonds or annual premiums payable upon the outstanding
 1430 principal balance of bonds or other indebtedness that is
 1431 guaranteed from time to time. The premium payment may be
 1432 collected by the corporation from any ~~the~~ lessee of the project
 1433 involved, from the applicant, or from any other payee of any ~~the~~
 1434 loan agreement involved.

1435 (4) All applications for a guaranty must acknowledge that
 1436 as a condition to the issuance of the guaranty, the corporation
 1437 may require that the financing must be secured by a mortgage or
 1438 security interest on the property acquired which will have such
 1439 priority over other liens on such property as may be required by
 1440 the corporation, and that the financing must be guaranteed by
 1441 such person or persons with such ownership interest in the
 1442 applicant as may be required by the corporation.

1443 (5) Personal financial records, trade secrets, or
 1444 proprietary information of applicants delivered to or obtained
 1445 by the corporation shall be confidential and exempt from the
 1446 provisions of s. 119.07(1).

1447 (6) If the application for a guaranty is approved by the
 1448 corporation, the corporation and the applicant shall enter into
 1449 a guaranty agreement. In accordance with the provisions of the
 1450 guaranty agreement, the corporation guarantees to use the funds
 1451 on deposit in its Energy, Technology, and Economic Development
 1452 Guaranty Fund Revenue Bond Guaranty Reserve Account to meet debt
 1453 service amortization payments on the bonds or indebtedness as
 1454 they become due, in the event and to the extent that the
 1455 applicant is unable to meet such payments ~~in accordance with the~~

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1456 ~~terms of the bond indenture when called to do so by the trustee~~
1457 ~~of the bondholders,~~ or to make similar payments to reimburse any
1458 person which has provided credit enhancement for the bonds and
1459 which has advanced funds to meet such debt service ~~amortization~~
1460 payments as they become due, if such guaranty of the corporation
1461 is limited to 5 percent of the total aggregate principal amount
1462 of bonds or other indebtedness relating to any one capital
1463 project. If the applicant defaults on debt service ~~and~~
1464 ~~amortization~~ payments, the corporation may use funds on deposit
1465 in the Energy, Technology, and Economic Development Guaranty
1466 Fund Revenue Bond Guaranty Reserve Account to pay insurance,
1467 maintenance, and other costs which may be required for the
1468 preservation of any capital project or other collateral security
1469 for any bond or indebtedness issued to finance a capital project
1470 for which debt service payments are guaranteed by the
1471 corporation issued by the corporation, or to otherwise protect
1472 the ~~reserve account from loss,~~ or to minimize losses to the
1473 ~~reserve account,~~ in each case in such manner as may be deemed
1474 necessary and advisable by the corporation.

1475 (7)(a) ~~The corporation is authorized to enter into an~~
1476 ~~investment agreement with the Department of Transportation and~~
1477 ~~the State Board of Administration concerning the investment of~~
1478 ~~the earnings accrued and collected upon the investment of the~~
1479 ~~minimum balance of funds required to be maintained in the State~~
1480 ~~Transportation Trust Fund pursuant to s. 339.135(6)(b). Such~~
1481 ~~investment shall be limited as follows:~~

1482 1. ~~Not more than \$4 million of the investment earnings~~
1483 ~~earned on the investment of the minimum balance of the State~~

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1484 ~~Transportation Trust Fund in a fiscal year shall be at risk at~~
1485 ~~any time on one or more bonds or series of bonds issued by the~~
1486 ~~corporation.~~

1487 ~~2. The investment earnings shall not be used to guarantee~~
1488 ~~any bonds issued after June 30, 1998, and in no event shall the~~
1489 ~~investment earnings be used to guarantee any bond issued for a~~
1490 ~~maturity longer than 15 years.~~

1491 ~~3. The corporation shall pay a reasonable fee, set by the~~
1492 ~~State Board of Administration, in return for the investment of~~
1493 ~~such funds. The fee shall not be less than the comparable rate~~
1494 ~~for similar investments in terms of size and risk.~~

1495 ~~4. The proceeds of bonds, or portions thereof, issued by~~
1496 ~~the corporation for which a guaranty has been or will be issued~~
1497 ~~pursuant to s. 288.9606, s. 288.9608, or this section used to~~
1498 ~~make loans to any one person, including any related interests,~~
1499 ~~as defined in s. 658.48, of such person, shall not exceed 20~~
1500 ~~percent of the principal of all such outstanding bonds of the~~
1501 ~~corporation issued prior to the first composite bond issue of~~
1502 ~~the corporation, or December 31, 1995, whichever comes first,~~
1503 ~~and shall not exceed 15 percent of the principal of all such~~
1504 ~~outstanding bonds of the corporation issued thereafter, in each~~
1505 ~~case determined as of the date of issuance of the bonds for~~
1506 ~~which such determination is being made and taking into account~~
1507 ~~the principal amount of such bonds to be issued. The provisions~~
1508 ~~of this subparagraph shall not apply when the total amount of~~
1509 ~~all such outstanding bonds issued by the corporation is less~~
1510 ~~than \$10 million. For the purpose of calculating the limits~~
1511 ~~imposed by the provisions of this subparagraph, the first \$10~~

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1512 ~~million of bonds issued by the corporation shall be taken into~~
1513 ~~account.~~

1514 ~~5. The corporation shall establish a debt service reserve~~
1515 ~~account which contains not less than 6 months' debt service~~
1516 ~~reserves from the proceeds of the sale of any bonds, or portions~~
1517 ~~thereof, guaranteed by the corporation.~~

1518 ~~6. The corporation shall establish an account known as the~~
1519 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The~~
1520 ~~corporation shall deposit a sum of money or other cash~~
1521 ~~equivalents into this fund and maintain a balance of money or~~
1522 ~~cash equivalents in this fund, from sources other than the~~
1523 ~~investment of earnings accrued and collected upon the investment~~
1524 ~~of the minimum balance of funds required to be maintained in the~~
1525 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
1526 ~~year of maximum debt service on all outstanding bonds, or~~
1527 ~~portions thereof, of the corporation for which a guaranty has~~
1528 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In~~
1529 ~~the event the corporation fails to maintain the balance required~~
1530 ~~pursuant to this subparagraph for any reason other than a~~
1531 ~~default on a bond issue of the corporation guaranteed pursuant~~
1532 ~~to this section or because of the use by the corporation of any~~
1533 ~~such funds to pay insurance, maintenance, or other costs which~~
1534 ~~may be required for the preservation of any project or other~~
1535 ~~collateral security for any bond issued by the corporation, or~~
1536 ~~to otherwise protect the Revenue Bond Guaranty Reserve Account~~
1537 ~~from loss while the applicant is in default on amortization~~
1538 ~~payments, or to minimize losses to the reserve account in each~~
1539 ~~case in such manner as may be deemed necessary or advisable by~~

1540 ~~the corporation, the corporation shall immediately notify the~~
 1541 ~~Department of Transportation of such deficiency. Any~~
 1542 ~~supplemental funding authorized by an investment agreement~~
 1543 ~~entered into with the Department of Transportation and the State~~
 1544 ~~Board of Administration concerning the use of investment~~
 1545 ~~earnings of the minimum balance of funds is void unless such~~
 1546 ~~deficiency of funds is cured by the corporation within 90 days~~
 1547 ~~after the corporation has notified the Department of~~
 1548 ~~Transportation of such deficiency.~~

1549 ~~(b) Unless specifically prohibited in the General~~
 1550 ~~Appropriations Act, the earnings accrued and collected upon the~~
 1551 ~~investment of the minimum balance of funds required to be~~
 1552 ~~maintained in the State Transportation Trust Fund may continue~~
 1553 ~~to be used pursuant to paragraph (a).~~

1554 ~~(e) The guaranty is shall not be a general obligation of~~
 1555 ~~the corporation or of the state, but is shall be a special~~
 1556 ~~obligation, which constitutes the investment of a public trust~~
 1557 ~~fund. In no event shall the guaranty constitute an indebtedness~~
 1558 ~~of the corporation, the state of Florida, or any political~~
 1559 ~~subdivision thereof within the meaning of any constitutional or~~
 1560 ~~statutory limitation. Each guaranty agreement shall have plainly~~
 1561 ~~stated on the face thereof that it has been entered into under~~
 1562 ~~the provisions of this act and that it does not constitute an~~
 1563 ~~indebtedness of the corporation, the state, or any political~~
 1564 ~~subdivision thereof within any constitutional or statutory~~
 1565 ~~limitation, and that neither the full faith and credit of the~~
 1566 ~~state of Florida nor any of its revenues is pledged to meet any~~
 1567 ~~of the obligations of the corporation under such guaranty~~

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1568 agreement. Each such agreement shall state that the obligation
 1569 of the corporation under the guaranty shall be limited to the
 1570 funds available in the Energy, Technology, and Economic
 1571 Development Guaranty Fund Revenue Bond Guaranty Reserve Account
 1572 as authorized by this section.

1573
 1574 ~~The corporation shall include, as part of the annual report~~
 1575 ~~prepared pursuant to s. 288.9610, a detailed report concerning~~
 1576 ~~the use of guaranteed bond proceeds for loans guaranteed or~~
 1577 ~~issued pursuant to any agreement with the Florida Black Business~~
 1578 ~~Investment Board, including the percentage of such loans~~
 1579 ~~guaranteed or issued and the total volume of such loans~~
 1580 ~~guaranteed or issued.~~

1581 (8) In the event the corporation does not approve the
 1582 application for a guaranty, the applicant shall be notified in
 1583 writing of the corporation's determination that the application
 1584 not be approved.

1585 (9) The membership of the corporation is authorized and
 1586 directed to conduct such investigation as it may deem necessary
 1587 for promulgation of regulations to govern the operation of the
 1588 guaranty program authorized by this section. The regulations may
 1589 include such other additional provisions, restrictions, and
 1590 conditions as the corporation, after its investigation referred
 1591 to in this subsection, shall determine to be proper to achieve
 1592 the most effective utilization of the guaranty program. This may
 1593 include, without limitation, a detailing of the remedies that
 1594 must be exhausted by ~~the~~ bondholders, ~~or~~ a trustee acting on
 1595 their behalf, or other credit provided before ~~prior to~~ calling

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1596 upon the corporation to perform under its guaranty agreement and
 1597 the subrogation of other rights of the corporation with
 1598 reference to the capital project and its operation or the
 1599 financing in the event the corporation makes payment pursuant to
 1600 the applicable guaranty agreement. The regulations promulgated
 1601 by the corporation to govern the operation of the guaranty
 1602 program may ~~shall~~ contain specific provisions with respect to
 1603 the rights of the corporation to enter, take over, and manage
 1604 all financed properties upon default. These regulations shall be
 1605 submitted by set forth the respective rights of the corporation
 1606 to the Florida Energy and Climate Commission for approval and
 1607 the bondholders in regard thereto.

1608 (10) The guaranty program described in this section may be
 1609 used by the corporation in conjunction with any federal guaranty
 1610 programs described in s. 406 of the American Recovery and
 1611 Reinvestment Act of 2009. All policies, procedures, and
 1612 regulations of the guaranty program adopted by the corporation,
 1613 to the extent such guaranty program of the corporation is used
 1614 in conjunction with a federal guaranty program described in s.
 1615 406 of the American Recovery and Reinvestment Act of 2009, must
 1616 be consistent with s. 406 of the American Recovery and
 1617 Reinvestment Act of 2009.

1618 Section 17. Section 288.9608, Florida Statutes, is amended
 1619 to read:

1620 288.9608 Creation and funding of the Energy, Technology,
 1621 and Economic Development Guaranty Fund ~~guaranty account.~~

1622 (1) ~~The corporation shall establish a debt service reserve~~
 1623 ~~account which contains not less than 6 months' debt service~~

1624 ~~reserves from the proceeds of the sale of any bonds guaranteed~~
 1625 ~~by the corporation. Funds in such debt service reserve account~~
 1626 ~~shall be used prior to funds in the Revenue Bond Guaranty~~
 1627 ~~Reserve Account established in subsection (2). The corporation~~
 1628 ~~shall make best efforts to liquidate collateralized property and~~
 1629 ~~draw upon personal guarantees, and shall utilize the Revenue~~
 1630 ~~Bond Guaranty Reserve Account prior to use of supplemental~~
 1631 ~~funding for the Guaranty Reserve Account under the provisions of~~
 1632 ~~subsection (3).~~

1633 (2)(a) The corporation shall establish an account known as
 1634 the Energy, Technology, and Economic Development Guaranty Fund
 1635 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund.~~ The
 1636 corporation ~~may shall~~ deposit moneys ~~a sum of money~~ or other
 1637 cash equivalents into the ~~this~~ fund and maintain a balance in
 1638 the ~~this~~ fund, from general revenue funds of the state as are
 1639 authorized for that purpose or any other designated funding
 1640 sources not inconsistent with state law ~~sources other than the~~
 1641 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
 1642 ~~year of maximum debt service on all outstanding bonds, or~~
 1643 ~~portions thereof, of the corporation for which a guaranty has~~
 1644 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608.~~

1645 (2)(b) If the corporation determines that the moneys in
 1646 the guaranty agreement fund are not sufficient to meet the
 1647 obligations of the guaranty agreement fund, the corporation is
 1648 authorized to use the necessary amount of any available moneys
 1649 that it may have which are not needed for, then or in the
 1650 foreseeable future, or committed to other authorized functions
 1651 and purposes of the corporation. Any such moneys so used may be

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1652 reimbursed out of the guaranty agreement fund if and when there
1653 are moneys therein available for the purpose.

1654 ~~(3)(e)~~ The determination of when additional moneys will be
1655 needed for the guaranty agreement fund, the amounts that will be
1656 needed, and the availability or unavailability of other moneys
1657 shall be made solely by the corporation in the exercise of its
1658 discretion. ~~However, supplemental funding for the Guaranty Fund~~
1659 ~~as described in subsection (3) shall be made in accordance with~~
1660 ~~the investment agreement of the corporation and the Department~~
1661 ~~of Transportation and the State Board of Administration.~~

1662 ~~(3)(a)~~ ~~If the corporation determines that the funds in the~~
1663 ~~Guaranty Fund will not be sufficient to meet the present or~~
1664 ~~reasonably projected obligations of the Guaranty Fund, due to a~~
1665 ~~default on a loan made by the corporation from the proceeds of a~~
1666 ~~bond issued by the corporation which is guaranteed pursuant to~~
1667 ~~s. 288.9607(7), no later than 90 days before amortization~~
1668 ~~payments are due on such bonds, the corporation shall notify the~~
1669 ~~Secretary of Transportation and the State Board of~~
1670 ~~Administration of the amount of funds required to meet, as and~~
1671 ~~when due, all amortization payments for which the Guaranty Fund~~
1672 ~~is obligated. The Secretary of Transportation shall immediately~~
1673 ~~notify the Speaker of the House of Representatives, the~~
1674 ~~President of the Senate, and the chairs of the Senate and House~~
1675 ~~Committees on Appropriations of the amount of funds required,~~
1676 ~~and the projected impact on each affected year of the adopted~~
1677 ~~work program of the Department of Transportation.~~

1678 ~~(b)~~ ~~Within 30 days of the receipt of notification from the~~
1679 ~~corporation, the Department of Transportation shall submit a~~

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1680 ~~budget amendment request to the Executive Office of the Governor~~
1681 ~~pursuant to chapter 216, to increase budget authority to carry~~
1682 ~~out the purposes of this section. Upon approval of said~~
1683 ~~amendment, the department shall proceed to amend the adopted~~
1684 ~~work program, if necessary, in accordance with the amendment.~~
1685 ~~Within 60 days of the receipt of notification, and subject to~~
1686 ~~approval of the budget authority, the Secretary of~~
1687 ~~Transportation shall transfer, subject to the amount available~~
1688 ~~from the source described in paragraph (c), the amount of funds~~
1689 ~~requested by the corporation required to meet, as and when due,~~
1690 ~~all amortization payments for which the Guaranty Fund is~~
1691 ~~obligated. Any moneys so transferred shall be reimbursed to the~~
1692 ~~Department of Transportation, with interest at the rate earned~~
1693 ~~on investment by the State Treasury, from the funds available in~~
1694 ~~the Guaranty Fund or as otherwise available to the corporation.~~
1695 ~~(c) Pursuant to s. 288.9607(7), the Secretary of~~
1696 ~~Transportation and the State Board of Administration may make~~
1697 ~~available for transfer to the Guaranty Fund, earnings accrued~~
1698 ~~and collected upon the investment of the minimum balance of~~
1699 ~~funds required to be maintained in the State Transportation~~
1700 ~~Trust Fund. However, the earnings accrued and collected upon the~~
1701 ~~investment of the minimum balance of funds required to be~~
1702 ~~maintained in the State Transportation Trust Fund which shall be~~
1703 ~~subject to transfer shall be limited to those earnings accrued~~
1704 ~~and collected on the investment of the minimum balance of funds~~
1705 ~~required to be maintained in the State Transportation Trust Fund~~
1706 ~~for the fiscal year in which the notification is received by the~~
1707 ~~secretary and fiscal years thereafter.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1708 ~~(4) If the corporation receives supplemental funding for~~
 1709 ~~the Guaranty Fund under the provisions of this section, then any~~
 1710 ~~proceeds received by the corporation with respect to a loan in~~
 1711 ~~default, including proceeds from the sale of collateral for such~~
 1712 ~~loan, enforcement of personal guarantees or other pledges to the~~
 1713 ~~corporation to secure such loan, shall first be applied to the~~
 1714 ~~obligation of the corporation to repay the Department of~~
 1715 ~~Transportation pursuant to this section. Until such repayment is~~
 1716 ~~complete, no new bonds may be guaranteed pursuant to this~~
 1717 ~~section.~~

1718 ~~(5) Prior to the use of the guaranty provided in this~~
 1719 ~~section, and on an annual basis, the corporation must certify in~~
 1720 ~~writing to the State Board of Administration and the Secretary~~
 1721 ~~of Transportation that it has fully implemented the requirements~~
 1722 ~~of this section and s. 288.9607 and the regulations of the~~
 1723 ~~corporation.~~

1724 Section 18. Section 288.9609, Florida Statutes, is amended
 1725 to read:

1726 288.9609 Bonds as legal investments.—All banks, trust
 1727 companies, bankers, savings banks and institutions, building and
 1728 loan associations, savings and loan associations, investment
 1729 companies, and other persons carrying on a banking and
 1730 investment business; all insurance companies, insurance
 1731 associations, and other persons carrying on an insurance
 1732 business; and all executors, administrators, curators, trustees,
 1733 and other fiduciaries may legally invest any sinking funds,
 1734 moneys, or other funds belonging to them or within their control
 1735 in any bonds or other obligations issued by the corporation

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1736 ~~pursuant to an interlocal agreement with a public agency of this~~
 1737 ~~state.~~ Such bonds and obligations shall be authorized security
 1738 for all public deposits. It is the purpose of this section to
 1739 authorize all persons, political subdivisions, and officers,
 1740 public and private, to use any funds owned or controlled by them
 1741 for the purchase of any such bonds or other obligations. Nothing
 1742 contained in this section with regard to legal investments shall
 1743 be construed as relieving any person of any duty of exercising
 1744 reasonable care in selecting securities.

1745 Section 19. Section 288.9610, Florida Statutes, is amended
 1746 to read:

1747 288.9610 Annual reports of Florida Development Finance
 1748 Corporation.—By December 1 of each year, the Florida Development
 1749 Finance Corporation shall submit to the Governor, the President
 1750 of the Senate, the Speaker of the House of Representatives, the
 1751 Senate Minority Leader, and the House Minority Leader, ~~and the~~
 1752 ~~city or county activating the Florida Development Finance~~
 1753 ~~Corporation~~ a complete and detailed report setting forth:

- 1754 (1) The evaluation required in s. 11.45(3)(j).
- 1755 (2) The operations and accomplishments of the Florida
 1756 Development Finance Corporation, including the number of
 1757 businesses assisted by the corporation.
- 1758 (3) Its assets and liabilities at the end of its most
 1759 recent fiscal year, including a description of all of its
 1760 outstanding revenue bonds.

1761 Section 20. Subsection (4) of section 206.46, Florida
 1762 Statutes, is amended to read:

1763 206.46 State Transportation Trust Fund.—

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1764 (4) The department may authorize the investment of the
 1765 earnings accrued and collected upon the investment of the
 1766 minimum balance of funds required to be maintained in the State
 1767 Transportation Trust Fund pursuant to s. 339.135(6)(b). ~~Such~~
 1768 ~~investment shall be limited as provided in s. 288.9607(7).~~

1769 Section 21. Subsection (14) of section 215.47, Florida
 1770 Statutes, is amended to read:

1771 215.47 Investments; authorized securities; loan of
 1772 securities.—Subject to the limitations and conditions of the
 1773 State Constitution or of the trust agreement relating to a trust
 1774 fund, moneys available for investments under ss. 215.44–215.53
 1775 may be invested as follows:

1776 (14) The State Board of Administration, consistent with
 1777 sound investment policy, may invest the earnings accrued and
 1778 collected upon the investment of the minimum balance of funds
 1779 required to be maintained in the State Transportation Trust Fund
 1780 pursuant to s. 339.135(6)(b). ~~Such investment shall be limited~~
 1781 ~~as provided in s. 288.9607(7).~~

1782 Section 22. Subsection (3) of section 339.08, Florida
 1783 Statutes, is amended to read:

1784 339.08 Use of moneys in State Transportation Trust Fund.—

1785 (3) The department may authorize the investment of the
 1786 earnings accrued and collected upon the investment of the
 1787 minimum balance of funds required to be maintained in the State
 1788 Transportation Trust Fund pursuant to s. 339.135(6)(b). ~~Such~~
 1789 ~~investment shall be limited as provided in s. 288.9607(7).~~

1790 Section 23. Paragraph (f) of subsection (7) of section
 1791 339.135, Florida Statutes, is amended to read:

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1792 339.135 Work program; legislative budget request;
 1793 definitions; preparation, adoption, execution, and amendment.—

1794 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

1795 (f) The department may authorize the investment of the
 1796 earnings accrued and collected upon the investment of the
 1797 minimum balance of funds required to be maintained in the State
 1798 Transportation Trust Fund pursuant to paragraph (b). ~~Such~~
 1799 ~~investment shall be limited as provided in s. 288.9607(7).~~

1800 Section 24. If any provision of this act or the
 1801 application thereof to any person or circumstance is held
 1802 invalid, the invalidity does not affect other provisions or
 1803 applications of the act that may be given effect without the
 1804 invalid provision or application, and to this end the provisions
 1805 of this act are declared to be severable.

1806 Section 25. This act shall take effect July 1, 2010.