A bill to be entitled

An act relating to energy; amending s. 163.08, F.S.; revising the definition of the term "local government"; amending s. 186.801, F.S.; adding factors for the Public Service Commission to consider in reviewing the 10-year site plans submitted to the commission by electric utilities; amending s. 212.055, F.S.; providing for a portion of the proceeds of the local government infrastructure surtax to be used for financial assistance to residential and commercial property owners who make energy efficiency improvements or install renewable energy devices; defining the term "energy efficiency improvement"; amending s. 212.08, F.S.; providing definitions for the terms "biodiesel," "ethanol," and "renewable fuel"; providing for tax exemptions in the form of a rebate for the sale or use of certain equipment, machinery, and other materials for renewable energy technologies; providing eligibility requirements and tax credit limits; authorizing the Department of Revenue and the Department of Agriculture and Consumer Services to adopt rules; directing the Department of Agriculture and Consumer Services to determine and publish certain information relating to exemptions; providing for expiration of the exemption; amending s. 213.053, F.S.; expanding the authority of the Department of Revenue to disclose certain information; amending s. 220.192, F.S.; providing definitions;

reestablishing a corporate tax credit for certain costs related to renewable energy technologies; providing eligibility requirements and credit limits; providing for use of authorized but unallocated credit amounts; providing rulemaking authority to the Department of Revenue and the Department of Agriculture and Consumer Services; directing the Department of Agriculture and Consumer Services to determine and publish certain information; providing for expiration of the tax credit; amending s. 220.193, F.S.; reestablishing a corporate tax credit for renewable energy production; providing definitions; providing a tax credit for the production and sale of renewable energy; providing requirements relating to the priority and proration of such tax credits under certain circumstances; providing for the use and transfer of the tax credit; limiting the amount of tax credits that may be granted to an individual taxpayer per state fiscal year and for all taxpayers per state fiscal year; increasing the cap for all taxpayers during a specified period; providing for use of authorized but unallocated credit amounts; providing rulemaking authority to the Department of Revenue and the Department of Agriculture and Consumer Services; directing the Department of Agriculture and Consumer Services to provide certain information on its website; providing for expiration of the tax credit; amending s. 255.257, F.S.; directing the Department of

Management Services, in coordination with the Department of Agriculture and Consumer Services, to further develop the state energy management plan; amending s. 288.106, F.S.; redefining the term "target industry business," for purposes of a tax refund program, to exclude certain electrical utilities; amending s. 366.92, F.S.; deleting an obsolete directive to the Public Service Commission to adopt rules for a renewable portfolio standard; deleting related definitions; removing a provision that allowed full cost recovery for certain renewable energy projects; creating s. 366.94, F.S.; providing that the provision of electric vehicle charging to the public by a nonutility is not the retail sale of electricity; providing that the rates, terms, and conditions of electric vehicle charging services by a nonutility are not subject to regulation under ch. 366, F.S.; requiring the Department of Agriculture and Consumer Services to develop rules for sales at electric vehicle charging stations; prohibiting the obstruction of a parking space at an electric vehicle charging station; providing a penalty; requiring that the Public Service Commission study the effects of charging stations on energy consumption in the state and the effects on the grid and report the results to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor; amending s. 377.703, F.S.; requiring the

Department of Agriculture and Consumer Services to annually prepare an assessment of the use of specified energy-related tax credits; requiring specified information to be included in such assessment; amending s. 526.203, F.S.; revising the definitions of the terms "blended gasoline" and "unblended gasoline"; defining the term "alternative fuel"; directing the Department of Agriculture and Consumer Services to compile a list of retail fuel stations that sell or offer to sell unblended gasoline and provide that information on the department's website; amending s. 581.083, F.S.; prohibiting the cultivation of certain algae in plantings greater in size than 2 contiguous acres; providing exceptions; providing for exemption from special permitting requirements by rule; revising certain bonding requirements; requiring the Department of Agriculture and Consumer Services to conduct a statewide forest inventory; requiring the Department of Agriculture and Consumer Services to work with other specified entities to develop information on cost savings for energy efficiency and conservation measures and post it on the department's website; providing an appropriation from the Florida Public Service Regulatory Trust Fund for the purpose of the Public Service Commission, in consultation with the Department of Agriculture and Consumer Services, to contract for an independent evaluation of the Florida Energy Efficiency and Conservation Act; requiring

reports to the Legislature and the Executive Office of the Governor; providing an effective date.

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

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

163.08 Supplemental authority for improvements to real property.—

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

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

Section 2. Subsection (2) of section 186.801, Florida Statutes, is amended to read:

186.801 Ten-year site plans.—

(2) Within 9 months after the receipt of the proposed plan, the commission shall make a preliminary study of such plan and classify it as "suitable" or "unsuitable." The commission may suggest alternatives to the plan. All findings of the commission shall be made available to the Department of Environmental Protection for its consideration at any subsequent electrical power plant site certification proceedings. It is recognized that 10-year site plans submitted by an electric utility are tentative information for planning purposes only and may be amended at any time at the discretion of the utility upon written notification to the commission. A complete application for certification of an electrical power plant site under

chapter 403, when such site is not designated in the current 10-year site plan of the applicant, shall constitute an amendment to the 10-year site plan. In its preliminary study of each 10-year site plan, the commission shall consider such plan as a planning document and shall review:

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

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

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

(d) Possible alternatives to the proposed plan.

(e) The views of appropriate local, state, and federal agencies, including the views of the appropriate water management district as to the availability of water and its recommendation as to the use by the proposed plant of salt water or fresh water for cooling purposes.

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

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

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

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

(j) A statement describing how the production and purchase of renewable energy resources impact the utility's present and

future capacity and energy needs.

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

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

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire land for public recreation, conservation, or protection of natural resources; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to

finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

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

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

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a

life expectancy of at least 5 years.

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

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into

a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

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

3.~~2.~~ Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit in a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 4. Paragraph (hhh) is added to subsection (7) of

section 212.08, Florida Statutes, to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(hhh) *Equipment, machinery, and other materials for renewable energy technologies.—*

1. As used in this paragraph, the term:

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

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

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

2. The sale or use in the state of the following is exempt from the tax imposed by this chapter. Materials used in the distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuels, including fueling infrastructure, transportation, and storage, up to a limit of $1 million in tax each state fiscal year for all taxpayers. Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-

E100), and other renewable fuel distribution qualify for the exemption provided in this paragraph.

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

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

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

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

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

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

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

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

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

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

f. The Department of Agriculture and Consumer Services may adopt by rule the form for the application for a certificate, requirements for the content and format of information submitted to the Department of Agriculture and Consumer Services in support of the application, other procedural requirements, and criteria by which the application will be determined. The Department of Agriculture and Consumer Services may adopt other rules pursuant to ss. 120.536(1) and 120.54 to administer this

paragraph, including rules establishing additional forms and procedures for claiming the exemption.

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

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

6. This paragraph expires July 1, 2016.

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

213.053 Confidentiality and information sharing.—

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

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

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director

and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

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

220.192 Renewable energy technologies investment tax credit.—

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

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

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

(c) "Eligible costs" means~~:~~

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

~~2. Seventy-five percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2006, and June 30, 2010, up to a limit~~

~~of $1.5 million per state fiscal year for all taxpayers, and limited to a maximum of $12,000 per fuel cell, in connection with an investment in commercial stationary hydrogen fuel cells in the state, including, but not limited to, the costs of constructing, installing, and equipping such technologies in the state.~~

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

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

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

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

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

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

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

(4) TAXPAYER APPLICATION PROCESS.—To claim a credit under this section, each taxpayer must apply to the Department of Agriculture and Consumer Services for an allocation of each type of annual credit by the date established by the Department of Agriculture and Consumer Services. The application form adopted by rule of the Department of Agriculture and Consumer Services must include an affidavit from each taxpayer certifying that all information contained in the application, including all records

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

(6) TRANSFERABILITY OF CREDIT.—

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

(b) To perfect the transfer, the transferor shall provide the Department of Revenue with a written transfer statement notifying the Department of Revenue of the transferor's intent to transfer the tax credits to the transferee; the date the transfer is effective; the transferee's name, address, and federal taxpayer identification number; the tax period; and the amount of tax credits to be transferred. The Department of Revenue shall, upon receipt of a transfer statement conforming to the requirements of this section, provide the transferee with a certificate reflecting the tax credit amounts transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply such tax credits.

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

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

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

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

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

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

220.193 Florida renewable energy production credit.—

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

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

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

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

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

year.

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

(e) "New facility" means ~~shall mean~~ a Florida renewable energy facility that is operationally placed in service after May 1, 2006. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion.

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

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

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

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

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~ and continuing until 2017 ~~2011~~, each taxpayer claiming a credit under this section must ~~first~~ apply to the Department of Agriculture and Consumer Services by the date established by the Department of Agriculture and Consumer Services ~~by February 1 of each year~~ for an allocation of available credits for that year ~~credit~~. The application form shall be adopted by rule of the Department of Agriculture and Consumer Services in consultation with the commission. ~~The department, in consultation with the commission, shall develop an application form.~~ The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

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

1. An applicant who places a new facility in operation after May 1, 2012, shall be allocated credits first, up to a maximum of $250,000 each, with any remaining credits to be

granted pursuant to subparagraph 3., but if the claims for credits under this subparagraph exceed the state fiscal year cap in paragraph (g), credits shall be allocated pursuant to this subparagraph on a prorated basis based upon each applicant's qualified production and sales as a percentage of total production and sales for all applicants in this category for the fiscal year.

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

3. An applicant who does not qualify under subparagraph 1. or subparagraph 2. and an applicant whose credits have not been fully allocated under subparagraph 1., shall be allocated credits next. If there is insufficient capacity within the amount authorized for the state fiscal year in paragraph (g), and after allocations pursuant to subparagraphs 1. and 2., the credits allocated under this subparagraph shall be prorated based upon each applicant's unallocated claims for qualified production and sales as a percentage of total unallocated claims for qualified production and sales of all applicants in this category, up to a maximum of $1 million per taxpayer per state fiscal year. If, after application of this $1 million cap, there

is excess capacity under the state fiscal year cap in paragraph (g) in any state fiscal year, that remaining capacity shall be used to allocate additional credits with priority given in the order set forth in this subparagraph and without regard to the $1 million per taxpayer cap.

(d) If the credit granted pursuant to this section is not fully used in one year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year, after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

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

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

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

same conditions and limitations as described in this section.

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

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

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

(i) A taxpayer claiming credit under this section may not

claim a credit under s. 220.192. A taxpayer claiming credit under s. 220.192 may not claim a credit under this section.

(j) When an entity treated as a partnership or a disregarded entity under this chapter produces and sells electricity from a new or expanded renewable energy facility, the credit earned by such entity shall pass through in the same manner as items of income and expense pass through for federal income tax purposes. When an entity applies for the credit and the entity has received the credit by a pass-through, the application must identify the taxpayer that passed the credit through, all taxpayers that received the credit, and the percentage of the credit that passes through to each recipient and must provide other information that the Department of Agriculture and Consumer Services ~~department~~ requires.

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

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

(5)(a) In addition to its existing audit and investigation

authority, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax credit applicant, which are necessary to verify the information included in the tax credit return and to ensure compliance with this section. The Department of Agriculture and Consumer Services shall provide technical assistance when requested by the Department of Revenue on any technical audits or examinations performed pursuant to this section.

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

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

Department of Revenue of any change in its tax credit claimed.

(d) The taxpayer shall file with the Department of Revenue an amended return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax and interest within 60 days after the taxpayer receives notification from the Department of Agriculture and Consumer Services that previously approved tax credits have been revoked or modified. If the revocation or modification order is contested, the taxpayer shall file an amended return or other report as provided in this paragraph within 60 days after a final order is issued after proceedings.

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

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

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

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

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

255.257 Energy management; buildings occupied by state agencies.—

(3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The Department of Management Services, in coordination with the Department of Agriculture and Consumer Services, shall further develop the ~~a~~ state energy management plan consisting of, but not limited to, the following elements:

(a) Data-gathering requirements;

(b) Building energy audit procedures;

(c) Uniform data analysis and reporting procedures;

(d) Employee energy education program measures;

(e) Energy consumption reduction techniques;

(f) Training program for state agency energy management coordinators; and

(g) Guidelines for building managers.

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

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

288.106 Tax refund program for qualified target industry

businesses.—

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

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

1. Future growth.—Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.

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

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

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

5. Industrial base diversification and strengthening.—The industry should contribute toward expanding or diversifying the

state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the development of strong industrial clusters that include defense and homeland security businesses.

6. Positive economic impact.—The industry is expected to have strong positive economic impacts on or benefits to the state or regional economies. Special consideration should be given to industries that facilitate the development of the state as a hub for domestic and global trade and logistics.

The term does not include any business engaged in retail industry activities; any electrical utility company as defined in s. 366.02(2); any phosphate or other solid minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. Any business within NAICS code 5611 or 5614, office administrative services and business support services, respectively, may be considered a target industry business only after the local governing body and Enterprise Florida, Inc., make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area, including but not limited to, factors such as low per

capita income, high unemployment, high underemployment, and a lack of year-round stable employment opportunities, and such conditions may be improved by the location of such a business to the community. By January 1 of every 3rd year, beginning January 1, 2011, the department, in consultation with Enterprise Florida, Inc., economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists, shall review and, as appropriate, revise the list of such target industries and submit the list to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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

366.92 Florida renewable energy policy.—

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

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

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

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

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

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

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

~~(3) The commission shall adopt rules for a renewable portfolio standard requiring each provider to supply renewable energy to its customers directly, by procuring, or through renewable energy credits. In developing the RPS rule, the commission shall consult the Department of Environmental Protection and the Department of Agriculture and Consumer Services. The rule shall not be implemented until ratified by the Legislature. The commission shall present a draft rule for legislative consideration by February 1, 2009.~~

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

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

~~1. Shall include methods of managing the cost of compliance with the renewable portfolio standard, whether~~

~~through direct supply or procurement of renewable power or through the purchase of renewable energy credits. The commission shall have rulemaking authority for providing annual cost recovery and incentive-based adjustments to authorized rates of return on common equity to providers to incentivize renewable energy. Notwithstanding s. 366.91(3) and (4), upon the ratification of the rules developed pursuant to this subsection, the commission may approve projects and power sales agreements with renewable power producers and the sale of renewable energy credits needed to comply with the renewable portfolio standard. In the event of any conflict, this subparagraph shall supersede s. 366.91(3) and (4). However, nothing in this section shall alter the obligation of each public utility to continuously offer a purchase contract to producers of renewable energy.~~

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

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

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

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

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

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

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

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

~~(4) In order to demonstrate the feasibility and viability of clean energy systems, the commission shall provide for full cost recovery under the environmental cost-recovery clause of all reasonable and prudent costs incurred by a provider for~~

~~renewable energy projects that are zero greenhouse gas emitting at the point of generation, up to a total of 110 megawatts statewide, and for which the provider has secured necessary land, zoning permits, and transmission rights within the state. Such costs shall be deemed reasonable and prudent for purposes of cost recovery so long as the provider has used reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner appropriate to the location of the facility. The provider shall report to the commission as part of the cost-recovery proceedings the construction costs, in-service costs, operating and maintenance costs, hourly energy production of the renewable energy project, and any other information deemed relevant by the commission. Any provider constructing a clean energy facility pursuant to this section shall file for cost recovery no later than July 1, 2009.~~

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

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

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

Section 11. Section 366.94, Florida Statutes, is created

to read:

366.94 Electric vehicle charging stations.—

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

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

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

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

(4) The Public Service Commission is directed to conduct a study of the potential effects of public charging stations and privately owned electric vehicle charging on both energy consumption and the impact on the electric grid in the state.

The Public Service Commission shall also investigate the feasibility of using off-grid solar photovoltaic power as a source of electricity for the electric vehicle charging stations. The commission shall submit the results of the study to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by December 31, 2012.

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

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

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

(n) On an annual basis, the department shall prepare an assessment of the utilization of the tax exemption authorized in s. 212.08(7)(hhh), the renewable energy technologies investment tax credit authorized in s. 220.192, and the renewable energy production credit authorized in s. 220.193, which the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor by February 1 of each year. The assessment shall include, at a minimum, the following information:

1. For the tax exemption authorized in s. 212.08(7)(hhh):

a. The name of each taxpayer receiving an exemption under this section;

b. The amount of the exemption received by each taxpayer; and

c. The type and description of each eligible item for which each taxpayer is applying.

2. For the renewable energy technologies investment tax credit authorized in s. 220.192:

a. The name of each taxpayer receiving an allocation under this section;

b. The amount of the credits allocated for that fiscal year for each taxpayer; and

c. The type of technology and a description of each investment for which each taxpayer receives an allocation.

3. For the renewable energy production credit authorized in s. 220.193:

a. The name of each taxpayer receiving an allocation under this section;

b. The amount of credits allocated for that fiscal year for each taxpayer;

c. The type and amount of renewable energy produced and sold, whether the facility producing that energy is a new or expanded facility, and the approximate date on which production began; and

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

Section 13. Subsection (1) of section 526.203, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

526.203 Renewable fuel standard.—

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

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

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

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

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

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

(5) This section does not prohibit a retail dealer, as defined in s. 206.01, from selling or offering to sell unblended gasoline. The Department of Agriculture and Consumer Services shall compile a list of retail fuel stations that sell or offer to sell unblended gasoline. This information shall be compiled by the department as part of its routine retail fuel station inspections, authorized under s. 525.07, and from information provided voluntarily by retail dealers. The Department of Agriculture and Consumer Services shall provide this information on its website to inform consumers of the options available for

unblended gasoline.

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

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

(4) A person may not cultivate a nonnative plant, algae, or blue-green algae, including a genetically engineered plant, algae, or blue-green algae ~~or a plant that has been introduced, for purposes of fuel production or purposes other than agriculture~~ in plantings greater in size than 2 contiguous acres, except under a special permit issued by the department through the division, which is the sole agency responsible for issuing such special permits. A permit is not required to cultivate any plant or group of plants that, based on experience or research data, does not pose a threat of becoming an invasive species and is commonly grown in this state for the purpose of human food consumption, commercial feed, feedstuff, forage for livestock, nursery stock, or silviculture. The department is authorized to adopt additional exemptions to the permitting requirements of this section if the department determines, after consulting with the Institute of Food and Agricultural Sciences at the University of Florida, that based on experience or research data, the nonnative plant, algae, or blue-green algae does not pose a threat of becoming an invasive species or a pest of plants or native fauna under conditions in this state and subsequently exempts the plant or group of plants by rule ~~Such a permit shall not be required if the department determines, in~~

~~conjunction with the Institute of Food and Agricultural Sciences at the University of Florida, that the~~ ~~plant is not invasive and subsequently exempts the plant by rule~~.

(a)1. Each application for a special permit must be accompanied by a fee as described in subsection (2) and proof that the applicant has obtained, on a form approved by the department, a bond ~~in the form approved by the department and~~ issued by a surety company admitted to do business in this state or a certificate of deposit, or other type of security adopted by rule of the department, which provides a financial assurance of cost recovery for the removal of a planting. The application must include, on a form provided by the department, the name of the applicant and the applicant's address or the address of the applicant's principal place of business; a statement completely identifying the nonnative plant to be cultivated; and a statement of the estimated cost of removing and destroying the plant that is the subject of the special permit and the basis for calculating or determining that estimate. If the applicant is a corporation, partnership, or other business entity, the applicant must also provide in the application the name and address of each officer, partner, or managing agent. The applicant shall notify the department within 10 business days of any change of address or change in the principal place of business. The department shall mail all notices to the applicant's last known address.

2. As used in this subsection, the term "certificate of deposit" means a certificate of deposit at any recognized financial institution doing business in the United States. The

department may not accept a certificate of deposit in connection with the issuance of a special permit unless the issuing institution is properly insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

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

(c) If the department:

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

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

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

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

the department may issue an immediate final order, which shall

be immediately appealable or enjoinable as provided by chapter 120, directing the permitholder to immediately remove and destroy the plants authorized to be cultivated under the special permit. A copy of the immediate final order must ~~shall~~ be mailed to the permitholder and to the surety company or financial institution that has provided security for the special permit, if applicable.

(d) If, upon issuance by the department of an immediate final order to the permitholder, the permitholder fails to remove and destroy the plants subject to the special permit within 60 days after issuance of the order, or such shorter period as is designated in the order as public health, safety, or welfare requires, the department may enter the cultivated acreage and remove and destroy the plants that are the subject of the special permit. If the permitholder makes a written request to the department for an extension of time to remove and destroy the plants that demonstrates specific facts showing why the plants could not reasonably be removed and destroyed in the applicable timeframe, the department may extend the time for removing and destroying plants subject to a special permit. The reasonable costs and expenses incurred by the department for removing and destroying plants subject to a special permit shall be reimbursed to the department by the permitholder within 21 days after the date the permitholder and the surety company or financial institution are served a copy of the department's invoice for the costs and expenses incurred by the department to remove and destroy the cultivated plants, along with a notice of administrative rights, unless the permitholder or the surety

company or financial institution object to the reasonableness of the invoice. In the event of an objection, the permitholder or surety company or financial institution is entitled to an administrative proceeding as provided by chapter 120. Upon entry of a final order determining the reasonableness of the incurred costs and expenses, the permitholder has ~~shall have~~ 15 days after ~~following~~ service of the final order to reimburse the department. Failure of the permitholder to timely reimburse the department for the incurred costs and expenses entitles the department to reimbursement from the applicable bond or certificate of deposit.

(e) Each permitholder shall maintain for each separate growing location a bond or a certificate of deposit in an amount determined by the department, but not more ~~less~~ than 150 percent of the estimated cost of removing and destroying the cultivated plants. The bond or certificate of deposit may not exceed $5,000 per acre, unless a higher amount is determined by the department to be necessary to protect the public health, safety, and welfare or unless an exemption is granted by the department based on conditions specified in the application which would preclude the department from incurring the cost of removing and destroying the cultivated plants and would prevent injury to the public health, safety, and welfare. The aggregate liability of the surety company or financial institution to all persons for all breaches of the conditions of the bond or certificate of deposit may not exceed the amount of the bond or certificate of deposit. The original bond or certificate of deposit required by this subsection shall be filed with the department. A surety

company shall give the department 30 days' written notice of cancellation, by certified mail, in order to cancel a bond. Cancellation of a bond does not relieve a surety company of liability for paying to the department all costs and expenses incurred or to be incurred for removing and destroying the permitted plants covered by an immediate final order authorized under paragraph (c). A bond or certificate of deposit must be provided or assigned in the exact name in which an applicant applies for a special permit. The penal sum of the bond or certificate of deposit to be furnished to the department by a permitholder in the amount specified in this paragraph must guarantee payment of the costs and expenses incurred or to be incurred by the department for removing and destroying the plants cultivated under the issued special permit. The bond or certificate of deposit assignment or agreement must be upon a form prescribed or approved by the department and must be conditioned to secure the faithful accounting for and payment of all costs and expenses incurred by the department for removing and destroying all plants cultivated under the special permit. The bond or certificate of deposit assignment or agreement must include terms binding the instrument to the Commissioner of Agriculture. Such certificate of deposit shall be presented with an assignment of the permitholder's rights in the certificate in favor of the Commissioner of Agriculture on a form prescribed by the department and with a letter from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. Such assignment is irrevocable while a

special permit is in effect and for an additional period of 6 months after termination of the special permit if operations to remove and destroy the permitted plants are not continuing and if the department's invoice remains unpaid by the permitholder under the issued immediate final order. If operations to remove and destroy the plants are pending, the assignment remains in effect until all plants are removed and destroyed and the department's invoice has been paid. The bond or certificate of deposit may be released by the assignee of the surety company or financial institution to the permitholder, or to the permitholder's successors, assignee, or heirs, if operations to remove and destroy the permitted plants are not pending and no invoice remains unpaid at the conclusion of 6 months after the last effective date of the special permit. The department may not accept a certificate of deposit that contains any provision that would give to any person any prior rights or claim on the proceeds or principal of such certificate of deposit. The department shall determine by rule whether an annual bond or certificate of deposit will be required. The amount of such bond or certificate of deposit shall be increased, upon order of the department, at any time if the department finds such increase to be warranted by the cultivating operations of the permitholder. In the same manner, the amount of such bond or certificate of deposit may be adjusted downward or removed ~~decreased~~ when a decrease in the cultivating operations of the permitholder occurs or when research or practical field knowledge and observations indicate a low risk of invasiveness by the nonnative species ~~warrants such decrease~~. Factors that may be

considered for change include multiple years or cycles of successful large-scale contained cultivation; no observation of plant, algae, or blue-green algae escape from managed areas; or science-based evidence that established or approved adjusted cultivation practices provide a similar level of containment of the nonnative plant, algae, or blue-green algae. This paragraph applies to any bond or certificate of deposit, regardless of the anniversary date of its issuance, expiration, or renewal.

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

Section 15. The Department of Agriculture and Consumer Services shall conduct a comprehensive statewide forest inventory analysis and study, using a geographic information system, to identify where available biomass is located, determine the available biomass resources, and ensure forest sustainability within the state. The department shall submit the results of the study to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the

Governor by July 1, 2013.

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

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

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