

1 A bill to be entitled
 2 An act relating to energy incentives and initiatives;
 3 amending s. 377.601, F.S.; revising legislative intent
 4 relating to the state's energy policy; creating s. 366.90,
 5 F.S.; providing legislative intent relating to renewable
 6 energy production of electricity; amending s. 366.92,
 7 F.S.; deleting legislative intent provisions; deleting and
 8 revising definitions; deleting provisions for the
 9 renewable portfolio standard and renewable energy credits;
 10 providing a mechanism for providers to recover costs to
 11 produce or purchase renewable energy under certain
 12 conditions; exempting from requirements for a
 13 determination of need those renewable energy projects for
 14 which cost recovery is provided under the mechanism;
 15 requiring providers to include specified information
 16 related to renewable energy development in reports to the
 17 Public Service Commission; amending s. 403.503, F.S.;
 18 revising the definition of "electrical power plant" for
 19 purposes of the Florida Electrical Power Plant Siting Act;
 20 providing for a type two transfer of the Florida Energy
 21 and Climate Commission's powers, duties, functions,
 22 records, personnel, and property, unexpended balances of
 23 appropriations, allocations, and other funds,
 24 administrative authority, administrative rules, pending
 25 issues, and existing contracts from the Executive Office
 26 of the Governor to the Department of Agriculture and
 27 Consumer Services; providing for a type two transfer of
 28 the powers, duties, functions, records, personnel, and

29 | property, unexpended balances of appropriations,
 30 | allocations, and other funds, administrative authority,
 31 | administrative rules, pending issues, and existing
 32 | contracts of the Low-Income Home Energy Assistance Program
 33 | and the Weatherization Assistance Program from the
 34 | Department of Community Affairs to the Department of
 35 | Agriculture and Consumer Services; amending s. 377.6015,
 36 | F.S., relating to the Florida Energy and Climate
 37 | Commission; striking language creating the commission and
 38 | transferring various authorizations and duties to the
 39 | Department of Agriculture and Consumer Services; amending
 40 | s. 377.602, F.S.; replacing the Florida Energy and Climate
 41 | Commission definition with the Department of Agriculture
 42 | and Consumer Services; amending s. 377.603, F.S.;
 43 | conforming statutes regarding energy data collection,
 44 | rule-making, and preparation of reports; amending s.
 45 | 377.604, F.S.; conforming statutes regarding required
 46 | reports of energy resources used as fuel; amending s.
 47 | 377.605, F.S.; conforming statutes regarding use of
 48 | existing information; amending s. 377.606, F.S.;
 49 | conforming statutes regarding records; reenacting s.
 50 | 377.607, F.S., for purposes of incorporation; amending s.
 51 | 377.608, F.S.; conforming statutes regarding prosecution
 52 | of cases by the state attorney; amending s. 377.701, F.S.;
 53 | conforming statutes regarding petroleum allocation and
 54 | conservation; amending s. 377.703, F.S.; conforming
 55 | statutes regarding additional functions of the department;
 56 | amending s. 377.801, F.S.; correcting a reference;

57 | amending s. 377.802, F.S.; revising legislative intent;
 58 | amending s. 377.803, F.S.; replacing the Florida Energy
 59 | and Climate Commission definition with Department of
 60 | Agriculture and Consumer Services within the Florida
 61 | Energy and Climate Protection Act; removing a definition;
 62 | amending s. 377.804, F.S.; conforming statutes regarding
 63 | the Renewable Energy and Energy-Efficient Technologies
 64 | Grants Program; repealing s. 377.806, F.S., relating to
 65 | the Solar Energy System Incentives Program; amending s.
 66 | 377.807, F.S.; conforming statutes regarding the Energy-
 67 | Efficient Appliance Rebate Program; amending s. 377.808,
 68 | F.S.; conforming statutes regarding the Florida Green
 69 | Government Grants Act; amending s. 377.809, F.S.;
 70 | conforming statutes regarding the Energy Economic Zone
 71 | Pilot Program; amending s. 409.508, F.S.; reassigning
 72 | administration of the Low-Income Home Energy Assistance
 73 | Program from the Department of Community Affairs to the
 74 | Department of Agriculture and Consumer Services; amending
 75 | s. 409.509, F.S.; reassigning administration of the
 76 | Weatherization Assistance Program from the Department of
 77 | Community Affairs to the Department of Agriculture and
 78 | Consumer Services; reenacting ss. 409.5091, 409.5092, and
 79 | 409.5093, F.S., relating to the Weatherization Assistance
 80 | Program, for purposes of incorporation; repealing s.
 81 | 212.08(7)(ccc), F.S., relating to the sales and use tax
 82 | exemption for equipment, machinery, and other materials
 83 | used for renewable energy technologies; amending s.
 84 | 213.053, F.S.; conforming statutes regarding information-

85 | sharing with the Department of Revenue; amending s.
 86 | 220.192, F.S.; conforming statutes regarding the Renewable
 87 | Energy Technologies Investment Tax Credit Program;
 88 | amending s. 288.1089, F.S.; conforming statutes regarding
 89 | the Innovation Incentive Program; amending s. 288.9607,
 90 | F.S.; conforming statutes regarding the federal Section
 91 | 1705 Loan Guarantee Program; amending s. 366.82, F.S.;
 92 | conforming statutes relating to the Florida Energy
 93 | Efficiency and Conservation Act; repealing s. 366.85,
 94 | F.S., relating to responsibilities of Division of Consumer
 95 | Services within the Department of Agriculture and Consumer
 96 | Services; amending s. 366.92, F.S.; conforming statutes
 97 | regarding Florida's renewable energy policy; amending s.
 98 | 403.44, F.S.; conforming statutes regarding the Florida
 99 | Climate Protection Act; amending s. 570.074, F.S.;
 100 | renaming the Department of Agriculture and Consumer
 101 | Services' Office of Water Coordination as the Office of
 102 | Energy and Water; repealing s. 526.207, F.S., relating to
 103 | a study of life-cycle greenhouse gas emissions associated
 104 | with renewable fuels; amending s. 570.954, F.S.; removing
 105 | obsolete language from the Farm-to-Fuel Initiative;
 106 | amending s. 1004.648, F.S.; conforming statutes relating
 107 | to the Florida Energy Systems Consortium; providing an
 108 | effective date.

109 |
 110 | Be It Enacted by the Legislature of the State of Florida:
 111 |

112 Section 1. Section 377.601, Florida Statutes, is amended
 113 to read:

114 377.601 Legislative intent.—

115 (1) The purpose of the state's energy policy is to ensure
 116 an affordable, adequate, and reliable supply of energy for the
 117 state in a manner that promotes the health and welfare of the
 118 public, promotes sustainable economic growth, and minimizes and
 119 mitigates any adverse impacts. The Legislature intends that
 120 governance of the state's energy policy be efficiently directed
 121 toward achieving this purpose. ~~The Legislature finds that the~~
 122 ~~state's energy security can be increased by lessening dependence~~
 123 ~~on foreign oil; that the impacts of global climate change can be~~
 124 ~~reduced through the reduction of greenhouse gas emissions; and~~
 125 ~~that the implementation of alternative energy technologies can~~
 126 ~~be a source of new jobs and employment opportunities for many~~
 127 ~~Floridians. The Legislature further finds that the state is~~
 128 ~~positioned at the front line against potential impacts of global~~
 129 ~~climate change. Human and economic costs of those impacts can be~~
 130 ~~averted by global actions and, where necessary, adapted to by a~~
 131 ~~concerted effort to make Florida's communities more resilient~~
 132 ~~and less vulnerable to these impacts. In focusing the~~
 133 ~~government's policy and efforts to benefit and protect our~~
 134 ~~state, its citizens, and its resources, the Legislature believes~~
 135 ~~that a single government entity with a specific focus on energy~~
 136 ~~and climate change is both desirable and advantageous. Further,~~
 137 ~~the Legislature finds that energy infrastructure provides the~~
 138 ~~foundation for secure and reliable access to the energy supplies~~
 139 ~~and services on which Florida depends. Therefore, there is~~

140 ~~significant value to Florida consumers that comes from~~
 141 ~~investment in Florida's energy infrastructure that increases~~
 142 ~~system reliability, enhances energy independence and~~
 143 ~~diversification, stabilizes energy costs, and reduces greenhouse~~
 144 ~~gas emissions.~~

145 (2) In furtherance of this purpose, the state's energy
 146 policy shall be implemented through effective, efficient, and
 147 reliable governance and shall be guided by the following goals
 148 in order of their priority:

- 149 (a) Ensuring an affordable energy supply.
- 150 (b) Ensuring adequate supply and capacity.
- 151 (c) Ensuring a secure and reliable energy supply.
- 152 (d) Minimizing energy cost volatility.
- 153 (e) Minimizing the negative impacts of energy production
 154 on the state's environment, social fabric, and the public health
 155 and welfare.

156 (f) Maximizing economic synergies for the state associated
 157 with its energy policy.

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

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

160 (a) Develop and promote the effective use of energy in the
 161 state, discourage all forms of energy waste, and recognize and
 162 address the potential of global climate change wherever
 163 possible.

164 (b) Play a leading role in developing and instituting
 165 energy management programs aimed at promoting energy
 166 conservation, energy security, and the reduction of greenhouse
 167 gas emissions.

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168 (c) Include energy considerations in all state, regional,
169 and local planning.

170 (d) Utilize and manage effectively energy resources used
171 within state agencies.

172 (e) Encourage local governments to include energy
173 considerations in all planning and to support their work in
174 promoting energy management programs.

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

177 (g) Consider in its decisions the energy needs of each
178 economic sector, including residential, industrial, commercial,
179 agricultural, and governmental uses, and reduce those needs
180 whenever possible.

181 (h) Promote energy education and the public dissemination
182 of information on energy and its environmental, economic, and
183 social impact.

184 (i) Encourage the research, development, demonstration,
185 and application of alternative energy resources, particularly
186 renewable energy resources.

187 (j) Consider, in its decisionmaking, the social, economic,
188 and environmental impacts of energy-related activities,
189 including the whole-life-cycle impacts of any potential energy
190 use choices, so that detrimental effects of these activities are
191 understood and minimized.

192 (k) Develop and maintain energy emergency preparedness
193 plans to minimize the effects of an energy shortage within
194 Florida.

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195 Section 2. Section 366.90, Florida Statutes, is created to
 196 read:

197 366.90 Renewable energy for electricity production.-
 198 In furtherance of the energy policy goals established in s.
 199 377.601, the Legislature finds that it is in the public interest
 200 to promote the development of renewable energy resources in the
 201 state, for purposes of electricity production, through the
 202 mechanisms established in ss. 366.91 and 366.92. The Legislature
 203 further finds that renewable energy resources have the potential
 204 to help diversify fuel types to alleviate the state's growing
 205 dependence on natural gas and other fossil fuels for the
 206 production of electricity, minimize the volatility of fuel
 207 costs, encourage investment within the state, improve
 208 environmental conditions, and make the state a leader in new and
 209 innovative technologies.

210 Section 3. Section 366.92, Florida Statutes, is amended to
 211 read:

212 366.92 Florida renewable energy policy.-
 213 ~~(1) It is the intent of the Legislature to promote the~~
 214 ~~development of renewable energy; protect the economic viability~~
 215 ~~of Florida's existing renewable energy facilities; diversify the~~
 216 ~~types of fuel used to generate electricity in Florida; lessen~~
 217 ~~Florida's dependence on natural gas and fuel oil for the~~
 218 ~~production of electricity; minimize the volatility of fuel~~
 219 ~~costs; encourage investment within the state; improve~~
 220 ~~environmental conditions; and, at the same time, minimize the~~
 221 ~~costs of power supply to electric utilities and their customers.~~

222 (1)(2) As used in this section, the term:

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

225 ~~(a)(b) "Provider" means a "utility" as defined in s.~~
 226 ~~366.8255(1) (a) .~~

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

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

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

238 ~~(3) The commission shall adopt rules for a renewable~~
 239 ~~portfolio standard requiring each provider to supply renewable~~
 240 ~~energy to its customers directly, by procuring, or through~~
 241 ~~renewable energy credits. In developing the RPS rule, the~~
 242 ~~commission shall consult the Department of Environmental~~
 243 ~~Protection and the Florida Energy and Climate Commission. The~~
 244 ~~rule shall not be implemented until ratified by the Legislature.~~
 245 ~~The commission shall present a draft rule for legislative~~
 246 ~~consideration by February 1, 2009.~~

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

251 ~~2020.~~

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

253 ~~1. Shall include methods of managing the cost of~~

254 ~~compliance with the renewable portfolio standard, whether~~

255 ~~through direct supply or procurement of renewable power or~~

256 ~~through the purchase of renewable energy credits. The commission~~

257 ~~shall have rulemaking authority for providing annual cost~~

258 ~~recovery and incentive-based adjustments to authorized rates of~~

259 ~~return on common equity to providers to incentivize renewable~~

260 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~

261 ~~ratification of the rules developed pursuant to this subsection,~~

262 ~~the commission may approve projects and power sales agreements~~

263 ~~with renewable power producers and the sale of renewable energy~~

264 ~~credits needed to comply with the renewable portfolio standard.~~

265 ~~In the event of any conflict, this subparagraph shall supersede~~

266 ~~s. 366.91(3) and (4). However, nothing in this section shall~~

267 ~~alter the obligation of each public utility to continuously~~

268 ~~offer a purchase contract to producers of renewable energy.~~

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

270 ~~the conditions under which noncompliance shall be excused due to~~

271 ~~a determination by the commission that the supply of renewable~~

272 ~~energy or renewable energy credits was not adequate to satisfy~~

273 ~~the demand for such energy or that the cost of securing~~

274 ~~renewable energy or renewable energy credits was cost~~

275 ~~prohibitive.~~

276 ~~3. May provide added weight to energy provided by wind and~~

277 ~~solar photovoltaic over other forms of renewable energy, whether~~

278 ~~directly supplied or procured or indirectly obtained through the~~

279 ~~purchase of renewable energy credits.~~

280 ~~4. Shall determine an appropriate period of time for which~~

281 ~~renewable energy credits may be used for purposes of compliance~~

282 ~~with the renewable portfolio standard.~~

283 ~~5. Shall provide for monitoring of compliance with and~~

284 ~~enforcement of the requirements of this section.~~

285 ~~6. Shall ensure that energy credited toward compliance~~

286 ~~with the requirements of this section is not credited toward any~~

287 ~~other purpose.~~

288 ~~7. Shall include procedures to track and account for~~

289 ~~renewable energy credits, including ownership of renewable~~

290 ~~energy credits that are derived from a customer-owned renewable~~

291 ~~energy facility as a result of any action by a customer of an~~

292 ~~electric power supplier that is independent of a program~~

293 ~~sponsored by the electric power supplier.~~

294 ~~8. Shall provide for the conditions and options for the~~

295 ~~repeal or alteration of the rule in the event that new~~

296 ~~provisions of federal law supplant or conflict with the rule.~~

297 ~~(c) Beginning on April 1 of the year following final~~

298 ~~adoption of the commission's renewable portfolio standard rule,~~

299 ~~each provider shall submit a report to the commission describing~~

300 ~~the steps that have been taken in the previous year and the~~

301 ~~steps that will be taken in the future to add renewable energy~~

302 ~~to the provider's energy supply portfolio. The report shall~~

303 ~~state whether the provider was in compliance with the renewable~~

304 ~~portfolio standard during the previous year and how it will~~

305 ~~comply with the renewable portfolio standard in the upcoming~~

306 ~~year.~~

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307 ~~(2)-(4) Subject to the provisions of this subsection In~~
308 ~~order to demonstrate the feasibility and viability of clean~~
309 ~~energy systems, the commission shall provide for full cost~~
310 ~~recovery under the environmental cost-recovery clause of all~~
311 ~~reasonable and prudent costs incurred by a provider to produce~~
312 ~~or purchase for renewable energy for purposes of supplying~~
313 ~~electrical energy to its retail customers projects that are zero~~
314 ~~greenhouse gas emitting at the point of generation, up to a~~
315 ~~total of 110 megawatts statewide, and for which the provider has~~
316 ~~secured necessary land, zoning permits, and transmission rights~~
317 ~~within the state. Such costs shall be deemed reasonable and~~
318 ~~prudent for purposes of cost recovery so long as the provider~~
319 ~~has used reasonable and customary industry practices in the~~
320 ~~design, procurement, and construction of the project in a cost-~~
321 ~~effective manner appropriate to the location of the facility.~~
322 ~~The provider shall report to the commission as part of the cost-~~
323 ~~recovery proceedings the construction costs, in-service costs,~~
324 ~~operating and maintenance costs, hourly energy production of the~~
325 ~~renewable energy project, and any other information deemed~~
326 ~~relevant by the commission. Any provider constructing a clean~~
327 ~~energy facility pursuant to this section shall file for cost~~
328 ~~recovery no later than July 1, 2009.~~

329 (a) A provider may petition the commission no later than
330 July 1, 2015, requesting recovery of costs over the useful life
331 of a project to produce renewable energy or over the term of a
332 contract to purchase renewable energy, or a combination of both,
333 subject to the cost cap in paragraph (c). The provider has sole
334 discretion to determine the type and technology of the renewable

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335 energy resource that it intends to use. However, at least 20
336 percent of the total capacity for which a provider is permitted
337 to recover costs in any calendar year under this subsection must
338 be produced or purchased from renewable energy resources other
339 than solar energy. A provider must file with the commission, no
340 later than when the provider files a petition for cost recovery
341 under this subsection, a schedule of planned production and
342 purchases for the calendar year in which cost recovery is
343 requested. If any portion of the capacity required from nonsolar
344 renewable energy resources is committed but, for reasons found
345 by the commission to be beyond the control of the provider, is
346 not available during the calendar year for which cost recovery
347 is requested, the provider may continue to recover costs to
348 produce or purchase renewable energy from solar energy resources
349 if the provider continues in good faith to pursue the production
350 or purchase of renewable energy from nonsolar resources. The
351 provider has sole discretion to determine whether to construct
352 new renewable energy generating facilities, convert existing
353 fossil fuel generating facilities to renewable energy generating
354 facilities, or contract for the purchase of renewable energy
355 from third-party generating facilities in the state.

356 (b) In addition to the full cost recovery for such
357 renewable energy projects, a return on equity of 50 basis points
358 above the provider's last authorized rate of return on equity
359 approved by the commission for energy projects shall be approved
360 and provided for a project to produce renewable energy if a
361 majority of the costs of the energy-producing components
362 incorporated into such projects are manufactured in the state.

363 (c) For the production or purchase of renewable energy
 364 under this subsection, a provider may annually recover costs up
 365 to and in excess of its full avoided cost, as defined in s.
 366 366.051 and approved by the commission, if the recovery of costs
 367 in excess of the provider's full avoided cost does not exceed,
 368 on an annual basis, 2 percent of the provider's total revenues
 369 from the retail sale of electricity for calendar year 2010. For
 370 purposes of cost recovery under this subsection, costs shall be
 371 computed using a methodology that reflects the actual annual
 372 revenue requirements contracted for payment for the purchase of
 373 renewable capacity and energy from a nonutility renewable
 374 generator or the revenue requirements using conventional
 375 regulatory accounting for a utility-owned renewable generator.

376 (d) Cost recovery under this subsection is limited to new
 377 construction or conversion projects for which construction is
 378 commenced on or after July 1, 2011, and to purchases made on or
 379 after that date. All renewable energy projects for which costs
 380 are approved by the commission for recovery through the
 381 environmental cost recovery clause before July 1, 2011, are not
 382 subject to or included in the calculation of the cost cap. At
 383 least 5 percent of the total costs of solar generation for which
 384 a provider is permitted recovery in any calendar year under this
 385 subsection shall be dedicated to the provider's demand-side
 386 renewable energy system incentive program approved by the
 387 commission pursuant to s. 366.82.

388 (e) The costs incurred by a provider to produce or
 389 purchase renewable energy under this subsection are deemed to be
 390 prudent for purposes of cost recovery if the provider

391 demonstrates to the commission that the project is the most
 392 cost-effective alternative for the type of renewable energy
 393 resource selected by the utility and that it has used reasonable
 394 and customary industry practices in the design, procurement, and
 395 construction of the project.

396 (f) Subject to the cost cap in paragraph (c), the
 397 commission shall allow a provider to recover the costs
 398 associated with the production or purchase of renewable energy
 399 under this subsection as follows:

400 1. For new renewable energy generating facilities, the
 401 commission shall allow recovery of reasonable and prudent costs,
 402 including, but not limited to, the siting, licensing,
 403 engineering, design, permitting, construction, operation, and
 404 maintenance of such facilities, including any applicable taxes
 405 and a return based on the provider's last authorized rate of
 406 return.

407 2. For conversion of existing fossil fuel generating
 408 facilities to renewable energy generating facilities, the
 409 commission shall allow recovery of reasonable and prudent
 410 conversion costs, including the costs of retirement of the
 411 fossil fuel plant that exceed any amounts accrued by the
 412 provider for such purposes through rates previously set by the
 413 commission.

414 3. For purchase of renewable energy from third-party
 415 generating facilities in the state, the commission shall allow
 416 recovery of reasonable and prudent costs associated with the
 417 purchase.

418 (g) In a proceeding to recover costs incurred under this

419 subsection, a provider must provide the commission all cost
 420 information, hourly energy production information, and other
 421 information deemed relevant by the commission with respect to
 422 each project.

423 (h) When a provider purchases renewable energy under this
 424 subsection at a cost in excess of its full avoided cost, the
 425 seller must surrender to the provider all renewable attributes
 426 of the renewable energy purchased.

427 (i) Revenues derived from any renewable energy credit,
 428 carbon credit, or other mechanism that attributes value to the
 429 production of renewable energy, either existing or hereafter
 430 devised, received by a provider by virtue of the production or
 431 purchase of renewable energy for which cost recovery is approved
 432 under this subsection shall be shared with the provider's
 433 ratepayers such that the ratepayers are credited at least 75
 434 percent of such revenues. However, the provider is not required
 435 to share with its ratepayers any value derived from credits
 436 received by the provider by virtue of the purchase of renewable
 437 energy from a third-party generating facility in the state that
 438 does not exceed 2 megawatts in capacity and that is not a
 439 regulated utility or its unregulated affiliate.

440 (j) Section 403.519 does not apply to a renewable energy
 441 generating facility constructed or converted from an existing
 442 fossil fuel generating facility under this subsection, and the
 443 commission is not required to submit a report for such a project
 444 under s. 403.507(4) (a).

445 (3) Each provider shall, in its 10-year site plan
 446 submitted to the commission pursuant to s. 186.801, provide the

447 following information:

448 (a) The amount of renewable energy resources the provider
 449 produces or purchases.

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

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

457 (4)-(5) Each municipal electric utility and rural electric
 458 cooperative shall develop standards for the promotion,
 459 encouragement, and expansion of the use of renewable energy
 460 resources and energy conservation and efficiency measures. On or
 461 before April 1, 2009, and annually thereafter, each municipal
 462 electric utility and electric cooperative shall submit to the
 463 commission a report that identifies such standards.

464 (5)-(6) Nothing in This section and any action taken under
 465 this section may not shall be construed to impede or impair the
 466 terms and conditions of, or serve as a basis for renegotiating
 467 or repricing, an existing contract contracts.

468 (6)-(7) The commission may adopt rules to administer and
 469 implement the provisions of this section.

470 Section 4. Subsection (14) of section 403.503, Florida
 471 Statutes, is amended to read:

472 403.503 Definitions relating to Florida Electrical Power
 473 Plant Siting Act.—As used in this act:

474 (14) "Electrical power plant" means, for the purpose of

475 certification, any steam ~~or solar~~ electrical generating facility
 476 using any process or fuel, including nuclear materials, except
 477 that this term does not include any steam ~~or solar~~ electrical
 478 generating facility of less than 75 megawatts in capacity or any
 479 solar electrical generating facility of any sized capacity
 480 unless the applicant for such a facility elects to apply for
 481 certification under this act. This term also includes the site;
 482 all associated facilities that will be owned by the applicant
 483 that are physically connected to the site; all associated
 484 facilities that are indirectly connected to the site by other
 485 proposed associated facilities that will be owned by the
 486 applicant; and associated transmission lines that will be owned
 487 by the applicant which connect the electrical power plant to an
 488 existing transmission network or rights-of-way to which the
 489 applicant intends to connect. At the applicant's option, this
 490 term may include any offsite associated facilities that will not
 491 be owned by the applicant; offsite associated facilities that
 492 are owned by the applicant but that are not directly connected
 493 to the site; any proposed terminal or intermediate substations
 494 or substation expansions connected to the associated
 495 transmission line; or new transmission lines, upgrades, or
 496 improvements of an existing transmission line on any portion of
 497 the applicant's electrical transmission system necessary to
 498 support the generation injected into the system from the
 499 proposed electrical power plant.

500 Section 5. All of the powers, duties, functions, records,
 501 personnel, and property; unexpended balances of appropriations,
 502 allocations, and other funds; administrative authority;

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503 administrative rules; pending issues; and existing contracts of
 504 the Florida Energy and Climate Commission in the Executive
 505 Office of the Governor, are transferred by a type two transfer,
 506 pursuant to s. 20.06(2), Florida Statutes, to the Department of
 507 Agriculture and Consumer Services.

508 Section 6. All of the powers, duties, functions, records,
 509 personnel, and property; unexpended balances of appropriations,
 510 allocations, and other funds; administrative authority;
 511 administrative rules; pending issues; and existing contracts of
 512 the Low-Income Home Energy Assistance Program, authorized under
 513 s. 409.508, Florida Statutes, and the Weatherization Assistance
 514 Program, authorized in ss. 409.509-409.5093, Florida Statutes,
 515 in the Department of Community Affairs, are transferred by a
 516 type two transfer, pursuant to s. 20.06(2), Florida Statutes, to
 517 the Department of Agriculture and Consumer Services.

518 Section 7. Section 377.6015, Florida Statutes, is amended
 519 to read:

520 377.6015 Department of Agriculture and Consumer Services;
 521 powers and duties ~~Florida Energy and Climate Commission.-~~

522 ~~(1) The Florida Energy and Climate Commission is created~~
 523 ~~within the Executive Office of the Governor. The commission~~
 524 ~~shall be comprised of nine members appointed by the Governor,~~
 525 ~~the Commissioner of Agriculture, and the Chief Financial~~
 526 ~~Officer.~~

527 ~~(a) The Governor shall appoint one member from three~~
 528 ~~persons nominated by the Florida Public Service Commission~~
 529 ~~Nominating Council, created in s. 350.031, to each of seven~~
 530 ~~seats on the commission. The Commissioner of Agriculture shall~~

531 ~~appoint one member from three persons nominated by the council~~
 532 ~~to one seat on the commission. The Chief Financial Officer shall~~
 533 ~~appoint one member from three persons nominated by the council~~
 534 ~~to one seat on the commission.~~

535 ~~1. The council shall submit the recommendations to the~~
 536 ~~Governor, the Commissioner of Agriculture, and the Chief~~
 537 ~~Financial Officer by September 1 of those years in which the~~
 538 ~~terms are to begin the following October or within 60 days after~~
 539 ~~a vacancy occurs for any reason other than the expiration of the~~
 540 ~~term. The Governor, the Commissioner of Agriculture, and the~~
 541 ~~Chief Financial Officer may proffer names of persons to be~~
 542 ~~considered for nomination by the council.~~

543 ~~2. The Governor, the Commissioner of Agriculture, and the~~
 544 ~~Chief Financial Officer shall fill a vacancy occurring on the~~
 545 ~~commission by appointment of one of the applicants nominated by~~
 546 ~~the council only after a background investigation of such~~
 547 ~~applicant has been conducted by the Department of Law~~
 548 ~~Enforcement.~~

549 ~~3. Members shall be appointed to 3-year terms; however, in~~
 550 ~~order to establish staggered terms, for the initial~~
 551 ~~appointments, the Governor shall appoint four members to 3-year~~
 552 ~~terms, two members to 2-year terms, and one member to a 1-year~~
 553 ~~term, and the Commissioner of Agriculture and the Chief~~
 554 ~~Financial Officer shall each appoint one member to a 3-year term~~
 555 ~~and shall appoint a successor when that appointee's term expires~~
 556 ~~in the same manner as the original appointment.~~

557 ~~4. The Governor shall select from the membership of the~~
 558 ~~commission one person to serve as chair.~~

559 ~~5. A vacancy on the commission shall be filled for the~~
 560 ~~unexpired portion of the term in the same manner as the original~~
 561 ~~appointment.~~

562 ~~6. If the Governor, the Commissioner of Agriculture, or~~
 563 ~~the Chief Financial Officer has not made an appointment within~~
 564 ~~30 consecutive calendar days after the receipt of the~~
 565 ~~recommendations, the council shall initiate, in accordance with~~
 566 ~~this section, the nominating process within 30 days.~~

567 ~~7. Each appointment to the commission shall be subject to~~
 568 ~~confirmation by the Senate during the next regular session after~~
 569 ~~the vacancy occurs. If the Senate refuses to confirm or fails to~~
 570 ~~consider the appointment of the Governor, the Commissioner of~~
 571 ~~Agriculture, or the Chief Financial Officer, the council shall~~
 572 ~~initiate, in accordance with this section, the nominating~~
 573 ~~process within 30 days.~~

574 ~~8. The Governor or the Governor's successor may recall an~~
 575 ~~appointee.~~

576 ~~9. Notwithstanding subparagraph 7. and for the initial~~
 577 ~~appointments to the commission only, each initial appointment to~~
 578 ~~the commission is subject to confirmation by the Senate by the~~
 579 ~~2010 Regular Session. If the Senate refuses to confirm or fails~~
 580 ~~to consider an appointment made by the Governor, the~~
 581 ~~Commissioner of Agriculture, or the Chief Financial Officer, the~~
 582 ~~council shall initiate, in accordance with this section, the~~
 583 ~~nominating process within 30 days after the Senate's refusal to~~
 584 ~~confirm or failure to consider such appointment. This~~
 585 ~~subparagraph expires July 1, 2010.~~

586 ~~(b) Members must meet the following qualifications and~~

587 ~~restrictions:~~

588 1. ~~A member must be an expert in one or more of the~~
 589 ~~following fields: energy, natural resource conservation,~~
 590 ~~economics, engineering, finance, law, transportation and land~~
 591 ~~use, consumer protection, state energy policy, or another field~~
 592 ~~substantially related to the duties and functions of the~~
 593 ~~commission. The commission shall fairly represent the fields~~
 594 ~~specified in this subparagraph.~~

595 2. ~~Each member shall, at the time of appointment and at~~
 596 ~~each commission meeting during his or her term of office,~~
 597 ~~disclose:~~

598 a. ~~Whether he or she has any financial interest, other~~
 599 ~~than ownership of shares in a mutual fund, in any business~~
 600 ~~entity that, directly or indirectly, owns or controls, or is an~~
 601 ~~affiliate or subsidiary of, any business entity that may be~~
 602 ~~affected by the policy recommendations developed by the~~
 603 ~~commission.~~

604 b. ~~Whether he or she is employed by or is engaged in any~~
 605 ~~business activity with any business entity that, directly or~~
 606 ~~indirectly, owns or controls, or is an affiliate or subsidiary~~
 607 ~~of, any business entity that may be affected by the policy~~
 608 ~~recommendations developed by the commission.~~

609 (c) ~~The chair may designate the following ex officio,~~
 610 ~~nonvoting members to provide information and advice to the~~
 611 ~~commission at the request of the chair:~~

612 1. ~~The chair of the Florida Public Service Commission, or~~
 613 ~~his or her designee.~~

614 2. ~~The Public Counsel, or his or her designee.~~

615 ~~3. A representative of the Department of Agriculture and~~
 616 ~~Consumer Services.~~

617 ~~4. A representative of the Department of Financial~~
 618 ~~Services.~~

619 ~~5. A representative of the Department of Environmental~~
 620 ~~Protection.~~

621 ~~6. A representative of the Department of Community~~
 622 ~~Affairs.~~

623 ~~7. A representative of the Board of Governors of the State~~
 624 ~~University System.~~

625 ~~8. A representative of the Department of Transportation.~~

626 ~~(2) Members shall serve without compensation but are~~
 627 ~~entitled to reimbursement for per diem and travel expenses as~~
 628 ~~provided in s. 112.061.~~

629 ~~(3) Meetings of the commission may be held in various~~
 630 ~~locations around the state and at the call of the chair;~~
 631 ~~however, the commission must meet at least six times each year.~~

632 (1)(4) The Department of Agriculture and Consumer Services
 633 commission may:

634 (a) Employ staff and counsel as needed in the performance
 635 of its duties.

636 (b) Prosecute and defend legal actions in its own name.

637 (c) Form advisory groups consisting of members of the
 638 public to provide information on specific issues.

639 (2)(5) The department commission shall:

640 (a) Administer the Florida Renewable Energy and Energy-
 641 Efficient Technologies Grants Program pursuant to s. 377.804 to
 642 assure a robust grant portfolio.

643 (b) Develop policy for requiring grantees to provide
 644 royalty-sharing or licensing agreements with state government
 645 for commercialized products developed under a state grant.

646 (c) Administer the Florida Green Government Grants Act
 647 pursuant to s. 377.808 and set annual priorities for grants.

648 (d) Administer the information gathering and reporting
 649 functions pursuant to ss. 377.601-377.608.

650 (e) Administer petroleum planning and emergency
 651 contingency planning pursuant to ss. 377.701, 377.703, and
 652 377.704.

653 (f) Represent Florida in the Southern States Energy
 654 Compact pursuant to ss. 377.71-377.712.

655 ~~(g) Complete the annual assessment of the efficacy of~~
 656 ~~Florida's Energy and Climate Change Action Plan, upon completion~~
 657 ~~by the Governor's Action Team on Energy and Climate Change~~
 658 ~~pursuant to the Governor's Executive Order 2007-128, and provide~~
 659 ~~specific recommendations to the Governor and the Legislature~~
 660 ~~each year to improve results.~~

661 (g)~~(h)~~ Administer the provisions of the Florida Energy and
 662 Climate Protection Act pursuant to ss. 377.801-377.806.

663 (h)~~(i)~~ Advocate for energy and climate change issues and
 664 provide educational outreach and technical assistance in
 665 cooperation with the state's academic institutions.

666 (i)~~(j)~~ Be a party in the proceedings to adopt goals and
 667 submit comments to the Public Service Commission pursuant to s.
 668 366.82.

669 (j)~~(k)~~ Adopt rules pursuant to chapter 120 in order to
 670 implement all powers and duties described in this section.

671 Section 8. Subsection (1) and paragraphs (a) and (b) of
 672 subsection (2) of section 377.602, Florida Statutes, are amended
 673 to read:

674 377.602 Definitions.—As used in ss. 377.601-377.608:

675 (1) "Department" means the Department of Agriculture and
 676 Consumer Services ~~"Commission"~~ means the Florida Energy and
 677 Climate Commission.

678 (2) "Energy resources" includes, but shall not be limited
 679 to:

680 (a) Energy converted from solar radiation, wind, hydraulic
 681 potential, tidal movements, biomass, geothermal sources, and
 682 other energy resources the department ~~commission~~ determines to
 683 be important to the production or supply of energy.

684 (b) Propane, butane, motor gasoline, kerosene, home
 685 heating oil, diesel fuel, other middle distillates, aviation
 686 gasoline, kerosene-type jet fuel, naphtha-type jet fuel,
 687 residual fuels, crude oil, and other petroleum products and
 688 hydrocarbons as may be determined by the department ~~commission~~
 689 to be of importance.

690 Section 9. Section 377.603, Florida Statutes, is amended
 691 to read:

692 377.603 Energy data collection; powers and duties of the
 693 department ~~commission~~.—

694 (1) The department ~~commission~~ may collect data on the
 695 extraction, production, importation, exportation, refinement,
 696 transportation, transmission, conversion, storage, sale, or
 697 reserves of energy resources in this state in an efficient and
 698 expeditious manner.

699 (2) The department ~~commission~~ may prepare periodic reports
700 of energy data it collects.

701 (3) The department ~~commission~~ may adopt and promulgate
702 such rules and regulations as are necessary to carry out the
703 provisions of ss. 377.601-377.608. Such rules shall be pursuant
704 to chapter 120.

705 (4) The department ~~commission~~ shall maintain internal
706 validation procedures to assure the accuracy of information
707 received.

708 Section 10. Section 377.604, Florida Statutes, is amended
709 to read:

710 377.604 Required reports.—Every person who produces,
711 imports, exports, refines, transports, transmits, converts,
712 stores, sells, or holds known reserves of any form of energy
713 resources used as fuel shall report to the department
714 ~~commission~~, at the request of and in a manner prescribed by the
715 department ~~commission~~, on forms provided by the department
716 ~~commission~~. Such forms shall be designed in such a manner as to
717 indicate:

718 (1) The identity of the person or persons making the
719 report.

720 (2) The quantity of energy resources extracted, produced,
721 imported, exported, refined, transported, transmitted,
722 converted, stored, or sold except at retail.

723 (3) The quantity of energy resources known to be held in
724 reserve in the state.

725 (4) The identity of each refinery from which petroleum
726 products have normally been obtained and the type and quantity

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727 of products secured from that refinery for sale or resale in
728 this state.

729 (5) Any other information which the department ~~commission~~
730 deems proper pursuant to the intent of ss. 377.601-377.608.

731 Section 11. Section 377.605, Florida Statutes, is amended
732 to read:

733 377.605 Use of existing information.—The department
734 ~~commission~~ may utilize to the fullest extent possible any
735 existing energy information already prepared for state or
736 federal agencies. Every state, county, and municipal agency
737 shall cooperate with the department ~~commission~~ and shall submit
738 any information on energy to the department ~~commission~~ upon
739 request.

740 Section 12. Section 377.606, Florida Statutes, is amended
741 to read:

742 377.606 Records of the department ~~commission~~; limits of
743 confidentiality.—The information or records of individual
744 persons, as defined in this section, obtained by the department
745 ~~commission~~ as a result of a report, investigation, or
746 verification required by the department ~~commission~~ shall be open
747 to the public, except such information the disclosure of which
748 would be likely to cause substantial harm to the competitive
749 position of the person providing such information and which is
750 requested to be held confidential by the person providing such
751 information. Such proprietary information is confidential and
752 exempt from the provisions of s. 119.07(1). Information reported
753 by entities other than the department ~~commission~~ in documents or
754 reports open to public inspection shall under no circumstances

755 be classified as confidential by the department ~~commission~~.
 756 Divulgence of proprietary information as is requested to be held
 757 confidential, except upon order of a court of competent
 758 jurisdiction or except to an officer of the state entitled to
 759 receive the same in his or her official capacity, shall be a
 760 misdemeanor of the second degree, punishable as provided in ss.
 761 775.082 and 775.083. Nothing in this section shall be construed
 762 to prohibit the publication or divulgence by other means of data
 763 so classified as to prevent identification of particular
 764 accounts or reports made to the department ~~commission~~ in
 765 compliance with s. 377.603 or to prohibit the disclosure of such
 766 information to properly qualified legislative committees. The
 767 department ~~commission~~ shall establish a system which permits
 768 reasonable access to information developed.

769 Section 13. For the purpose of incorporating the amendment
 770 made by this act to section 377.602, Florida Statutes, in a
 771 reference thereto, Section 377.607, Florida Statutes, is
 772 reenacted to read:

773 377.607 Violations; penalties.—Any person who willfully
 774 fails to submit information as required by ss. 377.601-377.608,
 775 or submits false information, is guilty of a misdemeanor of the
 776 first degree, punishable as provided in ss. 775.082 and 775.083.

777 Section 14. Section 377.608, Florida Statutes, is amended
 778 to read:

779 377.608 Prosecution of cases by state attorney.—The state
 780 attorney shall prosecute all cases certified to him or her for
 781 prosecution by the department ~~commission~~ immediately upon
 782 receipt of the evidence transmitted by the department

783 ~~commission~~, or as soon thereafter as practicable.

784 Section 15. Subsections (1), (2), and (3) of section
785 377.701, Florida Statutes, are amended to read:

786 377.701 Petroleum allocation.—

787 (1) The Department of Agriculture and Consumer Services
788 ~~Florida Energy and Climate Commission~~ shall assume the state's
789 role in petroleum allocation and conservation, including the
790 development of a fair and equitable petroleum plan. The
791 department ~~commission~~ shall constitute the responsible state
792 agency for performing the functions of any federal program
793 delegated to the state, which relates to petroleum supply,
794 demand, and allocation.

795 (2) The department ~~commission~~ shall, in addition to
796 assuming the duties and responsibilities provided by subsection
797 (1), perform the following:

798 (a) In projecting available supplies of petroleum,
799 coordinate with the Department of Revenue to secure information
800 necessary to assure the sufficiency and accuracy of data
801 submitted by persons affected by any federal fuel allocation
802 program.

803 (b) Require such periodic reports from public and private
804 sources as may be necessary to the fulfillment of its
805 responsibilities under this act. Such reports may include:
806 petroleum use; all sales, including end-user sales, except
807 retail gasoline and retail fuel oil sales; inventories; expected
808 supplies and allocations; and petroleum conservation measures.

809 (c) In cooperation with the Department of Revenue and
810 other relevant state agencies, provide for long-range studies

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- 811 regarding the usage of petroleum in the state in order to:
- 812 1. Comprehend the consumption of petroleum resources.
- 813 2. Predict future petroleum demands in relation to
- 814 available resources.
- 815 3. Report the results of such studies to the Legislature.
- 816 (3) For the purpose of determining accuracy of data, all
- 817 state agencies shall timely provide the department ~~commission~~
- 818 with petroleum-use information in a format suitable to the needs
- 819 of the allocation program.

820 Section 16. Section 377.703, Florida Statutes, is amended

821 to read:

822 377.703 Additional functions of the Department of

823 Agriculture and Consumer Services ~~Florida Energy and Climate~~

824 ~~Commission.~~

825 (1) LEGISLATIVE INTENT.—Recognizing that energy supply and

826 demand questions have become a major area of concern to the

827 state which must be dealt with by effective and well-coordinated

828 state action, it is the intent of the Legislature to promote the

829 efficient, effective, and economical management of energy

830 problems, centralize energy coordination responsibilities,

831 pinpoint responsibility for conducting energy programs, and

832 ensure the accountability of state agencies for the

833 implementation of s. 377.601(2), the state energy policy. It is

834 the specific intent of the Legislature that nothing in this act

835 shall in any way change the powers, duties, and responsibilities

836 assigned by the Florida Electrical Power Plant Siting Act, part

837 II of chapter 403, or the powers, duties, and responsibilities

838 of the Florida Public Service Commission.

839 (2) ~~FLORIDA ENERGY AND CLIMATE COMMISSION;~~ DUTIES.—The
 840 department ~~commission~~ shall perform the following functions
 841 consistent with the development of a state energy policy:

842 (a) The department ~~commission~~ shall assume the
 843 responsibility for development of an energy emergency
 844 contingency plan to respond to serious shortages of primary and
 845 secondary energy sources. Upon a finding by the Governor,
 846 implementation of any emergency program shall be upon order of
 847 the Governor that a particular kind or type of fuel is, or that
 848 the occurrence of an event which is reasonably expected within
 849 30 days will make the fuel, in short supply. The department
 850 ~~commission~~ shall then respond by instituting the appropriate
 851 measures of the contingency plan to meet the given emergency or
 852 energy shortage. The Governor may utilize the provisions of s.
 853 252.36(5) to carry out any emergency actions required by a
 854 serious shortage of energy sources.

855 (b) The department ~~commission~~ shall be responsible for
 856 performing or coordinating the functions of any federal energy
 857 programs delegated to the state, including energy supply,
 858 demand, conservation, or allocation.

859 (c) The department ~~commission~~ shall analyze present and
 860 proposed federal energy programs and make recommendations
 861 regarding those programs to the Governor and the Legislature.

862 (d) The department ~~commission~~ shall coordinate efforts to
 863 seek federal support or other support for state energy
 864 activities, including energy conservation, research, or
 865 development, and shall be responsible for the coordination of
 866 multiagency energy conservation programs and plans.

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867 (e) The department ~~commission~~ shall analyze energy data
868 collected and prepare long-range forecasts of energy supply and
869 demand in coordination with the Florida Public Service
870 Commission, which shall have responsibility for electricity and
871 natural gas forecasts. To this end, the forecasts shall contain:

872 1. An analysis of the relationship of state economic
873 growth and development to energy supply and demand, including
874 the constraints to economic growth resulting from energy supply
875 constraints.

876 2. Plans for the development of renewable energy resources
877 and reduction in dependence on depletable energy resources,
878 particularly oil and natural gas, and an analysis of the extent
879 to which renewable energy sources are being utilized in the
880 state.

881 3. Consideration of alternative scenarios of statewide
882 energy supply and demand for 5, 10, and 20 years to identify
883 strategies for long-range action, including identification of
884 potential social, economic, and environmental effects.

885 4. An assessment of the state's energy resources,
886 including examination of the availability of commercially
887 developable and imported fuels, and an analysis of anticipated
888 effects on the state's environment and social services resulting
889 from energy resource development activities or from energy
890 supply constraints, or both.

891 (f) The department ~~commission~~ shall submit an annual
892 report to the Governor and the Legislature reflecting its
893 activities and making recommendations of policies for
894 improvement of the state's response to energy supply and demand

895 and its effect on the health, safety, and welfare of the people
 896 of Florida. The report shall include a report from the Florida
 897 Public Service Commission on electricity and natural gas and
 898 information on energy conservation programs conducted and
 899 underway in the past year and shall include recommendations for
 900 energy conservation programs for the state, including, but not
 901 limited to, the following factors:

902 1. Formulation of specific recommendations for improvement
 903 in the efficiency of energy utilization in governmental,
 904 residential, commercial, industrial, and transportation sectors.

905 2. Collection and dissemination of information relating to
 906 energy conservation.

907 3. Development and conduct of educational and training
 908 programs relating to energy conservation.

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

912 (g) The department ~~commission~~ has authority to adopt rules
 913 pursuant to ss. 120.536(1) and 120.54 to implement the
 914 provisions of this act.

915 (h) The department ~~commission~~ shall promote the
 916 development and use of renewable energy resources, in
 917 conformance with the provisions of chapter 187 and s. 377.601,
 918 by:

919 1. Establishing goals and strategies for increasing the
 920 use of solar energy in this state.

921 2. Aiding and promoting the commercialization of solar
 922 energy technology, in cooperation with the Florida Solar Energy

923 Center, Enterprise Florida, Inc., and any other federal, state,
 924 or local governmental agency which may seek to promote research,
 925 development, and demonstration of solar energy equipment and
 926 technology.

927 3. Identifying barriers to greater use of solar energy
 928 systems in this state, and developing specific recommendations
 929 for overcoming identified barriers, with findings and
 930 recommendations to be submitted annually in the report to the
 931 Governor and Legislature required under paragraph (f).

932 4. In cooperation with the Department of Environmental
 933 Protection, the Department of Transportation, the Department of
 934 Community Affairs, Enterprise Florida, Inc., the Florida Solar
 935 Energy Center, and the Florida Solar Energy Industries
 936 Association, investigating opportunities, pursuant to the
 937 National Energy Policy Act of 1992, the Housing and Community
 938 Development Act of 1992, and any subsequent federal legislation,
 939 for solar electric vehicles and other solar energy
 940 manufacturing, distribution, installation, and financing efforts
 941 which will enhance this state's position as the leader in solar
 942 energy research, development, and use.

943 5. Undertaking other initiatives to advance the
 944 development and use of renewable energy resources in this state.

945
 946 In the exercise of its responsibilities under this paragraph,
 947 the department ~~commission~~ shall seek the assistance of the solar
 948 energy industry in this state and other interested parties and
 949 is authorized to enter into contracts, retain professional
 950 consulting services, and expend funds appropriated by the

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951 Legislature for such purposes.

952 (i) The department ~~commission~~ shall promote energy
953 conservation in all energy use sectors throughout the state and
954 shall constitute the state agency primarily responsible for this
955 function. To this end, the department ~~commission~~ shall
956 coordinate the energy conservation programs of all state
957 agencies and review and comment on the energy conservation
958 programs of all state agencies.

959 (j) The department ~~commission~~ shall serve as the state
960 clearinghouse for indexing and gathering all information related
961 to energy programs in state universities, in private
962 universities, in federal, state, and local government agencies,
963 and in private industry and shall prepare and distribute such
964 information in any manner necessary to inform and advise the
965 citizens of the state of such programs and activities. This
966 shall include developing and maintaining a current index and
967 profile of all research activities, which shall be identified by
968 energy area and may include a summary of the project, the amount
969 and sources of funding, anticipated completion dates, or, in
970 case of completed research, conclusions, recommendations, and
971 applicability to state government and private sector functions.
972 The department ~~commission~~ shall coordinate, promote, and respond
973 to efforts by all sectors of the economy to seek financial
974 support for energy activities. The department ~~commission~~ shall
975 provide information to consumers regarding the anticipated
976 energy-use and energy-saving characteristics of products and
977 services in coordination with any federal, state, or local
978 governmental agencies as may provide such information to

979 consumers.

980 (k) The department ~~commission~~ shall coordinate energy-
 981 related programs of state government, including, but not limited
 982 to, the programs provided in this section. To this end, the
 983 department ~~commission~~ shall:

984 1. Provide assistance to other state agencies, counties,
 985 municipalities, and regional planning agencies to further and
 986 promote their energy planning activities.

987 2. Require, in cooperation with the Department of
 988 Management Services, all state agencies to operate state-owned
 989 and state-leased buildings in accordance with energy
 990 conservation standards as adopted by the Department of
 991 Management Services. Every 3 months, the Department of
 992 Management Services shall furnish the department ~~commission~~ data
 993 on agencies' energy consumption and emissions of greenhouse
 994 gases in a format prescribed by the department ~~commission~~.

995 3. Promote the development and use of renewable energy
 996 resources, energy efficiency technologies, and conservation
 997 measures.

998 4. Promote the recovery of energy from wastes, including,
 999 but not limited to, the use of waste heat, the use of
 1000 agricultural products as a source of energy, and recycling of
 1001 manufactured products. Such promotion shall be conducted in
 1002 conjunction with, and after consultation with, the Department of
 1003 Environmental Protection and the Florida Public Service
 1004 Commission where electrical generation or natural gas is
 1005 involved, and any other relevant federal, state, or local
 1006 governmental agency having responsibility for resource recovery

1007 programs.

1008 (1) The department ~~commission~~ shall develop, coordinate,
 1009 and promote a comprehensive research plan for state programs.
 1010 Such plan shall be consistent with state energy policy and shall
 1011 be updated on a biennial basis.

1012 (m) In recognition of the devastation to the economy of
 1013 this state and the dangers to the health and welfare of
 1014 residents of this state caused by severe hurricanes, and the
 1015 potential for such impacts caused by other natural disasters,
 1016 the department ~~commission~~ shall include in its energy emergency
 1017 contingency plan and provide to the Florida Building Commission
 1018 for inclusion in the Florida Energy Efficiency Code for Building
 1019 Construction specific provisions to facilitate the use of cost-
 1020 effective solar energy technologies as emergency remedial and
 1021 preventive measures for providing electric power, street
 1022 lighting, and water heating service in the event of electric
 1023 power outages.

1024 (3) The department ~~commission~~ shall be responsible for the
 1025 administration of the Coastal Energy Impact Program provided for
 1026 and described in Pub. L. No. 94-370, 16 U.S.C. s. 1456a.

1027 Section 17. Section 377.801, Florida Statutes, is amended
 1028 to read:

1029 377.801 Short title.—Sections 377.801-377.807 ~~377.806~~ may
 1030 be cited as the "Florida Energy and Climate Protection Act."

1031 Section 18. Section 377.802, Florida Statutes, is amended
 1032 to read:

1033 377.802 Purpose.—This act is intended to provide
 1034 incentives for Florida's citizens, businesses, school districts,

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1035 and local governments to take action to diversify the state's
 1036 energy supplies, reduce dependence on foreign oil, and mitigate
 1037 the effects of climate change by providing funding for
 1038 activities designed to achieve these goals. The grant programs
 1039 in this act are intended to stimulate capital investment in and
 1040 enhance the market for renewable energy technologies and
 1041 technologies intended to diversify Florida's energy supplies,
 1042 reduce dependence on foreign oil, and combat or limit climate
 1043 change impacts. This act is also intended to provide incentives
 1044 for the purchase of energy-efficient appliances ~~and rebates for~~
 1045 ~~solar energy equipment installations for residential and~~
 1046 ~~commercial buildings.~~

1047 Section 19. Section 377.803, Florida Statutes, is amended
 1048 to read:

1049 377.803 Definitions.—As used in ss. 377.801-377.807
 1050 ~~377.806~~, the term:

1051 (1) "Act" means the Florida Energy and Climate Protection
 1052 Act.

1053 (2) "Department" means the Department of Agriculture and
 1054 Consumer Services ~~"Commission"~~ means the Florida Energy and
 1055 ~~Climate Commission.~~

1056 (3) "Person" means an individual, partnership, joint
 1057 venture, private or public corporation, association, firm,
 1058 public service company, or any other public or private entity.

1059 (4) "Renewable energy" means electrical, mechanical, or
 1060 thermal energy produced from a method that uses one or more of
 1061 the following fuels or energy sources: hydrogen, biomass, as
 1062 defined in s. 366.91, solar energy, geothermal energy, wind

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1063 energy, ocean energy, waste heat, or hydroelectric power.

1064 (5) "Renewable energy technology" means any technology
1065 that generates or utilizes a renewable energy resource.

1066 ~~(6) "Solar energy system" means equipment that provides
1067 for the collection and use of incident solar energy for water
1068 heating, space heating or cooling, or other applications that
1069 would normally require a conventional source of energy such as
1070 petroleum products, natural gas, or electricity that performs
1071 primarily with solar energy. In other systems in which solar
1072 energy is used in a supplemental way, only those components that
1073 collect and transfer solar energy shall be included in this
1074 definition.~~

1075 ~~(7) "Solar photovoltaic system" means a device that
1076 converts incident sunlight into electrical current.~~

1077 ~~(8) "Solar thermal system" means a device that traps heat
1078 from incident sunlight in order to heat water.~~

1079 Section 20. Section 377.804, Florida Statutes, is amended
1080 to read:

1081 377.804 Renewable Energy and Energy-Efficient Technologies
1082 Grants Program.—

1083 (1) The Renewable Energy and Energy-Efficient Technologies
1084 Grants Program is established within the department ~~commission~~
1085 to provide renewable energy matching grants for demonstration,
1086 commercialization, research, and development projects relating
1087 to renewable energy technologies and innovative technologies
1088 that significantly increase energy efficiency for vehicles and
1089 commercial buildings.

1090 (2) Matching grants for projects described in subsection

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- 1091 (1) may be made to any of the following:
- 1092 (a) Municipalities and county governments.
- 1093 (b) Established for-profit companies licensed to do
- 1094 business in the state.
- 1095 (c) Universities and colleges in the state.
- 1096 (d) Utilities located and operating within the state.
- 1097 (e) Not-for-profit organizations.
- 1098 (f) Other qualified persons, as determined by the
- 1099 department ~~commission~~.
- 1100 (3) The department ~~commission~~ may adopt rules pursuant to
- 1101 ss. 120.536(1) and 120.54 to provide for application
- 1102 requirements, provide for ranking of applications, and
- 1103 administer the awarding of grants under this program.
- 1104 (4) Factors the department ~~commission~~ shall consider in
- 1105 awarding grants include, but are not limited to:
- 1106 (a) The availability of matching funds or other in-kind
- 1107 contributions applied to the total project from an applicant.
- 1108 The department ~~commission~~ shall give greater preference to
- 1109 projects that provide such matching funds or other in-kind
- 1110 contributions.
- 1111 (b) The degree to which the project stimulates in-state
- 1112 capital investment and economic development in metropolitan and
- 1113 rural areas, including the creation of jobs and the future
- 1114 development of a commercial market for renewable energy
- 1115 technologies.
- 1116 (c) The extent to which the proposed project has been
- 1117 demonstrated to be technically feasible based on pilot project
- 1118 demonstrations, laboratory testing, scientific modeling, or

1119 engineering or chemical theory that supports the proposal.

1120 (d) The degree to which the project incorporates an
 1121 innovative new technology or an innovative application of an
 1122 existing technology.

1123 (e) The degree to which a project generates thermal,
 1124 mechanical, or electrical energy by means of a renewable energy
 1125 resource that has substantial long-term production potential.

1126 (f) The degree to which a project demonstrates efficient
 1127 use of energy and material resources.

1128 (g) The degree to which the project fosters overall
 1129 understanding and appreciation of renewable energy technologies.

1130 (h) The ability to administer a complete project.

1131 (i) Project duration and timeline for expenditures.

1132 (j) The geographic area in which the project is to be
 1133 conducted in relation to other projects.

1134 (k) The degree of public visibility and interaction.

1135 (5) The department ~~commission~~ shall solicit the expertise
 1136 of state agencies, Enterprise Florida, Inc., and state
 1137 universities, and may solicit the expertise of other public and
 1138 private entities it deems appropriate, in evaluating project
 1139 proposals. State agencies shall cooperate with the department
 1140 ~~commission~~ and provide such assistance as requested.

1141 (6) ~~The commission shall coordinate and actively consult~~
 1142 ~~with the Department of Agriculture and Consumer Services during~~
 1143 ~~the review and approval process of grants relating to bioenergy~~
 1144 ~~projects for renewable energy technology.~~ Factors for
 1145 consideration in awarding grants relating to bioenergy projects
 1146 may include, but are not limited to, the degree to which:

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1147 (a) The project stimulates in-state capital investment and
 1148 economic development in metropolitan and rural areas, including
 1149 the creation of jobs and the future development of a commercial
 1150 market for bioenergy.

1151 (b) The project produces bioenergy from Florida-grown
 1152 crops or biomass.

1153 (c) The project demonstrates efficient use of energy and
 1154 material resources.

1155 (d) The project fosters overall understanding and
 1156 appreciation of bioenergy technologies.

1157 (e) Matching funds and in-kind contributions from an
 1158 applicant are available.

1159 (f) The project duration and the timeline for expenditures
 1160 are acceptable.

1161 (g) The project has a reasonable assurance of enhancing
 1162 the value of agricultural products or will expand agribusiness
 1163 in the state.

1164 (h) Preliminary market and feasibility research has been
 1165 conducted by the applicant or others and shows there is a
 1166 reasonable assurance of a potential market.

1167 (7) Each grant application shall be accompanied by an
 1168 affidavit from the applicant attesting to the accuracy of the
 1169 statements contained in the application.

1170 Section 21. Section 377.806, Florida Statutes, is
 1171 repealed.

1172 Section 22. Section 377.807, Florida Statutes, is amended
 1173 to read:

1174 377.807 Energy-efficient appliance rebate program.—

1175 (1) The department ~~Florida Energy and Climate Commission~~
 1176 is authorized to develop and administer a consumer rebate
 1177 program for residential energy-efficient appliances, consistent
 1178 with 42 U.S.C. s. 15821 and any federal agency guidance or
 1179 regulations issued in furtherance of federal law.

1180 (2) The department ~~commission~~ may adopt rules pursuant to
 1181 ss. 120.536(1) and 120.54 designating eligible appliances,
 1182 rebate amounts, and the administration of the issuance of
 1183 rebates. The rules shall be consistent with 42 U.S.C. s. 15821
 1184 and any subsequent implementing federal regulations or guidance.

1185 (3) The department ~~commission~~ is authorized to enter into
 1186 contracts or memoranda of agreement with other agencies of the
 1187 state, public-private partnerships, or other arrangements such
 1188 that the most efficient means of administering consumer rebates
 1189 can be achieved.

1190 Section 23. Section 377.808, Florida Statutes, is amended
 1191 to read:

1192 377.808 Florida Green Government Grants Act.—

1193 (1) This section may be cited as the "Florida Green
 1194 Government Grants Act."

1195 (2) The Department of Agriculture and Consumer Services
 1196 ~~Florida Energy and Climate Commission~~ shall use funds
 1197 specifically appropriated to award grants under this section to
 1198 assist local governments, including municipalities, counties,
 1199 and school districts, in the development and implementation of
 1200 programs that achieve green standards. Green standards shall be
 1201 determined by the department ~~commission~~ and shall provide for
 1202 cost-efficient solutions, reducing greenhouse gas emissions,

1203 improving quality of life, and strengthening the state's
 1204 economy.

1205 (3) The department ~~commission~~ shall adopt rules pursuant
 1206 to chapter 120 to administer the grants provided for in this
 1207 section. In accordance with the rules adopted by the department
 1208 ~~commission~~ under this section, the department ~~commission~~ may
 1209 provide grants from funds specifically appropriated for this
 1210 purpose to local governments for the costs of achieving green
 1211 standards, including necessary administrative expenses. The
 1212 rules of the department ~~commission~~ shall:

1213 (a) Designate one or more suitable green government
 1214 standards frameworks from which local governments may develop a
 1215 greening government initiative and from which projects may be
 1216 eligible for funding pursuant to this section.

1217 (b) Require that projects that plan, design, construct,
 1218 upgrade, or replace facilities reduce greenhouse gas emissions
 1219 and be cost-effective, environmentally sound, permissible, and
 1220 implementable.

1221 (c) Require local governments to match state funds with
 1222 direct project cost sharing or in-kind services.

1223 (d) Provide for a scale of matching requirements for local
 1224 governments on the basis of population in order to assist rural
 1225 and undeveloped areas of the state with any financial burden of
 1226 addressing climate change impacts.

1227 (e) Require grant applications to be submitted on
 1228 appropriate forms developed and adopted by the department
 1229 ~~commission~~ with appropriate supporting documentation and require
 1230 records to be maintained.

1231 (f) Establish a system to determine the relative priority
 1232 of grant applications. The system shall consider greenhouse gas
 1233 reductions, energy savings and efficiencies, and proven
 1234 technologies.

1235 (g) Establish requirements for competitive procurement of
 1236 engineering and construction services, materials, and equipment.

1237 (h) Provide for termination of grants when program
 1238 requirements are not met.

1239 (4) Each local government is limited to not more than two
 1240 grant applications during each application period announced by
 1241 the department ~~commission~~. However, a local government may not
 1242 have more than three active projects expending grant funds
 1243 during any state fiscal year.

1244 (5) The department ~~commission~~ shall perform an adequate
 1245 overview of each grant, which may include technical review, site
 1246 inspections, disbursement approvals, and auditing to
 1247 successfully implement this section.

1248 Section 24. Section 377.809, Florida Statutes, is amended
 1249 to read:

1250 377.809 Energy Economic Zone Pilot Program.—

1251 (1) The Department of Community Affairs, in consultation
 1252 with the Department of Transportation, shall implement an Energy
 1253 Economic Zone Pilot Program for the purpose of developing a
 1254 model to help communities cultivate green economic development,
 1255 encourage renewable electric energy generation, manufacture
 1256 products that contribute to energy conservation and green jobs,
 1257 and further implement chapter 2008-191, Laws of Florida,
 1258 relative to discouraging sprawl and developing energy-efficient

1259 land use patterns and greenhouse gas reduction strategies. The
 1260 Office of Tourism, Trade, and Economic Development and the
 1261 Department of Agriculture and Consumer Services ~~Florida Energy~~
 1262 ~~and Climate Commission~~ shall provide technical assistance to the
 1263 departments in developing and administering the program.

1264 (2) (a) The application for a pilot project shall:

1265 1. Identify the proposed location of the energy economic
 1266 zone, which must be within an adopted urban service area and may
 1267 include a county landfill outside the urban service boundary;

1268 2. Present a proposed strategic plan for development and
 1269 redevelopment in the energy economic zone;

1270 3. Demonstrate consistency of the strategic plan with the
 1271 local comprehensive plan or include proposed plan amendments
 1272 necessary to achieve consistency; and

1273 4. Identify comprehensive plan amendments that will be
 1274 proposed to implement chapter 2008-191, Laws of Florida.

1275 (b) The strategic plan under subparagraph (a)1. must
 1276 include mixed-use and form-based standards that integrate
 1277 multimodal transportation facilities with land use and
 1278 development patterns to reduce reliance on automobiles,
 1279 encourage certified green building developments and renewable
 1280 energy systems, encourage creation of green jobs, and
 1281 demonstrate how local financial and regulatory incentives will
 1282 be used in the energy economic zone.

1283 (c) The Department of Community Affairs shall grant at
 1284 least one application if the application meets the requirements
 1285 of this subsection and the community has demonstrated a prior
 1286 commitment to energy conservation, carbon reduction, green

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1287 building, and economic development. The Department of Community
 1288 Affairs and the Office of Tourism, Trade, and Economic
 1289 Development shall provide the pilot community, including
 1290 businesses within the energy economic zone, with technical
 1291 assistance in identifying and qualifying for eligible grants and
 1292 credits in job creation, energy, and other areas.

1293 (3) The Department of Community Affairs, with the
 1294 assistance of the Office of Tourism, Trade, and Economic
 1295 Development, shall submit an interim report by February 15,
 1296 2010, to the Governor, the President of the Senate, and the
 1297 Speaker of the House of Representatives regarding the status of
 1298 the pilot program. The report shall contain any recommendations
 1299 deemed appropriate by the department for statutory changes to
 1300 accomplish the goals of the pilot program community, including
 1301 whether it would be beneficial to provide financial incentives
 1302 similar to those offered to an enterprise zone.

1303 (4) If the pilot project is ongoing, the Department of
 1304 Community Affairs, with the assistance of the Office of Tourism,
 1305 Trade, and Economic Development, shall submit a report to the
 1306 Governor, the President of the Senate, and the Speaker of the
 1307 House of Representatives by February 15, 2012, evaluating
 1308 whether the pilot program has demonstrated success. The report
 1309 shall contain recommendations with regard to whether the program
 1310 should be expanded for use by other local governments and
 1311 whether state policies should be revised to encourage the goals
 1312 of the program.

1313 Section 25. Section 409.508, Florida Statutes, is amended
 1314 to read:

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1315 409.508 Low-income home energy assistance program.—
 1316 (1) As used in this section:
 1317 (a) "Eligible household" means a household eligible for
 1318 funds from the Low-income Home Energy Assistance Act of 1981, 42
 1319 U.S.C. ss. 8621 et seq.
 1320 (b) "Home energy" means a source of heating or cooling in
 1321 residential dwellings.
 1322 (c) "Utility" means any person, corporation, partnership,
 1323 municipality, cooperative, association, or other legal entity
 1324 and its lessees, trustees, or receivers now or hereafter owning,
 1325 operating, managing, or controlling any plant or other facility
 1326 supplying electricity or natural gas to or for the public within
 1327 this state, directly or indirectly, for compensation.
 1328 (2) The Department of Agriculture and Consumer Services
 1329 ~~Community Affairs~~ is designated as the state agency to
 1330 administer the Low-income Home Energy Assistance Act of 1981, 42
 1331 U.S.C. ss. 8621 et seq. The Department of Agriculture and
 1332 Consumer Services ~~Community Affairs~~ is authorized to provide
 1333 home energy assistance benefits to eligible households which may
 1334 be in the form of cash, vouchers, certificates, or direct
 1335 payments to electric or natural gas utilities or other energy
 1336 suppliers and operators of low-rent, subsidized housing in
 1337 behalf of eligible households. Priority shall be given to
 1338 eligible households having at least one elderly or handicapped
 1339 individual and to eligible households with the lowest incomes.
 1340 (3) Agreements may be established between electric or
 1341 natural gas utility companies, other energy suppliers, the
 1342 Department of Revenue, and the Department of Agriculture and

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1343 Consumer Services ~~Community Affairs~~ for the purpose of providing
 1344 payments to energy suppliers in the form of a credit against
 1345 sales and use taxes due or direct payments to energy suppliers
 1346 for services rendered to low-income, eligible households.

1347 (4) The Department of Agriculture and Consumer Services
 1348 ~~Community Affairs~~ shall adopt rules to carry out the provisions
 1349 of this act.

1350 Section 26. Section 409.509, Florida Statutes, is amended
 1351 to read:

1352 409.509 Definitions; weatherization of low-income
 1353 residences.—As used in this act, the term:

1354 (1) "Community action agency" means a private corporation
 1355 or public agency established pursuant to the Economic
 1356 Opportunity Act of 1964, Pub. L. No. 88-452, which is authorized
 1357 to administer funds from federal, state, local, or private
 1358 funding entities to assess, design, operate, finance, and
 1359 oversee antipoverty programs.

1360 (2) "Department" means the Department of Agriculture and
 1361 Consumer Services ~~Community Affairs~~.

1362 (3) "Energy assessment" means an analysis of a dwelling
 1363 unit to determine the need for cost-effective energy
 1364 conservation measures as determined by the department.

1365 (4) "Household" means an individual or group of
 1366 individuals living in a dwelling unit as defined by the
 1367 department.

1368 (5) "Low income" means household income that is at or
 1369 below 125 percent of the federally established poverty level.

1370 (6) "Residence" means a dwelling unit as defined by the

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1371 department.

1372 (7) "Weatherization" means materials or measures and their
 1373 installation as defined in the federal Energy Conservation and
 1374 Production Act, Pub. L. No. 94-385, which are used to improve
 1375 the thermal efficiency of a residence.

1376 (8) "Weatherizing agency" means any approved department
 1377 grantee that bears the responsibility for ensuring the
 1378 performance of weatherization of residences under this act and
 1379 has been approved by the department, that was performing
 1380 weatherization services as of July 1, 1988, unless such agency
 1381 has withdrawn or lost its designation as a result of failure to
 1382 perform under acceptable contract conditions as determined by
 1383 the department.

1384 Section 27. For the purpose of incorporating the amendment
 1385 made by this act to section 409.509, Florida Statutes, in a
 1386 reference thereto, Section 409.5091, Florida Statutes, is
 1387 reenacted to read:

1388 409.5091 Department responsible for weatherizing agencies;
 1389 energy assessment.—

1390 (1) The department is responsible for ensuring that
 1391 weatherizing agencies comply with state laws and department
 1392 rules.

1393 (2) Before a residence is weatherized, the department
 1394 shall require that an energy assessment be conducted.

1395 Section 28. For the purpose of incorporating the amendment
 1396 made by this act to section 409.509, Florida Statutes, in a
 1397 reference thereto, Section 409.5092, Florida Statutes, is
 1398 reenacted to read:

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1399 409.5092 Permission for weatherization; rules.—Before a
 1400 leased or rented residence is weatherized, written permission
 1401 for the weatherization shall be obtained from the owner of the
 1402 residence. The department shall adopt rules to ensure that:

1403 (1) The benefits of weatherization assistance in
 1404 connection with a leased or rented residence accrue primarily to
 1405 low-income tenants.

1406 (2) As a result of weatherization, the rent on the
 1407 residence is not increased and the tenant is not evicted for a
 1408 time period set by the department.

1409 Section 29. For the purpose of incorporating the amendment
 1410 made by this act to section 409.509, Florida Statutes, in a
 1411 reference thereto, Section 409.5093, Florida Statutes, is
 1412 reenacted to read:

1413 409.5093 Replacement agency.—If any area of the state has
 1414 no designated weatherization agency as a result of withdrawal or
 1415 loss of designation by departmental action, a replacement agency
 1416 or agencies may be selected following a process delineated by
 1417 federal and state law, regulations, and rules.

1418 Section 30. Paragraph (ccc) of subsection (7) of section
 1419 212.08, Florida Statutes, is repealed.

1420 Section 31. Paragraph (y) of subsection (8) of section
 1421 213.053, Florida Statutes, is amended to read:

1422 213.053 Confidentiality and information sharing.—

1423 (8) Notwithstanding any other provision of this section,
 1424 the department may provide:

1425 (y) Information relative to ~~ss. 212.08(7)(ccc) and 220.192~~
 1426 to the Department of Agriculture and Consumer Services Florida

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1427 ~~Energy and Climate Commission~~ for use in the conduct of its
 1428 official business.

1429
 1430 Disclosure of information under this subsection shall be
 1431 pursuant to a written agreement between the executive director
 1432 and the agency. Such agencies, governmental or nongovernmental,
 1433 shall be bound by the same requirements of confidentiality as
 1434 the Department of Revenue. Breach of confidentiality is a
 1435 misdemeanor of the first degree, punishable as provided by s.
 1436 775.082 or s. 775.083.

1437 Section 32. Subsections (3), (4), (5), and (8) of section
 1438 220.192, Florida Statutes, are amended to read:

1439 220.192 Renewable energy technologies investment tax
 1440 credit.—

1441 (3) CORPORATE APPLICATION PROCESS.—Any corporation wishing
 1442 to obtain tax credits available under this section must submit
 1443 to the Department of Agriculture and Consumer Services ~~Florida~~
 1444 ~~Energy and Climate Commission~~ an application for tax credit that
 1445 includes a complete description of all eligible costs for which
 1446 the corporation is seeking a credit and a description of the
 1447 total amount of credits sought. The Department of Agriculture
 1448 and Consumer Services ~~Florida Energy and Climate Commission~~
 1449 shall make a determination on the eligibility of the applicant
 1450 for the credits sought and certify the determination to the
 1451 applicant and the Department of Revenue. The corporation must
 1452 attach the Department of Agriculture and Consumer Services'
 1453 ~~Florida Energy and Climate Commission's~~ certification to the tax
 1454 return on which the credit is claimed. The Department of

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1455 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1456 ~~Commission~~ shall be responsible for ensuring that the corporate
 1457 income tax credits granted in each fiscal year do not exceed the
 1458 limits provided for in this section. The Department of
 1459 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1460 ~~Commission~~ is authorized to adopt the necessary rules,
 1461 guidelines, and application materials for the application
 1462 process.

1463 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
 1464 this section, each taxpayer must apply to the Department of
 1465 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1466 ~~Commission~~ for an allocation of each type of annual credit by
 1467 the date established by the Department of Agriculture and
 1468 Consumer Services ~~Florida Energy and Climate Commission~~. The
 1469 application form may be established by the Department of
 1470 Agriculture and Consumer Services ~~Florida Energy and Climate~~
 1471 ~~Commission~~. The form must include an affidavit from each
 1472 taxpayer certifying that all information contained in the
 1473 application, including all records of eligible costs claimed as
 1474 the basis for the tax credit, are true and correct. Approval of
 1475 the credits under this section shall be accomplished on a first-
 1476 come, first-served basis, based upon the date complete
 1477 applications are received by the Department of Agriculture and
 1478 Consumer Services ~~Florida Energy and Climate Commission~~. A
 1479 taxpayer shall submit only one complete application based upon
 1480 eligible costs incurred within a particular state fiscal year.
 1481 Incomplete placeholder applications will not be accepted and
 1482 will not secure a place in the first-come, first-served

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1483 application line. If a taxpayer does not receive a tax credit
 1484 allocation due to the exhaustion of the annual tax credit
 1485 authorizations, then such taxpayer may reapply in the following
 1486 year for those eligible costs and will have priority over other
 1487 applicants for the allocation of credits.

1488 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
 1489 CREDITS.—

1490 (a) In addition to its existing audit and investigation
 1491 authority, the Department of Revenue may perform any additional
 1492 financial and technical audits and investigations, including
 1493 examining the accounts, books, and records of the tax credit
 1494 applicant, which are necessary to verify the eligible costs
 1495 included in the tax credit return and to ensure compliance with
 1496 this section. The Department of Agriculture and Consumer
 1497 Services ~~Florida Energy and Climate Commission~~ shall provide
 1498 technical assistance when requested by the Department of Revenue
 1499 on any technical audits or examinations performed pursuant to
 1500 this section.

1501 (b) It is grounds for forfeiture of previously claimed and
 1502 received tax credits if the Department of Revenue determines, as
 1503 a result of an audit or examination or from information received
 1504 from the Department of Agriculture and Consumer Services ~~Florida~~
 1505 ~~Energy and Climate Commission~~, that a taxpayer received tax
 1506 credits pursuant to this section to which the taxpayer was not
 1507 entitled. The taxpayer is responsible for returning forfeited
 1508 tax credits to the Department of Revenue, and such funds shall
 1509 be paid into the General Revenue Fund of the state.

1510 (c) The Department of Agriculture and Consumer Services

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1511 ~~Florida Energy and Climate Commission~~ may revoke or modify any
 1512 written decision granting eligibility for tax credits under this
 1513 section if it is discovered that the tax credit applicant
 1514 submitted any false statement, representation, or certification
 1515 in any application, record, report, plan, or other document
 1516 filed in an attempt to receive tax credits under this section.
 1517 The Department of Agriculture and Consumer Services ~~Florida~~
 1518 ~~Energy and Climate Commission~~ shall immediately notify the
 1519 Department of Revenue of any revoked or modified orders
 1520 affecting previously granted tax credits. Additionally, the
 1521 taxpayer must notify the Department of Revenue of any change in
 1522 its tax credit claimed.

1523 (d) The taxpayer shall file with the Department of Revenue
 1524 an amended return or such other report as the Department of
 1525 Revenue prescribes by rule and shall pay any required tax and
 1526 interest within 60 days after the taxpayer receives notification
 1527 from the Department of Agriculture and Consumer Services ~~Florida~~
 1528 ~~Energy and Climate Commission~~ that previously approved tax
 1529 credits have been revoked or modified. If the revocation or
 1530 modification order is contested, the taxpayer shall file an
 1531 amended return or other report as provided in this paragraph
 1532 within 60 days after a final order is issued after proceedings.

1533 (e) A notice of deficiency may be issued by the Department
 1534 of Revenue at any time within 3 years after the taxpayer
 1535 receives formal notification from the Department of Agriculture
 1536 and Consumer Services ~~Florida Energy and Climate Commission~~ that
 1537 previously approved tax credits have been revoked or modified.
 1538 If a taxpayer fails to notify the Department of Revenue of any

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1539 changes to its tax credit claimed, a notice of deficiency may be
 1540 issued at any time.

1541 (8) PUBLICATION.—The Department of Agriculture and
 1542 Consumer Services ~~Florida Energy and Climate Commission~~ shall
 1543 determine and publish on a regular basis the amount of available
 1544 tax credits remaining in each fiscal year.

1545 Section 33. Subsections (2) and (5) of section 288.1089,
 1546 Florida Statutes, are amended to read:

1547 288.1089 Innovation Incentive Program.—

1548 (2) As used in this section, the term:

1549 (e) ~~(d)~~ "Department" means the Department of Agriculture
 1550 and Consumer Services "Commission" ~~means the Florida Energy and~~
 1551 ~~Climate Commission.~~

1552 (d) ~~(e)~~ "Cumulative investment" means cumulative capital
 1553 investment and all eligible capital costs, as defined in s.
 1554 220.191.

1555 (5) Enterprise Florida, Inc., shall evaluate proposals for
 1556 all three categories of innovation incentive awards and transmit
 1557 recommendations for awards to the office. Before making its
 1558 recommendations on alternative and renewable energy projects,
 1559 Enterprise Florida, Inc., shall solicit comments and
 1560 recommendations from the department ~~Florida Energy and Climate~~
 1561 ~~Commission~~. For each project, the evaluation and recommendation
 1562 to the office must include, but need not be limited to:

1563 (a) A description of the project, its required facilities,
 1564 and the associated product, service, or research and development
 1565 associated with the project.

1566 (b) The percentage of match provided for the project.

1567 (c) The number of full-time equivalent jobs that will be
 1568 created by the project, the total estimated average annual wages
 1569 of such jobs, and the types of business activities and jobs
 1570 likely to be stimulated by the project.

1571 (d) The cumulative investment to be dedicated to the
 1572 project within 5 years and the total investment expected in the
 1573 project if more than 5 years.

1574 (e) The projected economic and fiscal impacts on the local
 1575 and state economies relative to investment.

1576 (f) A statement of any special impacts the project is
 1577 expected to stimulate in a particular business sector in the
 1578 state or regional economy or in the state's universities and
 1579 community colleges.

1580 (g) A statement of any anticipated or proposed
 1581 relationships with state universities.

1582 (h) A statement of the role the incentive is expected to
 1583 play in the decision of the applicant to locate or expand in
 1584 this state.

1585 (i) A recommendation and explanation of the amount of the
 1586 award needed to cause the applicant to expand or locate in this
 1587 state.

1588 (j) A discussion of the efforts and commitments made by
 1589 the local community in which the project is to be located to
 1590 induce the applicant's location or expansion, taking into
 1591 consideration local resources and abilities.

1592 (k) A recommendation for specific performance criteria the
 1593 applicant would be expected to achieve in order to receive
 1594 payments from the fund and penalties or sanctions for failure to

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1595 meet or maintain performance conditions.

1596 (1) Additional evaluative criteria for a research and

1597 development facility project, including:

1598 1. A description of the extent to which the project has

1599 the potential to serve as catalyst for an emerging or evolving

1600 cluster.

1601 2. A description of the extent to which the project has or

1602 could have a long-term collaborative research and development

1603 relationship with one or more universities or community colleges

1604 in this state.

1605 3. A description of the existing or projected impact of

1606 the project on established clusters or targeted industry

1607 sectors.

1608 4. A description of the project's contribution to the

1609 diversity and resiliency of the innovation economy of this

1610 state.

1611 5. A description of the project's impact on special needs

1612 communities, including, but not limited to, rural areas,

1613 distressed urban areas, and enterprise zones.

1614 (m) Additional evaluative criteria for alternative and

1615 renewable energy proposals, including:

1616 1. The availability of matching funds or other in-kind

1617 contributions applied to the total project from an applicant.

1618 The department ~~commission~~ shall give greater preference to

1619 projects that provide such matching funds or other in-kind

1620 contributions.

1621 2. The degree to which the project stimulates in-state

1622 capital investment and economic development in metropolitan and

1623 rural areas, including the creation of jobs and the future
 1624 development of a commercial market for renewable energy
 1625 technologies.

1626 3. The extent to which the proposed project has been
 1627 demonstrated to be technically feasible based on pilot project
 1628 demonstrations, laboratory testing, scientific modeling, or
 1629 engineering or chemical theory that supports the proposal.

1630 4. The degree to which the project incorporates an
 1631 innovative new technology or an innovative application of an
 1632 existing technology.

1633 5. The degree to which a project generates thermal,
 1634 mechanical, or electrical energy by means of a renewable energy
 1635 resource that has substantial long-term production potential.

1636 6. The degree to which a project demonstrates efficient
 1637 use of energy and material resources.

1638 7. The degree to which the project fosters overall
 1639 understanding and appreciation of renewable energy technologies.

1640 8. The ability to administer a complete project.

1641 9. Project duration and timeline for expenditures.

1642 10. The geographic area in which the project is to be
 1643 conducted in relation to other projects.

1644 11. The degree of public visibility and interaction.

1645 Section 34. Subsection (9) of section 288.9607, Florida
 1646 Statutes, is amended to read:

1647 288.9607 Guaranty of bond issues.—

1648 (9) The membership of the corporation is authorized and
 1649 directed to conduct such investigation as it may deem necessary
 1650 for promulgation of regulations to govern the operation of the

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1651 guaranty program authorized by this section. The regulations may
 1652 include such other additional provisions, restrictions, and
 1653 conditions as the corporation, after its investigation referred
 1654 to in this subsection, shall determine to be proper to achieve
 1655 the most effective utilization of the guaranty program. This may
 1656 include, without limitation, a detailing of the remedies that
 1657 must be exhausted by bondholders, a trustee acting on their
 1658 behalf, or other credit provided before calling upon the
 1659 corporation to perform under its guaranty agreement and the
 1660 subrogation of other rights of the corporation with reference to
 1661 the capital project and its operation or the financing in the
 1662 event the corporation makes payment pursuant to the applicable
 1663 guaranty agreement. The regulations promulgated by the
 1664 corporation to govern the operation of the guaranty program may
 1665 contain specific provisions with respect to the rights of the
 1666 corporation to enter, take over, and manage all financed
 1667 properties upon default. These regulations shall be submitted by
 1668 the corporation to the Department of Agriculture and Consumer
 1669 Services ~~Florida Energy and Climate Commission~~ for approval.

1670 Section 35. Subsection (5) of section 366.82, Florida
 1671 Statutes, is amended to read:

1672 366.82 Definition; goals; plans; programs; annual reports;
 1673 energy audits.—

1674 (5) The Department of Agriculture and Consumer Services
 1675 ~~Florida Energy and Climate Commission~~ shall be a party in the
 1676 proceedings to adopt goals and shall file with the commission
 1677 comments on the proposed goals, including, but not limited to:

1678 (a) An evaluation of utility load forecasts, including an

1679 assessment of alternative supply-side and demand-side resource
 1680 options.

1681 (b) An analysis of various policy options that can be
 1682 implemented to achieve a least-cost strategy, including
 1683 nonutility programs targeted at reducing and controlling the per
 1684 capita use of electricity in the state.

1685 (c) An analysis of the impact of state and local building
 1686 codes and appliance efficiency standards on the need for
 1687 utility-sponsored conservation and energy efficiency measures
 1688 and programs.

1689 Section 36. Section 366.85, Florida Statutes, is repealed.

1690 Section 37. Subsection (3) of section 366.92, Florida
 1691 Statutes, is amended to read:

1692 366.92 Florida renewable energy policy.—

1693 (3) The commission shall adopt rules for a renewable
 1694 portfolio standard requiring each provider to supply renewable
 1695 energy to its customers directly, by procuring, or through
 1696 renewable energy credits. In developing the RPS rule, the
 1697 commission shall consult the Department of Environmental
 1698 Protection and the Department of Agriculture and Consumer
 1699 Services ~~Florida Energy and Climate Commission~~. The rule shall
 1700 not be implemented until ratified by the Legislature. The
 1701 commission shall present a draft rule for legislative
 1702 consideration by February 1, 2009.

1703 (a) In developing the rule, the commission shall evaluate
 1704 the current and forecasted levelized cost in cents per kilowatt
 1705 hour through 2020 and current and forecasted installed capacity
 1706 in kilowatts for each renewable energy generation method through

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1707 2020.

1708 (b) The commission's rule:

1709 1. Shall include methods of managing the cost of

1710 compliance with the renewable portfolio standard, whether

1711 through direct supply or procurement of renewable power or

1712 through the purchase of renewable energy credits. The commission

1713 shall have rulemaking authority for providing annual cost

1714 recovery and incentive-based adjustments to authorized rates of

1715 return on common equity to providers to incentivize renewable

1716 energy. Notwithstanding s. 366.91(3) and (4), upon the

1717 ratification of the rules developed pursuant to this subsection,

1718 the commission may approve projects and power sales agreements

1719 with renewable power producers and the sale of renewable energy

1720 credits needed to comply with the renewable portfolio standard.

1721 In the event of any conflict, this subparagraph shall supersede

1722 s. 366.91(3) and (4). However, nothing in this section shall

1723 alter the obligation of each public utility to continuously

1724 offer a purchase contract to producers of renewable energy.

1725 2. Shall provide for appropriate compliance measures and

1726 the conditions under which noncompliance shall be excused due to

1727 a determination by the commission that the supply of renewable

1728 energy or renewable energy credits was not adequate to satisfy

1729 the demand for such energy or that the cost of securing

1730 renewable energy or renewable energy credits was cost

1731 prohibitive.

1732 3. May provide added weight to energy provided by wind and

1733 solar photovoltaic over other forms of renewable energy, whether

1734 directly supplied or procured or indirectly obtained through the

1735 purchase of renewable energy credits.

1736 4. Shall determine an appropriate period of time for which
 1737 renewable energy credits may be used for purposes of compliance
 1738 with the renewable portfolio standard.

1739 5. Shall provide for monitoring of compliance with and
 1740 enforcement of the requirements of this section.

1741 6. Shall ensure that energy credited toward compliance
 1742 with the requirements of this section is not credited toward any
 1743 other purpose.

1744 7. Shall include procedures to track and account for
 1745 renewable energy credits, including ownership of renewable
 1746 energy credits that are derived from a customer-owned renewable
 1747 energy facility as a result of any action by a customer of an
 1748 electric power supplier that is independent of a program
 1749 sponsored by the electric power supplier.

1750 8. Shall provide for the conditions and options for the
 1751 repeal or alteration of the rule in the event that new
 1752 provisions of federal law supplant or conflict with the rule.

1753 (c) Beginning on April 1 of the year following final
 1754 adoption of the commission's renewable portfolio standard rule,
 1755 each provider shall submit a report to the commission describing
 1756 the steps that have been taken in the previous year and the
 1757 steps that will be taken in the future to add renewable energy
 1758 to the provider's energy supply portfolio. The report shall
 1759 state whether the provider was in compliance with the renewable
 1760 portfolio standard during the previous year and how it will
 1761 comply with the renewable portfolio standard in the upcoming
 1762 year.

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1763 Section 38. Subsections (3) and (6) of section 403.44,
 1764 Florida Statutes, are amended to read:

1765 403.44 Florida Climate Protection Act.—

1766 (3) The department may adopt rules for a cap-and-trade
 1767 regulatory program to reduce greenhouse gas emissions from major
 1768 emitters. When developing the rules, the department shall
 1769 consult with the Department of Agriculture and Consumer Services
 1770 ~~Florida Energy and Climate Commission~~ and the Florida Public
 1771 Service Commission and may consult with the Governor's Action
 1772 Team for Energy and Climate Change. The department shall not
 1773 adopt rules until after January 1, 2010. The rules shall not
 1774 become effective until ratified by the Legislature.

1775 (6) Recognizing that the international, national, and
 1776 neighboring state policies and the science of climate change
 1777 will evolve, prior to submitting the proposed rules to the
 1778 Legislature for consideration, the department shall submit the
 1779 proposed rules to the Department of Agriculture and Consumer
 1780 Services ~~Florida Energy and Climate Commission~~, which shall
 1781 review the proposed rules and submit a report to the Governor,
 1782 the President of the Senate, the Speaker of the House of
 1783 Representatives, and the department. The report shall address:

1784 (a) The overall cost-effectiveness of the proposed cap-
 1785 and-trade system in combination with other policies and measures
 1786 in meeting statewide targets.

1787 (b) The administrative burden to the state of
 1788 implementing, monitoring, and enforcing the program.

1789 (c) The administrative burden on entities covered under
 1790 the cap.

- 1791 (d) The impacts on electricity prices for consumers.
- 1792 (e) The specific benefits to the state's economy for early
- 1793 adoption of a cap-and-trade system for greenhouse gases in the
- 1794 context of federal climate change legislation and the
- 1795 development of new international compacts.
- 1796 (f) The specific benefits to the state's economy
- 1797 associated with the creation and sale of emissions offsets from
- 1798 economic sectors outside of the emissions cap.
- 1799 (g) The potential effects on leakage if economic activity
- 1800 relocates out of the state.
- 1801 (h) The effectiveness of the combination of measures in
- 1802 meeting identified targets.
- 1803 (i) The economic implications for near-term periods of
- 1804 short-term and long-term targets specified in the overall
- 1805 policy.
- 1806 (j) The overall costs and benefits of a cap-and-trade
- 1807 system to the economy of the state.
- 1808 (k) The impacts on low-income consumers that result from
- 1809 energy price increases.
- 1810 (l) The consistency of the program with other state and
- 1811 possible federal efforts.
- 1812 (m) The evaluation of the conditions under which the state
- 1813 should consider linking its trading system to the systems of
- 1814 other states or other countries and how that might be affected
- 1815 by the potential inclusion in the rule of a safety valve.
- 1816 (n) The timing and changes in the external environment,
- 1817 such as proposals by other states or implementation of a federal
- 1818 program that would spur reevaluation of the Florida program.

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1819 (o) The conditions and options for eliminating the Florida
1820 program if a federal program were to supplant it.

1821 (p) The need for a regular reevaluation of the progress of
1822 other emitting regions of the country and of the world, and
1823 whether other regions are abating emissions in a commensurate
1824 manner.

1825 (q) The desirability of and possibilities of broadening
1826 the scope of the state's cap-and-trade system at a later date to
1827 include more emitting activities as well as sinks in Florida,
1828 the conditions that would need to be met to do so, and how the
1829 program would encourage these conditions to be met, including
1830 developing monitoring and measuring techniques for land use
1831 emissions and sinks, regulating sources upstream, and other
1832 considerations.

1833 Section 39. Section 570.074, Florida Statutes, is amended
1834 to read:

1835 570.074 Department of Agriculture and Consumer Services;
1836 energy and water policy coordination.—The commissioner may
1837 create an Office of Energy and Water Coordination under the
1838 supervision of a senior manager exempt under s. 110.205 in the
1839 Senior Management Service. The commissioner may designate the
1840 bureaus and positions in the various organizational divisions of
1841 the department that report to this office relating to any matter
1842 over which the department has jurisdiction in matters relating
1843 to energy and water policy affecting agriculture, application of
1844 such policies, and coordination of such matters with state and
1845 federal agencies.

1846 Section 40. Section 526.207, Florida Statutes, is

1847 repealed.

1848 Section 41. Subsection (3) of section 570.954, Florida
1849 Statutes, is amended to read:

1850 570.954 Farm-to-fuel initiative.—

1851 ~~(3) The department shall coordinate with and solicit the~~
1852 ~~expertise of the state energy office within the Department of~~
1853 ~~Environmental Protection when developing and implementing this~~
1854 ~~initiative.~~

1855 Section 42. Subsections (5), (11), (12), and (13) of
1856 section 1004.648, Florida Statutes, are amended to read:

1857 1004.648 Florida Energy Systems Consortium.—

1858 (5) The director, whose office shall be located at the
1859 University of Florida, shall report to the Department of
1860 Agriculture and Consumer Services ~~Florida Energy and Climate~~
1861 ~~Commission created pursuant to s. 377.6015.~~

1862 (11) The oversight board, in consultation with the
1863 Department of Agriculture and Consumer Services ~~Florida Energy~~
1864 ~~and Climate Commission~~, shall ensure that the consortium:

1865 (a) Maintains accurate records of any funds received by
1866 the consortium.

1867 (b) Meets financial and technical performance
1868 expectations, which may include external technical reviews as
1869 required.

1870 (12) The steering committee shall consist of the
1871 university representatives included in the Centers of Excellence
1872 proposals for the Florida Energy Systems Consortium and the
1873 Center of Excellence in Ocean Energy Technology-Phase II which
1874 were reviewed during the 2007-2008 fiscal year by the Florida

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1875 Technology, Research, and Scholarship Board created in s.
 1876 1004.226(4); a university representative appointed by the
 1877 President of Florida International University; and a
 1878 representative appointed by the Commissioner of Agriculture
 1879 ~~the Florida Energy and Climate Commission~~. The steering
 1880 committee shall be responsible for establishing and ensuring the
 1881 success of the consortium's mission under subsection (9).

1882 (13) By November 1 of each year, the consortium shall
 1883 submit an annual report to the Governor, the President of the
 1884 Senate, the Speaker of the House of Representatives, and the
 1885 Department of Agriculture and Consumer Services ~~Florida Energy~~
 1886 ~~and Climate Commission~~ regarding its activities, including, but
 1887 not limited to, education and research related to, and the
 1888 development and deployment of, alternative energy technologies.

1889 Section 43. This act shall take effect July 1, 2011.

1890