

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative Littlefield offered the following:

2
3 **Amendment to Amendment (413029) (with title amendment)**

4 Remove lines 455-882 and insert:

5 220.187, and those enumerated in ss. 220.192 and 220.193.

6 Section 12. Section 220.192, Florida Statutes, is created
7 to read:

8 220.192 Renewable energy technologies investment tax
9 credit.--

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

11 (a) "Biodiesel" means biodiesel as defined in s.

12 212.08(7)(ccc).

13 (b) "Eligible costs" means:

14 1. Seventy-five percent of all capital costs, operation
15 and maintenance costs, and research and development costs
16 incurred between July 1, 2006, and June 30, 2010, up to a limit
17 of \$3 million per state fiscal year for all taxpayers, in

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18 connection with an investment in hydrogen-powered vehicles and
19 hydrogen vehicle fueling stations in the state, including, but
20 not limited to, the costs of constructing, installing, and
21 equipping such technologies in the state.

22 2. Seventy-five percent of all capital costs, operation
23 and maintenance costs, and research and development costs
24 incurred between July 1, 2006, and June 30, 2010, up to a limit
25 of \$1.5 million per state fiscal year for all taxpayers, and
26 limited to a maximum of \$12,000 per fuel cell, in connection
27 with an investment in commercial stationary hydrogen fuel cells
28 in the state, including, but not limited to, the costs of
29 constructing, installing, and equipping such technologies in the
30 state.

31 3. Seventy-five percent of all capital costs, operation
32 and maintenance costs, and research and development costs
33 incurred between July 1, 2006, and June 30, 2010, up to a limit
34 of \$6.5 million per state fiscal year for all taxpayers, in
35 connection with an investment in the production, storage, and
36 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
37 the state, including the costs of constructing, installing, and
38 equipping such technologies in the state. Gasoline fueling
39 station pump retrofits for ethanol (E10-E100) distribution
40 qualify as an eligible cost under this subparagraph.

41 (c) "Ethanol" means ethanol as defined in s.
42 212.08(7)(ccc).

43 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
44 defined in s. 212.08(7)(ccc).

45 (2) TAX CREDIT.--For tax years beginning on or after
46 January 1, 2007, a credit against the tax imposed by this
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47 chapter shall be granted in an amount equal to the eligible
48 costs. Credits may be used in tax years beginning January 1,
49 2007, and ending December 31, 2010, after which the credit shall
50 expire. If the credit is not fully used in any one tax year
51 because of insufficient tax liability on the part of the
52 corporation, the unused amount may be carried forward and used
53 in tax years beginning January 1, 2007, and ending December 31,
54 2012, after which the credit carryover expires and may not be
55 used. A taxpayer that files a consolidated return in this state
56 as a member of an affiliated group under s. 220.131(1) may be
57 allowed the credit on a consolidated return basis up to the
58 amount of tax imposed upon the consolidated group. Any eligible
59 cost for which a credit is claimed and which is deducted or
60 otherwise reduces federal taxable income shall be added back in
61 computing adjusted federal income under s. 220.13.

62 (3) CORPORATE APPLICATION PROCESS.--Any corporation
63 wishing to obtain tax credits available under this section must
64 submit to the Department of Environmental Protection an
65 application for tax credit that includes a complete description
66 of all eligible costs for which the corporation is seeking a
67 credit and a description of the total amount of credits sought.
68 The Department of Environmental Protection shall make a
69 determination on the eligibility of the applicant for the
70 credits sought and certify the determination to the applicant
71 and the Department of Revenue. The corporation must attach the
72 Department of Environmental Protection's certification to the
73 tax return on which the credit is claimed. The Department of
74 Environmental Protection shall be responsible for ensuring that
75 the corporate income tax credits granted in each fiscal year do

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76 | not exceed the limits provided for in this section. The
77 | Department of Environmental Protection is authorized to adopt
78 | the necessary rules, guidelines, and application materials for
79 | the application process.

80 | (4) TAXPAYER APPLICATION PROCESS.--To claim a credit under
81 | this section, each taxpayer must apply to the Department of
82 | Environmental Protection for an allocation of each type of
83 | annual credit by the date established by the Department of
84 | Environmental Protection. The application form may be
85 | established by the Department of Environmental Protection and
86 | shall include an affidavit from each taxpayer certifying that
87 | all information contained in the application, including all
88 | records of eligible costs claimed as the basis for the tax
89 | credit, are true and correct. Approval of the credits under this
90 | section shall be accomplished on a first-come, first-served
91 | basis, based upon the date complete applications are received by
92 | the Department of Environmental Protection. A taxpayer shall
93 | submit only one complete application based upon eligible costs
94 | incurred within a particular state fiscal year. Incomplete
95 | placeholder applications will not be accepted and will not
96 | secure a place in the first-come, first-served application line.
97 | If a taxpayer does not receive a tax credit allocation due to
98 | the exhaustion of the annual tax credit authorizations, then
99 | such taxpayer may reapply in the following year for those
100 | eligible costs and will have priority over other applicants for
101 | the allocation of credits.

102 | (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
103 | CREDITS.--

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104 (a) In addition to its existing audit and investigation
105 authority, the Department of Revenue may perform any additional
106 financial and technical audits and investigations, including
107 examining the accounts, books, and records of the tax credit
108 applicant, that are necessary to verify the eligible costs
109 included in the tax credit return and to ensure compliance with
110 this section. The Department of Environmental Protection shall
111 provide technical assistance when requested by the Department of
112 Revenue on any technical audits or examinations performed
113 pursuant to this section.

114 (b) It is grounds for forfeiture of previously claimed and
115 received tax credits if the Department of Revenue determines, as
116 a result of either an audit or examination or from information
117 received from the Department of Environmental Protection, that a
118 taxpayer received tax credits pursuant to this section to which
119 the taxpayer was not entitled. The taxpayer is responsible for
120 returning forfeited tax credits to the Department of Revenue,
121 and such funds shall be paid into the General Revenue Fund of
122 the state.

123 (c) The Department of Environmental Protection may revoke
124 or modify any written decision granting eligibility for tax
125 credits under this section if it is discovered that the tax
126 credit applicant submitted any false statement, representation,
127 or certification in any application, record, report, plan, or
128 other document filed in an attempt to receive tax credits under
129 this section. The Department of Environmental Protection shall
130 immediately notify the Department of Revenue of any revoked or
131 modified orders affecting previously granted tax credits.

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132 Additionally, the taxpayer must notify the Department of Revenue
133 of any change in its tax credit claimed.

134 (d) The taxpayer shall file with the Department of Revenue
135 an amended return or such other report as the Department of
136 Revenue prescribes by rule and shall pay any required tax and
137 interest within 60 days after the taxpayer receives notification
138 from the Department of Environmental Protection that previously
139 approved tax credits have been revoked or modified. If the
140 revocation or modification order is contested, the taxpayer
141 shall file an amended return or other report as provided in this
142 paragraph within 60 days after a final order is issued following
143 proceedings.

144 (e) A notice of deficiency may be issued by the Department
145 of Revenue at any time within 3 years after the taxpayer
146 receives formal notification from the Department of
147 Environmental Protection that previously approved tax credits
148 have been revoked or modified. If a taxpayer fails to notify the
149 Department of Revenue of any changes to its tax credit claimed,
150 a notice of deficiency may be issued at any time.

151 (6) RULES.--The Department of Revenue shall have the
152 authority to adopt rules relating to the forms required to claim
153 a tax credit under this section, the requirements and basis for
154 establishing an entitlement to a credit, and the examination and
155 audit procedures required to administer this section.

156 (7) PUBLICATION.--The Department of Environmental
157 Protection shall determine and publish on a regular basis the
158 amount of available tax credits remaining in each fiscal year.

159 Section 13. Section 220.193, Florida Statutes, is created
160 to read:

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161 220.193 Florida renewable energy production credit.--

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

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

166 (a) "Commission" shall mean the Public Service Commission.

167 (b) "Department" shall mean the Department of Revenue.

168 (c) "Expanded facility" shall mean a Florida renewable
169 energy facility that increases its electrical production and
170 sale by more than 5 percent above the facility's electrical
171 production and sale during the 2005 calendar year.

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

175 (e) "New facility" shall mean a Florida renewable energy
176 facility that is operationally placed in service after May 1,
177 2006.

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

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

189 (b) The credit may be claimed for electricity produced and
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190 sold on or after January 1, 2007. Beginning in 2008 and
191 continuing until 2011, each taxpayer claiming a credit under
192 this section must first apply to the department by February 1 of
193 each year for an allocation of available credit. The department,
194 in consultation with the commission, shall develop an
195 application form. The application form shall, at a minimum,
196 require a sworn affidavit from each taxpayer certifying the
197 increase in production and sales that form the basis of the
198 application and certifying that all information contained in the
199 application is true and correct.

200 (c) If the amount of credits applied for each year exceeds
201 \$5 million, the department shall award to each applicant a
202 prorated amount based on each applicant's increased production
203 and sales and the increased production and sales of all
204 applicants.

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

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

217 (f)1. Tax credits that may be available under this section
218 to an entity eligible under this section may be transferred

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219 after a merger or acquisition to the surviving or acquiring
220 entity and used in the same manner with the same limitations.

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

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

237 (g) Notwithstanding any other provision of this section,
238 credits for the production and sale of electricity from a new or
239 expanded Florida renewable energy facility may be earned between
240 January 1, 2007 and June 30, 2010. The combined total amount of
241 tax credits which may be granted for all taxpayers under this
242 section is limited to \$5 million per state fiscal year.

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

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248 (i) A taxpayer claiming credit under this section may not
249 claim a credit under s. 220.192. A taxpayer claiming credit
250 under s. 220.192 may not claim a credit under this section.

251 (4) The department may adopt rules to implement and
252 administer this section, including rules prescribing forms, the
253 documentation needed to substantiate a claim for the tax credit,
254 and the specific procedures and guidelines for claiming the
255 credit.

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

258 Section 14. Paragraph (a) of subsection (1) of section
259 220.13, Florida Statutes, is amended to read:

260 220.13 "Adjusted federal income" defined.--

261 (1) The term "adjusted federal income" means an amount
262 equal to the taxpayer's taxable income as defined in subsection
263 (2), or such taxable income of more than one taxpayer as
264 provided in s. 220.131, for the taxable year, adjusted as
265 follows:

266 (a) Additions.--There shall be added to such taxable
267 income:

268 1. The amount of any tax upon or measured by income,
269 excluding taxes based on gross receipts or revenues, paid or
270 accrued as a liability to the District of Columbia or any state
271 of the United States which is deductible from gross income in
272 the computation of taxable income for the taxable year.

273 2. The amount of interest which is excluded from taxable
274 income under s. 103(a) of the Internal Revenue Code or any other
275 federal law, less the associated expenses disallowed in the
276 computation of taxable income under s. 265 of the Internal
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277 Revenue Code or any other law, excluding 60 percent of any
278 amounts included in alternative minimum taxable income, as
279 defined in s. 55(b)(2) of the Internal Revenue Code, if the
280 taxpayer pays tax under s. 220.11(3).

281 3. In the case of a regulated investment company or real
282 estate investment trust, an amount equal to the excess of the
283 net long-term capital gain for the taxable year over the amount
284 of the capital gain dividends attributable to the taxable year.

285 4. That portion of the wages or salaries paid or incurred
286 for the taxable year which is equal to the amount of the credit
287 allowable for the taxable year under s. 220.181. The provisions
288 of this subparagraph shall expire and be void on June 30, 2005.

289 5. That portion of the ad valorem school taxes paid or
290 incurred for the taxable year which is equal to the amount of
291 the credit allowable for the taxable year under s. 220.182. The
292 provisions of this subparagraph shall expire and be void on June
293 30, 2005.

294 6. The amount of emergency excise tax paid or accrued as a
295 liability to this state under chapter 221 which tax is
296 deductible from gross income in the computation of taxable
297 income for the taxable year.

298 7. That portion of assessments to fund a guaranty
299 association incurred for the taxable year which is equal to the
300 amount of the credit allowable for the taxable year.

301 8. In the case of a nonprofit corporation which holds a
302 pari-mutuel permit and which is exempt from federal income tax
303 as a farmers' cooperative, an amount equal to the excess of the
304 gross income attributable to the pari-mutuel operations over the
305 attributable expenses for the taxable year.

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306 9. The amount taken as a credit for the taxable year under
307 s. 220.1895.

308 10. Up to nine percent of the eligible basis of any
309 designated project which is equal to the credit allowable for
310 the taxable year under s. 220.185.

311 11. The amount taken as a credit for the taxable year
312 under s. 220.187.

313 12. The amount taken as a credit for the taxable year
314 under ss. 220.192 and 220.193.

315 Section 15. Subsection (2) of section 186.801, Florida
316 Statutes, is amended to read:

317 186.801 Ten-year site plans.--

318 (2) Within 9 months after the receipt of the proposed
319 plan, the commission shall make a preliminary study of such plan
320 and classify it as "suitable" or "unsuitable." The commission
321 may suggest alternatives to the plan. All findings of the
322 commission shall be made available to the Department of
323 Environmental Protection for its consideration at any subsequent
324 electrical power plant site certification proceedings. It is
325 recognized that 10-year site plans submitted by an electric
326 utility are tentative information for planning purposes only and
327 may be amended at any time at the discretion of the utility upon
328 written notification to the commission. A complete application
329 for certification of an electrical power plant site under
330 chapter 403, when such site is not designated in the current 10-
331 year site plan of the applicant, shall constitute an amendment
332 to the 10-year site plan. In its preliminary study of each 10-
333 year site plan, the commission shall consider such plan as a
334 planning document and shall review:

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

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

338 (c)~~(b)~~ The anticipated environmental impact of each
339 proposed electrical power plant site.

340 (d)~~(e)~~ Possible alternatives to the proposed plan.

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

346 (f)~~(e)~~ The extent to which the plan is consistent with the
347 state comprehensive plan.

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

350 Section 16. Subsection (6) of section 366.04, Florida
351 Statutes, is amended to read:

352 366.04 Jurisdiction of commission.--

353 (6) The commission shall further have exclusive
354 jurisdiction to prescribe and enforce safety standards for
355 transmission and distribution facilities of all public electric
356 utilities, cooperatives organized under the Rural Electric
357 Cooperative Law, and electric utilities owned and operated by
358 municipalities. In adopting safety standards, the commission
359 shall, at a minimum:

360 (a) Adopt the 1984 edition of the National Electrical
361 Safety Code (ANSI C2) as initial standards; and

362 (b) Adopt, after review, any new edition of the National
363 Electrical Safety Code (ANSI C2).

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365 The standards prescribed by the current 1984 edition of the
366 National Electrical Safety Code (ANSI C2) shall constitute
367 acceptable and adequate requirements for the protection of the
368 safety of the public, and compliance with the minimum
369 requirements of that code shall constitute good engineering
370 practice by the utilities. The administrative authority referred
371 to in the 1984 edition of the National Electrical Safety Code is
372 the commission. However, nothing herein shall be construed as
373 superseding, repealing, or amending the provisions of s.
374 403.523(1) and (10).

375 Section 17. Subsections (1) and (8) of section 366.05,
376 Florida Statutes, are amended to read:

377 366.05 Powers.--

378 (1) In the exercise of such jurisdiction, the commission
379 shall have power to prescribe fair and reasonable rates and
380 charges, classifications, standards of quality and measurements,
381 including the ability to adopt construction standards that
382 exceed the National Electrical Safety Code, for purposes of
383 ensuring the reliable provision of service, and service rules
384 and regulations to be observed by each public utility; to
385 require repairs, improvements, additions, replacements, and
386 extensions to the plant and equipment of any public utility when
387 reasonably necessary to promote the convenience and welfare of
388 the public and secure adequate service or facilities for those
389 reasonably entitled thereto; to employ and fix the compensation
390 for such examiners and technical, legal, and clerical employees
391 as it deems necessary to carry out the provisions of this

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392 chapter; and to adopt rules pursuant to ss. 120.536(1) and
393 120.54 to implement and enforce the provisions of this chapter.

394 (8) If the commission determines that there is probable
395 cause to believe that inadequacies exist with respect to the
396 energy grids developed by the electric utility industry,
397 including inadequacies in fuel diversity or fuel supply
398 reliability, it shall have the power, after proceedings as
399 provided by law, and after a finding that mutual benefits will
400 accrue to the electric utilities involved, to require
401 installation or repair of necessary facilities, including
402 generating plants and transmission facilities, with the costs to
403 be distributed in proportion to the benefits received, and to
404 take all necessary steps to ensure compliance. The electric
405 utilities involved in any action taken or orders issued pursuant
406 to this subsection shall have full power and authority,
407 notwithstanding any general or special laws to the contrary, to
408 jointly plan, finance, build, operate, or lease generating and
409 transmission facilities and shall be further authorized to
410 exercise the powers granted to corporations in chapter 361. This
411 subsection shall not supersede or control any provision of the
412 Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

413 Section 18. Section 366.92, Florida Statutes, is created
414 to read:

415 366.92 Florida renewable energy policy.--

416 (1) It is the intent of the Legislature to promote the
417 development of renewable energy; protect the economic viability
418 of Florida's existing renewable energy facilities; diversify the
419 types of fuel used to generate electricity in Florida; lessen
420 Florida's dependence on natural gas and fuel oil for the

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421 production of electricity; minimize the volatility of fuel
422 costs; encourage investment within the state; improve
423 environmental conditions; and at the same time, minimize the
424 costs of power supply to electric utilities and their customers.

425 (2) For the purposes of this section, "Florida renewable
426 energy resources" shall mean renewable energy, as defined in s.
427 377.803, that is produced in Florida.

428 (3) The commission may adopt appropriate goals for
429 increasing the use of existing, expanded, and new Florida
430 renewable energy resources. The commission may change the goals.
431 The commission may review and reestablish the goals at least

432

433

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

435 Remove line 4339 and insert:

436 intent; providing definitions; authorizing the Florida