

By Senator Bennett

21-1493-07

1 A bill to be entitled  
2 An act relating to biofuels; creating s.  
3 206.751, F.S.; providing legislative intent;  
4 creating s. 206.752, F.S.; defining terms  
5 relating to alternative fuels and biofuels;  
6 creating s. 206.753, F.S.; providing  
7 calculation formulas to determine quantity of  
8 biofuels sold by retail sales dealers; creating  
9 s. 206.755, F.S.; requiring each retail dealer  
10 to report its total motor fuel gallonage for a  
11 determinative period to the Department of  
12 Agriculture and Consumer Services; requiring  
13 the department to deliver a report to the  
14 Governor and the Legislature by a specified  
15 date relating to quantity of biofuels sold;  
16 providing for the content of the report;  
17 creating s. 206.757, F.S.; creating the biofuel  
18 marketer's promotion tax credit; providing the  
19 criteria for eligibility for the tax credit;  
20 providing an expiration date for the tax  
21 credit; creating s. 206.759, F.S.; creating the  
22 biofuel production tax credit; providing the  
23 criteria for eligibility for the tax credit;  
24 authorizing the Department of Revenue and the  
25 Department of Agriculture and Consumer Services  
26 to adopt rules; providing an expiration date  
27 for the biofuel production tax credit; amending  
28 s. 213.053, F.S.; authorizing the Department of  
29 Revenue to provide information relating to the  
30 biofuel promotion tax credit and the biofuel  
31 production tax credit to the Department of

1 Agriculture and Consumer Services; amending s.  
2 220.02, F.S.; providing that is is the intent  
3 of the Legislature to offset the credits of the  
4 biofuel promotion tax credit and the biofuel  
5 production tax credit against the corporate  
6 income tax or the franchise tax of this state;  
7 amending s. 220.13, F.S.; requiring that  
8 certain business deductions be included within  
9 the definition of "adjusted federal income";  
10 creating the ethanol and biodiesel mixtures tax  
11 credit; defining terms relating to ethanol and  
12 biodiesel fuel mixtures; creating a tax credit  
13 to be applied against the motor fuel tax for  
14 producers of ethanol and biodiesel fuel  
15 mixtures; providing penalties for producers who  
16 use the biofuels for purposes other than that  
17 for which the biofuels were intended; providing  
18 an expiration date for the ethanol and  
19 biodiesel mixtures tax credit; reenacting ss.  
20 220.181(1)(c), 220.182(1)(b), 220.183(1)(e),  
21 220.184(3), 220.1845(1)(c), 220.1895,  
22 220.19(1)(e), 220.191(3)(b), and 220.193(3)(d),  
23 F.S., relating to the enterprise zone jobs  
24 credit, enterprise zone property tax credit,  
25 community contribution tax credit, hazardous  
26 waste facility tax credit, contaminated site  
27 rehabilitation tax credit, rural job tax  
28 credit, child care tax credits, capital  
29 investment tax credit, and Florida renewable  
30 energy production credit, respectively, to  
31 incorporate the amendments made to s. 220.02,

1 F.S., in references thereto; providing an  
2 effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 206.751, Florida Statutes, is  
7 created to read:

8 206.751 Legislative intent.--It is the intent of the  
9 Legislature that biofuel replace 10 percent of petroleum used  
10 in the formulation of gasoline by January 1, 2012.

11 Section 2. Section 206.752, Florida Statutes, is  
12 created to read:

13 206.752 As used in ss. 206.751-206.759, the term:

14 (1) "Advertise" means to present a commercial message  
15 in any medium including, but not limited to, print, radio,  
16 television, sign, display, label, tag, or articulation.

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

25 (3) "Biofuel" means ethanol or biodiesel.

26 (4) "Department" means the Department of Agriculture  
27 and Consumer Services.

28 (5) "Diesel fuel" has the same meaning as in s.  
29 206.86.

30 (6) "E85 gasoline" means ethanol-blended gasoline  
31 formulated with a minimum percentage of between 70 percent and

1 85 percent by volume of ethanol, if the formulation meets the  
2 standards provided in s. 206.753.

3 (7) "Ethanol" means nominally anhydrous denatured  
4 alcohol produced by the fermentation of plant sugars and  
5 meeting the specifications for fuel ethanol and fuel ethanol  
6 blends with petroleum products as adopted by the Department of  
7 Agriculture and Consumer Services. Ethanol may refer to fuel  
8 ethanol blends designated EXX, where XX represents the volume  
9 percentage of fuel ethanol in the blend.

10 (8) "Gasoline" means any liquid product prepared,  
11 advertised, offered for sale, or sold for use as, or commonly  
12 and commercially used as, motor fuel for use in a  
13 spark-ignition, internal combustion engine, and which meets  
14 the specifications adopted by the Department of Agriculture  
15 and Consumer Services.

16 (9) "Motor fuel" has the same meaning as in s. 206.01.

17 (10) "Motor fuel pump" means a pump, meter, or similar  
18 device used to measure and dispense motor fuel on a retail  
19 basis.

20 (11) "Retail motor fuel site" means a geographic  
21 location in this state where a retail dealer sells and  
22 dispenses motor fuel for the purpose of retail sales.

23 (12) "Retail dealer" has the same meaning as in s.  
24 206.01.

25 (13) "Tax credit" means the biofuel marketers  
26 promotion tax credit as provided in s. 206.757.

27 Section 3. Section 206.753, Florida Statutes, is  
28 created to read:

29 206.753 Calculation of fuel gallonage; retail sales  
30 and dealers.--

31

1           (1) A determination period is any 12-month period  
2 beginning on January 1 and ending on December 31.

3           (2)(a) A retail dealer's total gasoline gallonage is  
4 calculated as the total number of gallons of gasoline which  
5 the retail dealer sells and dispenses from all motor fuel  
6 pumps operated by the retail dealer in this state during a  
7 12-month period beginning January 1 and ending December 31.  
8 The retail dealer's total gasoline gallonage is divided into  
9 the following classifications:

10           1. The total ethanol-blended gasoline gallonage that  
11 is the retail dealer's total number of gallons of  
12 ethanol-blended gasoline and that includes all of the  
13 following subclassifications:

14           a. The total EXX gasoline gallonage that is the total  
15 number of gallons of ethanol-blended gasoline other than E85  
16 gasoline.

17           b. The total E85 gasoline gallonage that is the total  
18 number of gallons of E85 gasoline.

19           2. The total nonblended gasoline gallonage that is the  
20 total number of gallons of nonblended ethanol gasoline.

21           (b) A retail dealer's total ethanol gallonage is the  
22 total number of gallons of ethanol, which is a component of  
23 ethanol-blended gasoline, which the retail dealer sells and  
24 dispenses from motor fuel pumps as provided in paragraph (a)  
25 during a 12-month period beginning January 1 and ending  
26 December 31.

27           (3)(a) A retail dealer's total diesel fuel gallonage  
28 is the total number of gallons of diesel fuel which the retail  
29 dealer sells and dispenses from all motor fuel pumps operated  
30 by the retail dealer in this state during a 12-month period  
31 beginning January 1 and ending December 31. The retail

1 dealer's total diesel fuel gallonage is divided into the  
2 following classifications:

3 1. The total biodiesel-blended fuel gallonage that is  
4 the retail dealer's total number of gallons of  
5 biodiesel-blended fuel.

6 2. The total nonblended diesel fuel gallonage that is  
7 the total number of gallons of diesel fuel which is not  
8 biodiesel or biodiesel-blended fuel.

9 (b) A retail dealer's total biodiesel gallonage is the  
10 total number of gallons of biodiesel which may or may not be a  
11 component of biodiesel-blended fuel, and which the retail  
12 dealer sells and dispenses from motor fuel pumps as provided  
13 in paragraph (a) during a 12-month period beginning January 1  
14 and ending December 31.

15 (4)(a) The aggregate gasoline gallonage is the total  
16 number of gallons of gasoline which all retail dealers sell  
17 and dispense from all motor fuel pumps operated by the retail  
18 dealers in this state during a 12-month period beginning  
19 January 1 and ending December 31. The aggregate gasoline  
20 gallonage is divided into the following classifications:

21 1. The aggregate ethanol-blended gasoline gallonage  
22 that is the aggregate total number of gallons of  
23 ethanol-blended gasoline and that includes all of the  
24 following subclassifications:

25 a. The aggregate EXX gasoline gallonage that is the  
26 aggregate total number of gallons of ethanol-blended gasoline  
27 other than E85 gasoline.

28 b. The aggregate E85 gasoline gallonage that is the  
29 aggregate total number of gallons of E85 gasoline.

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1           2. The aggregate nonblended gasoline gallonage that is  
2 the aggregate number of gallons of nonblended ethanol  
3 gasoline.

4           (b) The aggregate ethanol gallonage is the total  
5 number of gallons of ethanol, which is a component of  
6 ethanol-blended gasoline, which all retail dealers sell and  
7 dispense from motor fuel pumps as provided in paragraph (a)  
8 during a 12-month period beginning January 1 and ending  
9 December 31.

10           (5)(a) The aggregate diesel fuel gallonage is the  
11 total number of gallons of diesel fuel which all retail  
12 dealers sell and dispense from all motor fuel pumps operated  
13 by the retail dealers in this state during a 12-month period  
14 beginning January 1 and ending December 31. The aggregate  
15 diesel fuel gallonage is divided into the following  
16 classifications:

17           1. The aggregate biodiesel-blended fuel gallonage that  
18 is the aggregate number of gallons of biodiesel-blended fuel.

19           2. The aggregate nonblended diesel fuel gallonage that  
20 is the aggregate number of gallons of diesel fuel which is not  
21 biodiesel or biodiesel-blended fuel.

22           (b) The aggregate biodiesel gallonage is the total  
23 number of gallons of biodiesel that may or may not be a  
24 component of biodiesel-blended fuel, and that all retail  
25 dealers sell and dispense from motor fuel pumps as provided in  
26 paragraph (a) during a 12-month period beginning January 1 and  
27 ending December 31.

28           (6)(a) The aggregate ethanol distribution percentage  
29 is the aggregate ethanol gallonage expressed as a percentage  
30 of the aggregate gasoline gallonage calculated for a 12-month  
31 period beginning January 1 and ending December 31.

1           (b) The aggregate per-gallon distribution percentage  
2 is the aggregate ethanol-blended gasoline gallonage expressed  
3 as a percentage of the aggregate gasoline gallonage calculated  
4 for a 12-month period beginning January 1 and ending December  
5 31.

6           (7)(a) The aggregate biodiesel distribution percentage  
7 is the aggregate biodiesel gallonage expressed as a percentage  
8 of the aggregate diesel fuel gallonage calculated for a  
9 12-month period beginning January 1 and ending December 31.

10           (b) The aggregate per-gallon distribution percentage  
11 is the aggregate biodiesel-blended fuel gallonage expressed as  
12 a percentage of the aggregate diesel fuel gallonage calculated  
13 for a 12-month period beginning January 1 and ending December  
14 31.

15           (8) The aggregate biofuel distribution percentage is  
16 the sum of the aggregate ethanol gallonage plus the aggregate  
17 biodiesel gallonage expressed as a percentage of the sum of  
18 the aggregate gasoline gallonage plus the aggregate diesel  
19 fuel gallonage calculated for a 12-month period beginning  
20 January 1 and ending December 31.

21           (9) For ethanol-blended gasoline other than E85  
22 gasoline, at least 10 percent of the gasoline by volume must  
23 be ethanol.

24           (10) In calculating the percentage of ethanol required  
25 for the formulation of ethanol-blended gasoline, a percentage  
26 of a denaturant or contaminants permitted in the  
27 ethanol-blended gasoline may be excluded as provided by rules  
28 adopted by the department.

29           (11) At least 1 percent of biodiesel-blended fuel by  
30 volume must be biodiesel.

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1       (12) Of the total gallons of diesel fuel that the  
2 retail dealer sells and dispenses through all motor fuel pumps  
3 during the retail dealer's tax year, 50 percent or more must  
4 be biodiesel-blended fuel that meets the requirements of this  
5 section.

6       (13) The tax credit shall apply to biodiesel-blended  
7 fuel formulated with a minimum percentage of 2 percent by  
8 volume of biodiesel, if the formulation meets the  
9 biodiesel-blended fuel standards set forth in this section.

10       (14) The biodiesel may be blended with diesel fuel  
11 whose sulfur, aromatic, lubricity, and cetane levels do not  
12 comply with ASTM international specification D975 grades 1-D  
13 or 2-D, low sulfur 1-D or 2-D, or ultra-low sulfur grades 1-D  
14 or 2-D if the finished biodiesel-blended fuel meets ASTM  
15 international specification D975 or a successor ASTM  
16 international specification as established by rules adopted by  
17 the department.

18       Section 4. Section 206.755, Florida Statutes, is  
19 created to read:

20       206.755 Reporting requirements.--

21       (1)(a) Each retail dealer shall report its total motor  
22 fuel gallonage for a determination period as follows:

23       1. The total gasoline gallonage and the total ethanol  
24 gallonage, including each classification and  
25 subclassification.

26       2. The total diesel fuel gallonage and the total  
27 biodiesel gallonage, including each classification and  
28 subclassification.

29       (b) The retail dealer shall report the information  
30 required in paragraph (a) for each retail motor fuel site or  
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1 other permanent or temporary location from which the retail  
2 dealer sells and dispenses motor fuel.

3 (c) The retail dealer shall prepare and submit the  
4 report in a manner and according to procedures required by the  
5 department. The department may require that retail dealers  
6 report to the department on an annual, quarterly, or monthly  
7 basis.

8 (2) On or before February 1, 2008, and each year  
9 thereafter through 2011, the department shall deliver a report  
10 to the Governor and the Legislature. The report shall compile  
11 information reported by retail dealers to the department as  
12 provided in this section and shall include, at a minimum, all  
13 of the following:

14 (a)1. The aggregate gasoline gallonage for the  
15 previous determination period, including all classifications  
16 and subclassifications.

17 2. The aggregate diesel fuel gallonage for the  
18 previous determination period, including all classifications  
19 and subclassifications.

20 (b)1. The aggregate ethanol distribution percentage  
21 for the previous determination period.

22 2. The aggregate biodiesel distribution percentage for  
23 the previous determination period.

24 (c) The report may not include information regarding  
25 motor fuel or biofuel sold and dispensed by an individual  
26 retail dealer or at a particular retail motor fuel site. The  
27 report may not include a trade secret protected as a  
28 confidential record.

29 Section 5. Section 206.757, Florida Statutes, is  
30 created to read:

31 206.757 Biofuel marketer's promotion tax credit.--

1       (1) In order for a retail dealer to be eligible for a  
2 biofuel marketer's promotion tax credit, the dealer must  
3 satisfy the following criteria:

4           (a) The taxpayer must be a retail dealer who sells and  
5 dispenses biofuel through a motor fuel pump in the tax year in  
6 which the tax credit is claimed; and

7           (b) The retail dealer must comply with the  
8 requirements of the department.

9       (2) In order to receive the tax credit, the retail  
10 dealer must calculate all of the following:

11           (a) The retail dealer's biofuel distribution  
12 percentage, which is the sum of the retail dealer's total  
13 ethanol gallonage plus the retail dealer's total biodiesel  
14 gallonage, expressed as a percentage of the retail dealer's  
15 total gasoline gallonage, in the retail dealer's applicable  
16 determination period.

17           (b) The retail dealer's biofuel threshold percentage,  
18 which is:

19               1. Three percent for the determination period  
20 beginning on January 1, 2008, and ending December 31, 2008.

21               2. Five percent for the determination period beginning  
22 on January 1, 2009, and ending December 31, 2009.

23               3. Seven percent for the determination period  
24 beginning on January 1, 2010, and ending December 31, 2010.

25               4. Ten percent for the determination period beginning  
26 on January 1, 2011, and ending December 31, 2011.

27           (c) The retail dealer's biofuel threshold percentage  
28 disparity, which is a positive percentage difference obtained  
29 by taking the minuend, which is the retail dealer's biofuel  
30 distribution percentage, and subtracting from it the  
31 subtrahend, which is the retail dealer's biofuel threshold

1 percentage, in the retail dealer's applicable determination  
2 period.

3  
4 The tax credit shall be calculated separately for each retail  
5 motor fuel site or other permanent or temporary location from  
6 which the retail dealer sells and dispenses biofuel.

7 (3)(a) For a retail dealer whose tax year is the same  
8 as a determination period beginning on January 1 and ending on  
9 December 31, the retail dealer's tax credit shall be  
10 calculated by multiplying the retail dealer's total biofuel  
11 gallage by a tax credit rate, which may be adjusted based on  
12 the retail dealer's biofuel threshold percentage disparity.  
13 The tax credit rate is as follows:

14 1. For any tax year in which the retail dealer has  
15 attained a biofuel threshold percentage for the determination  
16 period, the tax credit rate is 3.5 cents.

17 2. For any tax year in which the retail dealer has not  
18 attained a biofuel threshold percentage for the determination  
19 period, the tax credit rate shall be adjusted based on the  
20 retail dealer's biofuel threshold percentage disparity. The  
21 amount of the adjusted tax credit rate is as follows:

22 a. If the retail dealer's biofuel threshold percentage  
23 disparity equals 2 percent or less, the tax credit rate is 2.5  
24 cents.

25 b. If the retail dealer's biofuel threshold percentage  
26 disparity equals more than 2 percent but not more than 4  
27 percent, the tax credit rate is 1.5 cents.

28 c. A retail dealer is not eligible for a tax credit if  
29 the retail dealer's biofuel threshold percentage disparity  
30 equals more than 4 percent.

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1           **(b) For a retail dealer whose tax year is not the same**  
2 **as a determination period beginning on January 1 and ending on**  
3 **December 31, the retail dealer shall calculate the tax credit**  
4 **twice, as follows:**

5           **1. For the period beginning on the first day of the**  
6 **retail dealer's tax year until December 31, the retail dealer**  
7 **shall calculate the tax credit in the same manner as a retail**  
8 **dealer who calculates the tax credit on that same December 31**  
9 **as provided in paragraph (a).**

10           **2. For the period beginning on January 1 to the end of**  
11 **the retail dealer's tax year, the retail dealer shall**  
12 **calculate the tax credit in the same manner as a retail dealer**  
13 **who will calculate the tax credit on the following December 31**  
14 **as provided in paragraph (a).**

15           **(4) Any credit in excess of the retail dealer's tax**  
16 **liability shall be refunded. In lieu of claiming a refund, the**  
17 **retail dealer may elect to have the overpayment shown on the**  
18 **retail dealer's final, completed return credited to the tax**  
19 **liability for the following tax year.**

20           **(5) This section expires January 1, 2012.**

21           Section 6. Section 206.759, Florida Statutes, is  
22 created to read:

23           **206.759 Biofuel production tax credits.--**

24           **(1) For tax years beginning on or after January 1,**  
25 **2007, a credit against the tax imposed under chapter 220 shall**  
26 **be granted in an amount to be determined as follows:**

27           **(a) A taxpayer who produces biofuel at a facility**  
28 **located in this state is entitled to a credit against the**  
29 **taxpayer's state tax liability equal to 20 cents per gallon of**  
30 **biofuel produced from this state's feedstocks at a facility**  
31 **that began operating after December 31, 2006, or, under the**

1 expanded capacity of a facility, the expansion of which  
2 occurred after December 31, 2006.

3 (b) A taxpayer may not receive any tax credit under  
4 this section in an amount greater than \$3 million for 1 year.  
5 The cumulative annual tax credit under this section may not  
6 exceed \$10 million.

7 (2) In order to be eligible for the biofuel production  
8 tax credit, a taxpayer must have registered and have met the  
9 requirements contained in this chapter.

10 (3) The Department of Revenue may adopt rules pursuant  
11 to ss. 120.536(1) and 120.54 which are necessary to administer  
12 this section, including rules establishing forms and  
13 procedures for claiming this credit.

14 (4) Before beginning production, a taxpayer must  
15 submit to the Department of Agriculture and Consumer Services  
16 an application for tax credit which includes a complete  
17 description of all biofuel that will be produced. The  
18 Department of Agriculture and Consumer Services shall  
19 determine whether such production is eligible for the credit  
20 under this section, and shall establish methods for  
21 determining the amount of biofuel produced and sold by a  
22 taxpayer during the tax year. A taxpayer must attach the  
23 Department of Agriculture and Consumer Services' certification  
24 to the tax return on which the credit is claimed. The  
25 Department of Agriculture and Consumer Services shall provide  
26 assistance when requested by the Department of Revenue on any  
27 audits or examinations performed pursuant to this section.  
28 The Department of Agriculture and Consumer Services may adopt  
29 rules, guidelines, standards, and application materials  
30 necessary for the determination of this credit.

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1           (5) The Department of Agriculture and Consumer  
2 Services shall determine the total amount of credits available  
3 for any fiscal year. This information shall be communicated to  
4 the Department of Revenue.

5           (6) This section expires January 1, 2012.

6           Section 7. Subsection (8) of section 213.053, Florida  
7 Statutes, is amended to read:

8           213.053 Confidentiality and information sharing.--

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

11           (a) Information relative to chapter 211, chapter 376,  
12 or chapter 377 to the proper state agency in the conduct of  
13 its official duties.

14           (b) Names, addresses, and dates of commencement of  
15 business activities of corporations to the Division of  
16 Corporations of the Department of State in the conduct of its  
17 official duties.

18           (c) Information relative to chapter 212 and chapters  
19 561 through 568 to the Division of Alcoholic Beverages and  
20 Tobacco of the Department of Business and Professional  
21 Regulation in the conduct of its official duties.

22           (d) Names, addresses, and sales tax registration  
23 information to the Division of Hotels and Restaurants of the  
24 Department of Business and Professional Regulation in the  
25 conduct of its official duties.

26           (e) Names, addresses, taxpayer identification numbers,  
27 and outstanding tax liabilities to the Department of the  
28 Lottery and the Office of Financial Regulation of the  
29 Financial Services Commission in the conduct of their official  
30 duties.

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1 (f) State tax information to the Nexus Program of the  
2 Multistate Tax Commission pursuant to any formal agreement for  
3 the exchange of mutual information between the department and  
4 the commission.

5 (g) Tax information to principals, and their  
6 designees, of the Revenue Estimating Conference for the  
7 purpose of developing official revenue estimates.

8 (h) Names and addresses of persons paying taxes  
9 pursuant to part IV of chapter 206 to the Department of  
10 Environmental Protection in the conduct of its official  
11 duties.

12 (i) Information relative to chapters 212 and 326 to  
13 the Division of Florida Land Sales, Condominiums, and Mobile  
14 Homes of the Department of Business and Professional  
15 Regulation in the conduct of its official duties.

16 (j) Information authorized pursuant to s. 213.0535 to  
17 eligible participants and certified public accountants for  
18 such participants in the Registration Information Sharing and  
19 Exchange Program.

20 (k)1. Payment information relative to chapters 199,  
21 201, 212, 220, 221, and 624 to the Office of Tourism, Trade,  
22 and Economic Development, or its employees or agents that are  
23 identified in writing by the office to the department, in the  
24 administration of the tax refund program for qualified defense  
25 contractors authorized by s. 288.1045 and the tax refund  
26 program for qualified target industry businesses authorized by  
27 s. 288.106.

28 2. Information relative to tax credits taken by a  
29 business under s. 220.191 and exemptions or tax refunds  
30 received by a business under s. 212.08(5)(j) to the Office of  
31 Tourism, Trade, and Economic Development, or its employees or



1 agents that are identified in writing by the office to the  
2 department, in the administration and evaluation of the  
3 capital investment tax credit program authorized in s. 220.191  
4 and the semiconductor, defense, and space tax exemption  
5 program authorized in s. 212.08(5)(j).

6 (l) Information relative to chapter 212 and the Bill  
7 of Lading Program to the Office of Agriculture Law Enforcement  
8 of the Department of Agriculture and Consumer Services in the  
9 conduct of its official duties.

10 (m) Information relative to chapter 198 to the Agency  
11 for Health Care Administration in the conduct of its official  
12 business relating to ss. 409.901-409.9101.

13 (n) Information contained in returns, reports,  
14 accounts, or declarations to the Board of Accountancy in  
15 connection with a disciplinary proceeding conducted pursuant  
16 to chapter 473 when related to a certified public accountant  
17 participating in the certified audits project, or to the court  
18 in connection with a civil proceeding brought by the  
19 department relating to a claim for recovery of taxes due to  
20 negligence on the part of a certified public accountant  
21 participating in the certified audits project. In any  
22 judicial proceeding brought by the department, upon motion for  
23 protective order, the court shall limit disclosure of tax  
24 information when necessary to effectuate the purposes of this  
25 section.

26 (o) Information relative to ss. 376.70 and 376.75 to  
27 the Department of Environmental Protection in the conduct of  
28 its official business and to the facility owner, facility  
29 operator, and real property owners as defined in s. 376.301.

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1           (p) Information relative to ss. 220.1845 and 376.30781  
2 to the Department of Environmental Protection in the conduct  
3 of its official business.

4           (q) Names, addresses, and sales tax registration  
5 information to the Division of Consumer Services of the  
6 Department of Agriculture and Consumer Services in the conduct  
7 of its official duties.

8           (r) Information relative to the returns required by  
9 ss. 175.111 and 185.09 to the Department of Management  
10 Services in the conduct of its official duties. The Department  
11 of Management Services is, in turn, authorized to disclose  
12 payment information to a governmental agency or the agency's  
13 agent for purposes related to budget preparation, auditing,  
14 revenue or financial administration, or administration of  
15 chapters 175 and 185.

16           (s) Names, addresses, and federal employer  
17 identification numbers, or similar identifiers, to the  
18 Department of Highway Safety and Motor Vehicles for use in the  
19 conduct of its official duties.

20           (t) Information relative to the tax exemptions under  
21 ss. 212.031, 212.06, and 212.08 for those persons qualified  
22 under s. 288.1258 to the Office of Film and Entertainment. The  
23 Department of Revenue shall provide the Office of Film and  
24 Entertainment with information in the aggregate.

25           (u) Information relative to s. 220.187 to the  
26 Department of Education in the conduct of its official  
27 business.

28           (v) Information relative to chapter 202 to each local  
29 government that imposes a tax pursuant to s. 202.19 in the  
30 conduct of its official duties as specified in chapter 202.  
31 Information provided under this paragraph may include, but is

1 not limited to, any reports required pursuant to s. 202.231,  
2 audit files, notices of intent to audit, tax returns, and  
3 other confidential tax information in the department's  
4 possession relating to chapter 202. A person or an entity  
5 designated by the local government in writing to the  
6 department as requiring access to confidential taxpayer  
7 information shall have reasonable access to information  
8 provided pursuant to this paragraph. Such person or entity  
9 may disclose such information to other persons or entities  
10 with direct responsibility for budget preparation, auditing,  
11 revenue or financial administration, or legal counsel. Such  
12 information shall only be used for purposes related to budget  
13 preparation, auditing, and revenue and financial  
14 administration. Any confidential and exempt information  
15 furnished to a local government, or to any person or entity  
16 designated by the local government as authorized by this  
17 paragraph may not be further disclosed by the recipient except  
18 as provided by this paragraph.

19 (w) Tax registration information to the Agency for  
20 Workforce Innovation for use in the conduct of its official  
21 duties, which information may not be redisclosed by the Agency  
22 for Workforce Innovation.

23 (x) Rental car surcharge revenues authorized by s.  
24 212.0606, reported according to the county to which the  
25 surcharge was attributed to the Department of Transportation.

26 (y) Information relative to ss. 212.08(7)(ccc) and  
27 220.192 to the Department of Environmental Protection for use  
28 in the conduct of its official business.

29 (z) Information relative to the biofuel marketer's  
30 promotion tax credit under s. 206.757 and the biofuel  
31 production tax credit under s. 206.759 to the Department of

1 Agriculture and Consumer Services, or its employees or agents  
2 that are identified in writing by the Department of  
3 Agriculture and Consumer Services to the department, including  
4 information regarding the credit and taxpayers that are  
5 claiming or have claimed such credit.

6  
7 Disclosure of information under this subsection shall be  
8 pursuant to a written agreement between the executive director  
9 and the agency. Such agencies, governmental or  
10 nongovernmental, shall be bound by the same requirements of  
11 confidentiality as the Department of Revenue. Breach of  
12 confidentiality is a misdemeanor of the first degree,  
13 punishable as provided by s. 775.082 or s. 775.083.

14 Section 8. Subsection (8) of section 220.02, Florida  
15 Statutes, is amended to read:

16 220.02 Legislative intent.--

17 (8) It is the intent of the Legislature that credits  
18 against either the corporate income tax or the franchise tax  
19 be applied in the following order: those enumerated in s.  
20 631.828, those enumerated in s. 220.191, those enumerated in  
21 s. 220.181, those enumerated in s. 220.183, those enumerated  
22 in s. 220.182, those enumerated in s. 220.1895, those  
23 enumerated in s. 221.02, those enumerated in s. 220.184, those  
24 enumerated in s. 220.186, those enumerated in s. 220.1845,  
25 those enumerated in s. 220.19, those enumerated in s. 220.185,  
26 those enumerated in s. 220.187, those enumerated in s.  
27 220.192, ~~and~~ those enumerated in s. 220.193 those enumerated  
28 in s. 206.757, and those enumerated in s. 206.759.

29 Section 9. Paragraph (a) of subsection (1) of section  
30 220.13, Florida Statutes, is amended to read:

31 220.13 "Adjusted federal income" defined.--

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

6           (a) Additions.--There shall be added to such taxable  
7 income:

8           1. The amount of any tax upon or measured by income,  
9 excluding taxes based on gross receipts or revenues, paid or  
10 accrued as a liability to the District of Columbia or any  
11 state of the United States which is deductible from gross  
12 income in the computation of taxable income for the taxable  
13 year.

14           2. The amount of interest which is excluded from  
15 taxable income under s. 103(a) of the Internal Revenue Code or  
16 any other federal law, less the associated expenses disallowed  
17 in the computation of taxable income under s. 265 of the  
18 Internal Revenue Code or any other law, excluding 60 percent  
19 of any amounts included in alternative minimum taxable income,  
20 as defined in s. 55(b)(2) of the Internal Revenue Code, if the  
21 taxpayer pays tax under s. 220.11(3).

22           3. In the case of a regulated investment company or  
23 real estate investment trust, an amount equal to the excess of  
24 the net long-term capital gain for the taxable year over the  
25 amount of the capital gain dividends attributable to the  
26 taxable year.

27           4. That portion of the wages or salaries paid or  
28 incurred for the taxable year which is equal to the amount of  
29 the credit allowable for the taxable year under s. 220.181.  
30 This subparagraph shall expire on the date specified in s.  
31 290.016 for the expiration of the Florida Enterprise Zone Act.

1           5. That portion of the ad valorem school taxes paid or  
2 incurred for the taxable year which is equal to the amount of  
3 the credit allowable for the taxable year under s. 220.182.

4 This subparagraph shall expire on the date specified in s.  
5 290.016 for the expiration of the Florida Enterprise Zone Act.

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

10           7. That portion of assessments to fund a guaranty  
11 association incurred for the taxable year which is equal to  
12 the amount of the credit allowable for the taxable year.

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

18           9. The amount taken as a credit for the taxable year  
19 under s. 220.1895.

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

23           11. The amount taken as a credit for the taxable year  
24 under s. 220.187.

25           12. The amount taken as a credit for the taxable year  
26 under s. 220.192.

27           13. The amount taken as a credit for the taxable year  
28 under s. 220.193.

29           14. In the case of a retail biofuel dealer claiming a  
30 tax credit under the biofuel marketer's promotion tax credit  
31 under s. 206.757, that portion of the business deductions

1 claimed by the biofuel dealer on its federal tax return, paid  
2 or incurred, for the taxable year which is equal to the amount  
3 of the credit allowable for the taxable year under s. 206.757.

4 Section 10. Ethanol and biodiesel mixtures tax  
5 credit.--

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

7 (a) "Ethanol mixture credit" means the product of the  
8 applicable amount and the number of gallons of ethanol used by  
9 the taxpayer in producing any ethanol mixture for sale or use  
10 in a trade or business of the taxpayer.

11 (b) "Biodiesel mixture credit" means the product of  
12 the applicable amount and the number of gallons of biodiesel  
13 used by the taxpayer in producing any biodiesel mixture for  
14 sale or use in a trade or business of the taxpayer.

15 (c) "Applicable amount" means 20 cents.

16 (2) A producer may take as a credit against the motor  
17 fuel tax imposed by s. 206.41, Florida Statutes, an amount  
18 equal to the sum of:

19 (a) The ethanol mixture credit; plus

20 (b) The biodiesel mixture credit.

21 (3) For the purpose of determining the tax credit  
22 under subsection (2), the number of gallons of ethanol with  
23 respect to which a credit is allowable under subsection (2)  
24 includes the volume of any denaturant, including gasoline,  
25 which is added under any formulas approved by the Department  
26 of Agriculture and Consumer Services to the extent that the  
27 denaturants do not exceed 5 percent of the volume of the  
28 ethanol, including denaturants.

29 (4) This subsection applies to administration of the  
30 refunds provided for by subsection (2).

31

1       (a) In order to procure a permit, a person must file  
2 with the Department of Revenue an application, on forms  
3 furnished by the department, stating that he or she is  
4 entitled to a refund according to subsection (2) and that he  
5 or she intends to file an application for refund for a  
6 calendar quarter during the current calendar year, and must  
7 furnish the Department of Revenue such other information as  
8 the department requests.

9       (b) A person is not entitled to a refund unless he or  
10 she has filed the application provided for in paragraph (a)  
11 with the Department of Revenue. A permit is effective for the  
12 year issued by the department and is continuous from year to  
13 year so long as the permitholder files refund claims from year  
14 to year. If the permitholder fails to file a claim for any  
15 year, he or she must apply for a new permit.

16       (5) If an applicant for a refund permit has violated  
17 this section or any rule of the Department of Revenue, or has  
18 been convicted of bribery, theft, or false swearing within 5  
19 years preceding the tax credit application, or if the  
20 department has evidence of the financial irresponsibility of  
21 the applicant, the department may require the applicant to  
22 execute a corporate surety bond of \$1,000 to be approved by  
23 the department, conditioned upon the payment of all taxes,  
24 penalties, and fines for which the applicant may become  
25 liable.

26       (6) A tax equal to any credit taken under this section  
27 is imposed on any person who, having claimed a credit for  
28 producing ethanol or biodiesel to be used in the production of  
29 an ethanol mixture or biodiesel mixture, separates the ethanol  
30 or biodiesel from the mixture or, without separation, uses the  
31 mixture for purposes other than as a fuel.



1           (7) This section does not apply to any ethanol or  
2 biodiesel mixture sold or used after December 31, 2011.

3           Section 11. For the purpose of incorporating the  
4 amendments made by this act to section 220.02, Florida  
5 Statutes, in a reference thereto, paragraph (c) of subsection  
6 (1) of section 220.181, Florida Statutes, is reenacted to  
7 read:

8           220.181 Enterprise zone jobs credit.--

9           (1)

10           (c) If this credit is not fully used in any one year,  
11 the unused amount may be carried forward for a period not to  
12 exceed 5 years. The carryover credit may be used in a  
13 subsequent year when the tax imposed by this chapter for such  
14 year exceeds the credit for such year after applying the other  
15 credits and unused credit carryovers in the order provided in  
16 s. 220.02(8).

17           Section 12. For the purpose of incorporating the  
18 amendments made by this act to section 220.02, Florida  
19 Statutes, in a reference thereto, paragraph (b) of subsection  
20 (1) of section 220.182, Florida Statutes, is reenacted to  
21 read:

22           220.182 Enterprise zone property tax credit.--

23           (1)

24           (b) If the credit granted pursuant to this section is  
25 not fully used in any one year, the unused amount may be  
26 carried forward for a period not to exceed 5 years. The  
27 carryover credit may be used in a subsequent year when the tax  
28 imposed by this chapter for such year exceeds the credit for  
29 such year under this section after applying the other credits  
30 and unused credit carryovers in the order provided in s.  
31 220.02(8). The amount of credit taken under this section in

1 any one year, however, shall not exceed \$25,000, or, if no  
2 less than 20 percent of the employees of the business are  
3 residents of an enterprise zone, excluding temporary  
4 employees, the amount shall not exceed \$50,000.

5 Section 13. For the purpose of incorporating the  
6 amendments made by this act to section 220.02, Florida  
7 Statutes, in a reference thereto, paragraph (e) of subsection  
8 (1) of section 220.183, Florida Statutes, is reenacted to  
9 read:

10 220.183 Community contribution tax credit.--

11 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
12 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
13 SPENDING.--

14 (e) If the credit granted pursuant to this section is  
15 not fully used in any one year because of insufficient tax  
16 liability on the part of the business firm, the unused amount  
17 may be carried forward for a period not to exceed 5 years. The  
18 carryover credit may be used in a subsequent year when the tax  
19 imposed by this chapter for such year exceeds the credit for  
20 such year under this section after applying the other credits  
21 and unused credit carryovers in the order provided in s.  
22 220.02(8).

23 Section 14. For the purpose of incorporating the  
24 amendments made by this act to section 220.02, Florida  
25 Statutes, in a reference thereto, subsection (3) of section  
26 220.184, Florida Statutes, is reenacted to read:

27 220.184 Hazardous waste facility tax credit.--

28 (3) If any credit granted pursuant to this section is  
29 not fully used in the first year for which it becomes  
30 available, the unused amount may be carried forward for a  
31 period not to exceed 5 years. The carryover may be used in a

1 subsequent year when the tax imposed by this chapter for such  
2 year exceeds the credit for such year under this section after  
3 applying the other credits and unused credit carryovers in the  
4 order provided in s. 220.02(8).

5 Section 15. For the purpose of incorporating the  
6 amendments made by this act to section 220.02, Florida  
7 Statutes, in a reference thereto, paragraph (c) of subsection  
8 (1) of section 220.1845, Florida Statutes, is reenacted to  
9 read:

10 220.1845 Contaminated site rehabilitation tax  
11 credit.--

12 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

13 (c) If the credit granted under this section is not  
14 fully used in any one year because of insufficient tax  
15 liability on the part of the corporation, the unused amount  
16 may be carried forward for a period not to exceed 5 years. The  
17 carryover credit may be used in a subsequent year when the tax  
18 imposed by this chapter for that year exceeds the credit for  
19 which the corporation is eligible in that year under this  
20 section after applying the other credits and unused carryovers  
21 in the order provided by s. 220.02(8). Five years after the  
22 date a credit is granted under this section, such credit  
23 expires and may not be used. However, if during the 5-year  
24 period the credit is transferred, in whole or in part,  
25 pursuant to paragraph (g), each transferee has 5 years after  
26 the date of transfer to use its credit.

27 Section 16. For the purpose of incorporating the  
28 amendments made by this act to section 220.02, Florida  
29 Statutes, in a reference thereto, section 220.1895, Florida  
30 Statutes, is reenacted to read:

31

1           220.1895 Rural Job Tax Credit and Urban High-Crime  
2 Area Job Tax Credit.--There shall be allowed a credit against  
3 the tax imposed by this chapter amounts approved by the Office  
4 of Tourism, Trade, and Economic Development pursuant to the  
5 Rural Job Tax Credit Program in s. 212.098 and the Urban  
6 High-Crime Area Job Tax Credit Program in s. 212.097. A  
7 corporation that uses its credit against the tax imposed by  
8 this chapter may not take the credit against the tax imposed  
9 by chapter 212. If any credit granted under this section is  
10 not fully used in the first year for which it becomes  
11 available, the unused amount may be carried forward for a  
12 period not to exceed 5 years. The carryover may be used in a  
13 subsequent year when the tax imposed by this chapter for such  
14 year exceeds the credit for such year under this section after  
15 applying the other credits and unused credit carryovers in the  
16 order provided in s. 220.02(8).

17           Section 17. For the purpose of incorporating the  
18 amendments made by this act to section 220.02, Florida  
19 Statutes, in a reference thereto, paragraph (e) of subsection  
20 (1) of section 220.19, Florida Statutes, is reenacted to read:

21           220.19 Child care tax credits.--

22           (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

23           (e) If the credit granted under this section is not  
24 fully used in any one year because of insufficient tax  
25 liability on the part of the corporation, the unused amount  
26 may be carried forward for a period not to exceed 5 years. The  
27 carryover credit may be used in a subsequent year when the tax  
28 imposed by this chapter for that year exceeds the credit for  
29 which the corporation is eligible in that year under this  
30 section after applying the other credits and unused carryovers  
31 in the order provided by s. 220.02(8).

1           Section 18. For the purpose of incorporating the  
2 amendments made by this act to section 220.02, Florida  
3 Statutes, in a reference thereto, paragraph (b) of subsection  
4 (3) of section 220.191, Florida Statutes, is reenacted to  
5 read:

6           220.191 Capital investment tax credit.--

7           (3)

8           (b) If the credit granted under this subsection is not  
9 fully used in any one year because of insufficient tax  
10 liability on the part of the qualifying business, the unused  
11 amount may be carried forward for a period not to exceed 20  
12 years after the commencement of operations of the project. The  
13 carryover credit may be used in a subsequent year when the tax  
14 imposed by this chapter for that year exceeds the credit for  
15 which the qualifying business is eligible in that year under  
16 this subsection after applying the other credits and unused  
17 carryovers in the order provided by s. 220.02(8).

18           Section 19. For the purpose of incorporating the  
19 amendments made by this act to section 220.02, Florida  
20 Statutes, in a reference thereto, paragraph (d) of subsection  
21 (3) of section 220.193, Florida Statutes, is reenacted to  
22 read:

23           220.193 Florida renewable energy production credit.--

24           (3) An annual credit against the tax imposed by this  
25 section shall be allowed to a taxpayer, based on the  
26 taxpayer's production and sale of electricity from a new or  
27 expanded Florida renewable energy facility. For a new  
28 facility, the credit shall be based on the taxpayer's sale of  
29 the facility's entire electrical production. For an expanded  
30 facility, the credit shall be based on the increases in the  
31

1 facility's electrical production that are achieved after May  
2 1, 2006.

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

11 Section 20. This act shall take effect July 1, 2007.

12 \*\*\*\*\*

13 \*\*\*\*\*  
14 SENATE SUMMARY

15 Provides calculation formulas to determine quantity of  
16 biofuels sold by retail sales dealers. Requires each  
17 retail dealer to report its total motor fuel gallonage  
18 for a determinative period to the Department of  
19 Agriculture and Consumer Services. Creates the biofuel  
20 promotion tax credit and the biofuel production tax  
21 credit. Provides the criteria for eligibility for the tax  
22 credits. Authorizes the Department of Revenue to provide  
23 information relating to the biofuel promotion tax credit  
24 and the biofuel production tax credit to the Department  
25 of Agriculture and Consumer Services. Creates the ethanol  
26 and biodiesel mixtures tax credit. Provides for the tax  
27 credit to apply against the motor fuel tax for producers  
28 of ethanol and biodiesel fuel mixtures. Provides  
29 penalties for producers who use the biofuels for purposes  
30 other than that for which the biofuels were intended.  
31