

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation and Conservation Committee

BILL: CS/SB 2666

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Constantine

SUBJECT: Energy Efficiency and Alternative Fuel

DATE: April 13, 2007                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Fav/CS
2.			CU	
3.			FT	
4.			GA	
5.				
6.				

**I. Summary:**

The committee substitute:

- Provides that the renewable energy source exemption for improved real property is for the amount of the cost of the renewable energy source device.
- Provides that the sales tax exemption for equipment and machinery used for ethanol is for ethanol produced by the conversion of carbohydrates. Clarifies that only one purchase of an eligible item is subject to a refund.
- Provides for a sales tax refund on the purchase of certain qualified energy efficient motor vehicles.
- Allows for the transfer of the corporate income tax credit for renewable energy technologies investment.
- Provides that buildings constructed and financed by the state must be designed to meet certain “green” standards.
- Provides that no state agency may construct a facility without having secured from the Department of Management Services (DMS) an evaluation of life-cycle costs based on sustainable building ratings.
- Extends the repayment period for the financing of certain energy conservation measures.
- Allows the DMS to conduct an inventory and determine the percentage of motor vehicles in current use, purchased with state funds, which are flexible fuel vehicles or hybrid vehicles. Requires DMS to purchase such vehicles to increase the percentage of such vehicles in the state’s inventory.
- Provides new provisions relating to the determination of need and cost recovery for an integrated gasification combined cycle power plant.
- Designates October as “Energy Efficiency and Conservation Month.”

- Clarifies that the payment of certain solar energy system rebates may be made only to the final purchaser of an eligible system. Limits the rebates to one per type of system per resident per state fiscal year.
- Provides for two energy efficiency and conservation weeks during which the sales tax may not be collected on certain new energy-efficient products. One week is in October and the other is in March.
- Increases the membership of the Florida Energy Commission to allow the Governor to appoint four members. Provides that certain members are ex-officio members.
- Requires the Department of Environmental Protection (DEP) to develop a greenhouse gas inventory.
- Modifications are made to the Guaranteed Energy Performance Savings Contracting Act to include allowable cost avoidance. Requires review of the contracts by the Office of the Chief Financial Officer.
- Creates the Farm-to-Fuel Advisory Council within the Department of Agriculture and Consumer Services.
- Creates a Farm-to-Fuel Grants Program.
- Creates a Biofuel Retail Sales Incentive Program.
- Creates a Biofuel Production Incentive Program.
- Requires the Florida Building Commission to convene a workgroup to develop a model residential energy efficiency ordinance.
- Requires the Florida Building Commission to revisit the analysis of cost-effective means to improve energy efficiency in commercial buildings. The commission must report with a standard which may be adopted for the construction of all new residential, commercial, and government buildings to the Legislature.
- Requires the Florida Building Commission to develop and implement a public awareness campaign that promotes energy efficiency and the benefits of building green.
- Provides that all county, municipal, and public community college buildings shall be constructed to meet certain green building standards.
- Provides that a minimum of 20 percent total diesel fuel purchased for use by school districts must be biodiesel, subject to availability.
- Subject to appropriation, creates within the Executive Office of the Governor the Florida Energy Aerospace, and Technology Fund to encourage a state partnership with the Federal Government and the private sector to identify business and investment opportunities and target performance goals for those investments in the areas of alternative energy development and production infrastructure.
- Provides for the construction of a multifaceted Research and Demonstration Cellulosic Ethanol Plant.
- Requires the Florida Energy Commission to conduct a study in conjunction with the Public Service Commission and the Department of Agriculture and Consumer Services to recommend an appropriate Renewable Portfolio Standard for the state of Florida.
- Provides appropriations.

This committee substitute amends ss. 163.04, 196.175, 212.08, 220.192, 220.193, 255.251, 255.252, 255.253, 255.254, 255.255, 287.064, 287.16, 366.93, 403.519, 377.802, 377.806, 377.901, and 489.145 F.S.

The committee substitute creates ss. 212.086, 212.0802, 403.0874, 570.956, 570.957, 570.958, and 570.959, F.S.

The committee substitute repeals ss 377.803 and 377.804, F.S.

## II. Present Situation:

In the 2006 Regular Session, the Legislature passed CS/CS/CS/SB 888, ch. 2006-230, Laws of Florida. This was a broad energy bill, containing provisions that created the Florida Energy Commission and economic incentives for alternative energy, including the following.

- The Renewable Energy Technologies Grants Program, created within the DEP to provide matching grants for demonstration, commercialization, research, and development projects relating to renewable technologies. The committee substitute defines renewable energy technology as any technology that generates or utilizes a renewable energy resource, defined to include electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power. As a part of this program, DEP is to work with the Department of Agriculture and Consumer Services to coordinate grants for bioenergy projects.
- The period from 12:01 a.m., October 5 through midnight October 11, 2006, was designated a tax holiday for sales tax on new energy-efficient products sold during that period and having a selling price of \$1,000 or less. The exemption is only for items purchased for personal use, and includes items like a dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or florescent light bulb, dehumidifier, programmable thermostat, or refrigerator that meet certain criteria.
- A rebate program was created for purchasers of solar photovoltaic systems or solar thermal systems, including pool heaters. To be eligible, the systems must meet certain requirements. The maximum rebates are provided and vary depending on the type of system and its intended use.
- An exemption from sales tax was created for stated types of products relating to hydrogen-powered vehicles, commercial stationary hydrogen fuel cells, and materials used in distributing biodiesel and ethanol.

An investment tax credit was created for costs related to investments in hydrogen-powered vehicles and hydrogen fueling stations; fuel cells; and biodiesel and ethanol.

## III. Effect of Proposed Changes:

**Section 1.** Section 163.04, F.S., is amended to provide that no declaration can prohibit solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the declaration. The committee substitute specifically includes condominiums. In the case of a condominium, solar collectors may be installed on a roof that is considered to be a common element of the condominium association.

**Section 2.** Section 196.175, F.S., is amended to provide that the renewable energy source exemption for improved real property shall be for the amount of the cost of the renewable energy source device. The device must be installed before July 1, 2007.

**Section 3.** Section 212.08, F.S., is amended to provide that the sales tax exemption for equipment and machinery used for ethanol is for ethanol produced by the conversion of carbohydrates. The exemption for ethanol, biodiesel, hydrogen fuel cells, hydrogen powered vehicles, commercial stationary hydrogen fuel cells, and materials used in the distribution of biodiesel and ethanol is available only to the end-user of the equipment, machinery, and other materials.

Only one purchase of an eligible item is subject to a refund. A purchaser who has received a refund on an eligible item must notify any subsequent purchaser of the item that the item is no longer eligible for a refund of tax paid. This notification must be provided to the purchaser on the sales invoice or other proof of purchase.

**Section 4.** Section 212.086, F.S., is created to provide for a sales tax refund on the purchase of certain qualified energy efficient motor vehicles. The tax that is eligible for refund shall be computed on the lesser of \$15,000 or the sales price as provided in s. 212.02, F.S.

**Section 5.** Section 220.192, F.S., is amended to provide that any corporation and any subsequent transferee allowed the corporate tax credit for renewable energy technologies investment may transfer the tax credit, in whole or in part, to any taxpayer by written agreement without the requirement of transferring any ownership interest in the property generating the tax credit or any interest in the entity that owns the property. Transferees are entitled to apply the credits against the tax with the same effect as if the transferee had incurred the eligible costs. Provides the process to perfect the transfer.

**Section 6.** Section 220.193, F.S., is amended to define “sale” or “sold” with regard to the Florida renewable energy production credit. A taxpayer’s use of the credit granted pursuant to this section does not reduce the amount of any credit authorized by s. 220.186, F.S., (credit for Florida alternative minimum tax) which would otherwise be available to that taxpayer.

**Section 7.** Section 255.251, F.S., renames the Energy Conservation in Buildings Act as the Energy Conservation and Sustainable Buildings Act.

**Section 8.** Section 255.252, F.S., is amended to provide that buildings constructed and financed by the state must be designed to meet the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design rating system, Green Building Initiative’s Green Globes rating system, or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services (DMS).

Also, it is the policy of the state to operate, maintain, and renovate existing state-owned facilities in a manner that will minimize energy consumption and increase the facilities’ sustainability as well as ensure that facilities leased by the state are operated so as to minimize energy use.

Each state agency must identify and compile a list of all state-owned buildings within its inventory which would be suitable for a guaranteed energy performance savings contract pursuant to s. 489.145, F.S. The list is to be submitted to the DMS by December 31, 2007, and shall include all facilities over 5,000 square feet and for which the agency is responsible for paying the expenses of utilities and other operating expenses as they relate to energy use. The department, in consultation with each department secretary or director, by March 1, 2008, shall evaluate each agency's facilities suitable for energy conservation projects and shall develop an energy-efficiency project schedule based on certain specified factors.

**Section 9.** Section 255.253, F.S., is amended to define "sustainable building," and "sustainable building rating."

**Section 10.** Section 255.254, F.S., is amended to provide that no state agency may construct a facility without having secured from DMS an evaluation of life-cycle costs based on sustainable building ratings. For leased buildings 5,000 square feet or greater, an energy performance analysis shall be performed and a lease shall be made only where there is a showing that the energy costs incurred by the state are minimal compared to available like facilities.

**Section 11.** Section 255.255, F.S., is amended to provide that DMS shall promulgate rules and procedures, including energy conservation performance guidelines based on sustainable building ratings, for conducting a life-cycle cost analysis of alternative architectural and engineering designs and alternative major items of energy-consuming equipment to be retrofitted in existing state-owned or leased facilities and for developing energy performance indices to evaluate the efficiency of energy utilization for competing designs in the construction of state-financed and leased facilities.

**Section 12.** Section 287.064, F.S., is amended to provide that the period of time for repayment of the funds drawn pursuant to the master equipment financing agreement may exceed 5 years but may not exceed 20 years (instead of the current 10 years) for energy conservation measures pursuant to s. 489.145, F.S., excluding the costs of training, operation, and maintenance. The guaranteed energy performance savings contractor shall provide for the replacement or the extension of the useful life of the equipment during the term of the contract.

**Section 13.** Section 287.16, F.S., is amended to allow DMS to conduct an inventory and determine the percentage of motor vehicles purchased with state funds which are flexible fuel vehicles or hybrid vehicles in current use. Notwithstanding s. 287.151, F.S., DMS shall purchase over the next 3 years a sufficient number of flexible fuel vehicles or hybrid vehicles to increase the percentage of such vehicles in the state's inventory to 25 percent.

**Sections 14 and 15.** amend ss. 366.93 and 403.519, F.S., to include integrated gasification combined cycle (IGCC) power plants in the new provisions relating to nuclear plants and the determination of need for a proposed plant, the exemption from the bid rule, and early cost recovery.

The term "integrated gasification combined cycle power plant" for purposes of s. 366.93, F.S., is defined as an electrical power plant that uses synthesis gas produced by integrated gasification technology. Generally speaking, an IGCC power plant combines a power plant and a chemical

plant. The power plant is a gas fueled combined cycle plant, much like a natural gas plant. The chemical plant produces a synthetic gas, typically by gasifying coal. This synthetic gas is then burned in the power plant similar to natural gas.

Section 403.519, F.S., relating to the determination of need for a proposed power plant is amended to provide that a utility proposing to build and operate an IGCC power plant would file a petition for determination of need with the Florida Public Service Commission (PSC or commission). The petition must contain:

- A description of the need for the generation capacity.
- A description of how the proposed IGCC power plant will enhance the reliability of electric power production within the state by improving the balance of power plant fuel diversity and reducing Florida's dependence on fuel oil and natural gas.
- A description of and a nonbinding estimate of the cost of the IGCC power plant.
- The annualized base revenue requirement for the first 12 months of operation of the IGCC power plant.
- Information on whether there were any discussions with any electric utilities regarding ownership of a portion of the plant by such electric utilities.

In making its determination to either grant or deny the petition, the commission would be required to consider the need for electric system reliability and integrity, including fuel diversity, the need for base-load generating capacity, and the need for adequate electricity at a reasonable cost. More specifically, the PSC would have to take into consideration matters within its jurisdiction which it deems relevant, including whether the IGCC power plant would:

- Provide needed base-load capacity.
- Enhance the reliability of electric power production within the state by improving the balance of power plant fuel diversity and reducing Florida's dependence on fuel oil and natural gas.
- Provide the most cost-effective source of power, taking into account the need to improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the long-term stability and reliability of the electric grid.

The PSC would be required to hold a hearing within 90 days after the filing of the petition, and to issue an order granting or denying the petition within 135 days after the date of the filing of the petition. The commission would be the sole forum for the determination of need and the issues addressed in the petition, which could not be reviewed in any other forum, or in the review of proceedings in any other forum.

The utility proposing to build an IGCC power plant would be exempt from the bid rule, rule 25-22.082, Florida Administrative Code, which requires that a utility proposing to build a power plant request bids from other generators to provide the proposed power prior to petitioning for a determination of need.

The commission's determination of need for an IGCC power plant would create a presumption of public need and necessity. After a petition for determination of need for an IGCC power plant has been granted, the right of a utility to recover any costs incurred prior to commercial

operation, including, but not limited to, costs associated with the siting, design, licensing, or construction of the plant, would not be subject to challenge unless and only to the extent the commission finds, based on a preponderance of the evidence adduced at a hearing, that certain costs were imprudently incurred. Proceeding with the construction of the IGCC power plant following an order by the commission approving the need for the IGCC power plant would not constitute evidence of imprudence. Imprudence would not include any cost increases due to events beyond the utility's control. Further, a utility's right to recover costs associated with an IGCC power plant could not be raised in any other forum or in the review of proceedings in such other forum. Costs incurred prior to commercial operation would be recovered pursuant to ch. 366, F.S.

Section 366.93, F.S., relating to advance cost recovery for pre-construction costs of an IGCC power plant is amended to require the PSC to establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of an IGCC power plant. The mechanisms must be designed to promote utility investment in IGCC power plants and allow for the recovery in rates of all prudently incurred costs, including but not limited to:

- Recovery through the capacity cost recovery clause of any preconstruction costs.
- Recovery through an incremental increase in the utility's capacity cost recovery clause rates of the carrying costs on the utility's projected construction cost balance associated with the IGCC power plant.

After a petition for determination of need is granted, the utility could petition the commission for cost recovery as permitted by this section and commission rules. After the petition is granted, and up until the IGCC plant is placed in commercial service, the utility would be required to report to the commission annually the budgeted and actual costs as compared to the estimated inservice cost of the IGCC power plant provided by the utility in its petition for a determination of need. When the IGCC power plant is placed in commercial service, the utility is to be allowed to increase its base rate charges by the projected annual revenue requirements of the IGCC power plant.

If the utility were to elect not to complete, or to be precluded from completing, construction of the IGCC power plant, the utility would be allowed to recover all prudent preconstruction and construction costs incurred following the commission's issuance of a final order granting a determination of need for the IGCC power plant. The utility would recover the costs through the capacity cost recovery clause over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.

These provisions are contained in SB 1202.

**Section 16.** Section 377.802, F.S., is amended to provide that the month of October shall annually be designated "Energy Efficiency and Conservation Month."

**Sections 17 and 18.** Subsection (2) of s. 377.803, F.S., which defines "approved metering equipment", is repealed. Subsection (6) of s. 377.806, F.S., relating to a rebate for certain solar energy systems, is repealed.

**Section 19.** Section 377.806, F.S., is amended to provide that payment of certain solar energy system rebates may be made only to the final purchaser of an eligible system. Rebates are limited to one per type of system per resident per state fiscal year.

**Section 20.** Section 212.0802, F.S., is created to provide for two Energy Efficiency and Conservation Weeks –beginning 12:01 am, October 1, 2007, through midnight, October 7, 2007, and beginning 12:01 am, March 3, 2008, through midnight, March 9, 2008. During those specified time periods, the sales tax may not be collected on the sale of certain specified new energy-efficient products. The purchase of these products are only available for noncommercial home or personal use.

**Section 21.** Section 377.901, F.S., is amended to clarify that the Florida Energy Commission is to function independently. The number of commission members is increased to allow for the Governor to appoint four members. The members appointed by the President of the Senate and the Speaker of the House of Representatives shall jointly appoint a member who shall serve as chair, except that the term of the first chair previously appointed by the President of the Senate and the Speaker of the House of Representatives prior to the Governor’s ability to appoint commissioners shall not be affected by the additional commissioners to be appointed by the Governor. If at any time a sitting commissioner is appointed chair, that commissioner shall begin a new 2-year term at the time of appointment.

The Governor’s initial appointments shall also be staggered in the same manner as the initial appointments by the President of the Senate and the Speaker of the House of Representatives.

Certain members are designated as ex-officio members.

To carry out the duties of the commission, the chair of the commission, or the chair’s designee, shall make all spending decisions within the annual operating budget approved by the President of the Senate and the Speaker of the House of Representatives, including the compensation of the commission’s staff.

In carrying out the commission’s responsibility to establish a state energy policy, the commission may conduct research, hold public meetings, and make recommendations on any individual substantive issue that may be included in such policy, including, but not limited to, climate change, greenhouse gas reduction, renewable energy, conservation, and power generation, transmission, and distribution.

The commission’s first report shall also contain recommendations on net metering.

**Section 22.** Section 403.0874, F.S., is created to require the DEP to develop gas inventories of all major greenhouse gases to account for annual greenhouse gases emitted to and removed from the atmosphere, and shall also forecast gases emitted and removed, for time periods determined sufficient by the department to provide for adequate analysis and planning.

The DEP may require all major emitters of defined greenhouse gases to report emissions.



The DEP shall provide a summary report of greenhouse gas inventories at least once a year to the Florida Energy Commission for its use in its long-term evaluations and for preparing the report required by s. 377.901(6), F.S.

**Section 23.** Section 489.145, F.S., is amended to make certain modifications in the “Guaranteed Energy Performance Savings Contracting Act.” The contract may include allowable cost avoidance. The actual computed cost savings must meet or exceed the estimated cost savings provided in program approval. Baseline adjustments used in calculations must be specified in the contract.

The Office of the Chief Financial Officer shall review proposals to ensure that the most effective financing is being used.

For purposes of consolidated financing of deferred payment commodity contracts by a state agency, the annualized amount of any such contract must be supported from available recurring funds appropriated to the agency in an appropriation category. The Office of the Chief Financial Officer may not approve any contract submitted which does not meet the requirements of this section.

**Section 24.** Section 570.956, F.S., is created to create the Farm-to-Fuel Advisory Council within the Department of Agriculture and Consumer Services (DACS). Specifies the membership.

**Section 25.** Section 570.957, F.S., is created to provide for a Farm-to-Fuel Grants Program. The grant program is established within the DACS to provide renewable energy matching grants for demonstration, commercialization, research, and development projects relating to bioenergy projects. The matching grants may be made to:

- Municipalities and county governments.
- Established for-profit companies licensed to do business in the state.
- Universities and colleges in the state.
- Utilities located and operating within the state.
- Not-for-profit organizations.
- Other qualified persons, as determined by DACS.

Provides the factors for consideration in awarding grants.

**Section 26.** Section 570.958, F.S., is created to provide for a Biofuel Retail Sales Incentive Program. The purpose of the program is to encourage the retail sale of biofuels in this state and replace petroleum consumption in the state by certain specified percentages over certain specified periods. Subject to appropriation, a retail dealer who sells biofuel at retail motor fuel sites is entitled to an incentive payment as follows:

- 1 cent for each gallon of E10 motor fuel sold;
- 3 cents for each gallon of E85 fuel ethanol sold;
- 1 cent for each gallon of biodiesel blended fuel sold; and
- 3 cents for each gallon of biodiesel sold.

**Section 27.** Section 570.959, F.S., is created to provide for a Florida Biofuel Production Incentive Program. The purpose of the program is to encourage the development and expansion of facilities that product biofuels in this state from crops, agricultural waste and residues, and other biomass produced in Florida by providing economic incentives to do so. Subject to appropriation, the incentive available is 5 cents for each gallon of unblended Florida biofuel produced, exclusive of denaturant, during a given calendar year and sold to an unrelated blender of biofuel.

**Section 28.** The Florida Building Commission shall convene a workgroup comprised of representatives from the Florida Energy Commission, the Department of Community Affairs, the Building Officials Association of Florida, the Florida Energy Office, the Florida Home Builders Association, the Association of Counties, the League of Cities, and other stakeholders to develop a model residential energy efficiency ordinance that provides incentives to meet energy efficiency standards. The commission must report back to the Legislature with a developed ordinance by March 1, 2008.

The Florida Building Commission shall revisit the analysis of cost-effective means to improve energy efficiency in commercial buildings, and must compare the code to the International Energy Conservation Code and the American Society of Heating, Air-Conditioning, and Refrigeration Engineers Standards 90.1 and 90.2. The commission must provide a report with a standard to the Legislature by March 1, 2008, which may be adopted for the construction of all new residential, commercial, and government buildings.

The Florida Building Commission shall develop and implement a public awareness campaign that promotes energy efficiency and the benefits of building green by January 1, 2008.

**Section 29.** The Legislature declares that there is an important state interest in promoting the construction of energy efficient and sustainable buildings.

All county, municipal, and public community college buildings shall be constructed to meet the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, Green Building Initiative's Green Globes rating system, or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services (DMS). This provision shall apply to all county, municipal, and public community college buildings the architectural plans for which are started after July 1, 2008.

**Section 30.** By January 1, 2008, a minimum of 20 percent of total diesel fuel purchases for use by school districts shall be biodiesel, subject to availability.

**Section 31.** Subject to appropriation, there is created within the Executive Office of the Governor the Florida Energy Aerospace and Technology Fund (F.E.A.T.) to encourage a state partnership with the Federal Government and the private sector to identify business and investment opportunities and target performance goals for those investments in the areas of alternative energy development and production infrastructure; biofuel, wind power, and solar energy technology development and applications; ethanol production and systems for conversion and use of ethanol fuels; cryogenics and hydrogen-based technology applications, storage, and conversion systems; hybrid engine power systems conversion technologies and production

facilities; aerospace industry expansion or development opportunities; aerospace facility modifications and upgrades; build outs; new spaceport, range, and ground support infrastructure; new aerospace facilities and laboratories; new simulation, communications, and command and control systems; and other aerospace manufacturing and maintenance support infrastructure.

**Section 32.** This section provides for the construction of a multifaceted Research and Demonstration Cellulosic Ethanol Plant designed to conduct research and to demonstrate and advance the commercialization of cellulose-to-ethanol technology, including technology licensed from the University of Florida, and to facilitate further research and testing of multiple cellulosic feedstocks in Florida.

Provides guidance on where the facility should be situated. The University of Florida shall act as owner and proprietor.

The Senior Vice President of the Institute of Food and Agriculture Sciences (IFAS) shall ensure that the applicable, nonproprietary research results and technologies from the plant authorized under this initiative are adapted, made available, and disseminated through IFAS's respective services, as appropriate.

Provides for a report to the Legislature.

**Section 33.** The Florida Energy Commission shall conduct a study in conjunction with the PSC and DACS to recommend an appropriate Renewable Portfolio Standard for the State of Florida. Specifies what the study should include. The commission shall hold public hearings and submit a report to the Legislature no later than January 31, 2008.

**Section 34.** For FY 2007-2008, the sum of \$65,763 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering the energy efficient sales tax holiday.

**Section 35.** For FY 2007-2008, the sum of \$20 million in nonrecurring funds is appropriated from the General Revenue Fund to the University of Florida's Institute of Food and Agriculture Sciences for the purpose of establishing the Research and Demonstration Cellulosic Ethanol Plant.

**Section 36.** For FY 2007-2008, the sum of \$40 million in nonrecurring funds is appropriated from the General Revenue Fund to the DEP for the purpose of funding the Renewable Energy Technologies Grants Program authorized in s. 377.804, F.S.

**Section 37.** For FY 2007-2008, the sum of \$2.5 million in nonrecurring funds is appropriated from the General Revenue Fund to the DEP for the purpose of funding commercial and consumer solar rebates authorized in s. 377.806, F.S.

**Section 38.** For FY 2007-2008, the sum of \$10 million in nonrecurring funds is appropriated from the General Revenue Fund to DACS for the purpose of funding the Farm-to-Fuel Grants Program authorized in s. 570.957, F.S.

**Section 39.** For FY 2007-2008, the sum of \$12.6 million in nonrecurring funds is appropriated from the General Revenue Fund to the Administrative Trust Fund of the Department of Revenue for the purpose of paying sales tax refunds as authorized in s. 212.086, F.S.

**Section 40.** For FY 2007-2008, the sum of \$100,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Community Affairs for the purposes of convening a workgroup to develop a model residential energy efficient ordinance and reviewing the cost-effectiveness of energy efficiency measures in the construction of certain buildings.

**Section 41.** For FY 2007-2008, the sum of \$334,237 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Community Affairs for the purposes of developing and implementing a public awareness campaign that promotes energy efficiency and the benefits of building green.

**Section 42.** This act shall take effect July 1, 2007.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This committee substitute does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

Section 31 of the bill would create within the Executive Office of the Governor the Florida Energy Aerospace and Technology Trust Fund. Art. III, s. 19(f) of the state constitution provides that “(n)o trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only.”

This trust fund, therefore, cannot be created in this bill.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

The renewable energy source device exemption for improved real property found in s. 196.175, F.S., is amended to change the amount of the exemption allowed.

Sales tax exemptions:

- Revises the definition of “ethanol” and clarifies that the exemption for equipment, machinery, and other materials for renewable energy technologies is available only to the end user and only one purchase of an eligible item is subject to refund.
- Provides for a sales tax refund on the purchase of certain qualified energy efficient motor vehicles. The amount is based on the lesser of \$15,000 or the sales price of the motor vehicle.

Corporate income tax credit:

- Allows for the transfer of the corporate tax credit for renewable energy technologies investment.

#### B. Private Sector Impact:

Consumers purchasing specified energy-efficient products during the specified tax-free weeks would not have to pay the sales tax on those items.

The committee substitute provides an incentive to consumers to purchase qualified alternative motor vehicles by allowing for a rebate of the sales tax paid on such vehicles. The amount of the rebate would be computed on the lesser of \$15,000 or the sale price of the vehicle.

If funds are provided, a retail dealer who sells biofuel at retail motor fuel sites is entitled to an incentive payment per gallon of fuel sold as follows:

- 1 cent for each gallon of E10 fuel;
- 3 cents for each gallon of E85 fuel ethanol;
- 1 cent for each gallon of biodiesel blended fuel;
- 3 cents for each gallon of biodiesel.

The fiscal impact of this incentive program cannot be determined at this time.

If funds are provided, producers of biofuel in Florida are eligible for an incentive payment per gallon in the amount of 5 cents for each gallon of unblended Florida biofuel produced and sold to an unrelated blender of biofuel.

#### C. Government Sector Impact:

The committee substitute makes the following appropriations for the 2007-2008 fiscal year:

- \$65,763 from the General Revenue Fund to the Department of Revenue for the purpose of administering the energy efficiency sales tax holiday.
- \$20 million from the General Revenue Fund to the University of Florida’s Institute of Food and Agriculture Sciences for establishing the Research and Demonstration Cellulosic Ethanol Plant.

- \$40 million from the General Revenue Fund to the Department of Environmental Protection for the purpose of funding the Renewable Energy Technologies Grants Program.
- \$2.5 million from the General Revenue Fund to the Department of Environmental Protection for the purpose of funding commercial and consumer solar rebates.
- \$10 million from the General Revenue Fund to the Department of Agriculture and Consumer Services for the purpose of funding the Farm-to-Fuel Grants.
- \$12.6 million from the General Revenue Fund to the Administrative Trust Fund in the Department of Revenue for the purpose of paying sales tax refunds on energy efficient motor vehicles.
- \$100,000 from the General Revenue Fund to the Department of Community Affairs for the purpose of convening a workgroup to develop a model residential energy efficient ordinance and reviewing the cost-effectiveness of energy efficiency measures in the construction of certain buildings.
- \$334,237 from the General Revenue Fund to the Department of Community Affairs for the purposes of developing and implementing a public awareness campaign that promotes energy efficiency and the benefits of building green.

In 2006, the Department of Revenue issued a Tax Information Publication to dealers selling the energy-efficient products listed in this committee substitute for last year's tax-free Energy Efficient Week at a cost of \$65,763. The committee substitute appropriates money to the department to cover this cost. However, last year there was only 1 tax-free week in October. This committee substitute provides for a tax-free week in October and one in March. It is not clear whether the Department of Revenue would have to issue the publication to dealers before each tax-free week.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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