

Bill No. CS for SB 996

Barcode 150638

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation and Conservation  
(Jones) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Effective upon this act becoming a law,  
section 288.10894, Florida Statutes, is created to read:

288.10894 Florida Alternative Energy Development  
Corporation; findings; creation; membership; organization;  
purpose; duties; powers.--

(1) The Legislature finds that it is in the public  
interest to promote alternative energy technologies in this  
state, including alternative fuels and technologies for  
electric power plants and motor vehicles, energy conservation,  
distributed generation, advanced transmission methods, and  
pollution and greenhouse gas control. Both Florida and the  
United States in general are overly dependent on foreign oil  
to meet the energy needs of buildings and motor vehicles.  
Alternative energy and energy conservation technologies have

Bill No. CS for SB 996

Barcode 150638

1 the potential to decrease this dependency, minimize volatility  
 2 of fuel cost, and improve environmental conditions. In-state  
 3 research, development, deployment, and use of these  
 4 technologies can make the state a leader in new and innovative  
 5 technologies and encourage investment and economic development  
 6 in this state.

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

8 (a) "Corporation" means the Florida Alternative Energy  
 9 Development Corporation.

10 (b) "Alternative energy" means energy technologies  
 11 that are undeveloped or less than established in current  
 12 markets. The term includes, but is not limited to: biomass;  
 13 agricultural products and byproducts; municipal solid waste,  
 14 including landfill injection, landfill mining, and landfill  
 15 gas; solar thermal and solar photovoltaic energy; geothermal;  
 16 ocean energy, including wave or thermal; hydrogen fuel; fuel  
 17 cells; energy conservation, including building, equipment, and  
 18 appliance efficiency technologies; enhancements to the  
 19 transmission of electricity, including advanced transmission  
 20 lines; distributed generation; ethanol, biodiesel, and similar  
 21 synthetic fuels; and technologies relating to impacts of  
 22 pollutants and greenhouse gases.

23 (3)(a) There is created a public corporation and a  
 24 public body corporate and politic, to be known as the "Florida  
 25 Alternative Energy Development Corporation." It is declared to  
 26 be the intent of and constitutional construction by the  
 27 Legislature that the Florida Alternative Energy Development  
 28 Corporation constitutes an entrepreneurial public corporation  
 29 organized to provide and promote the public welfare by  
 30 administering the governmental function of promoting the  
 31 development of alternative energy in Florida and that the

Bill No. CS for SB 996

Barcode 150638

1 corporation is not a department of the executive branch of  
 2 state government within the scope and meaning of s. 6, Art. IV  
 3 of the State Constitution, and is not functionally located  
 4 within any state agency or department.

5       (b) The corporation is constituted as a public  
 6 instrumentality, and the exercise by the corporation of the  
 7 power conferred by this act is considered to be the  
 8 performance of an essential public function. The corporation  
 9 shall constitute an agency for the purposes of s. 120.52. The  
 10 corporation is subject to chapter 119, subject to exceptions  
 11 applicable to the corporation, and to the provisions of  
 12 chapter 286; however, the corporation shall be entitled to  
 13 provide notice of internal review committee meetings for  
 14 competitive proposals or procurement to applicants by mail or  
 15 facsimile rather than by means of publication. The corporation  
 16 is not governed by chapter 607, but by the provisions of this  
 17 section. If for any reason the establishment of the  
 18 corporation is deemed in violation of law, such provision is  
 19 severable and the remainder of this act remains in full force  
 20 and effect.

21       (c) The corporation is a corporation primarily acting  
 22 as an instrumentality of the state, within the meaning of s.  
 23 768.28.

24       (4) The corporation is the principal organization in  
 25 the state for promotion of alternative energy technology. Its  
 26 goals are to minimize dependence on foreign oil, with the  
 27 maximum overall benefit to the State of Florida, and, where  
 28 possible, to minimize the impact of greenhouse gases. It is to  
 29 accomplish these goals by consolidating in-state resources and  
 30 activities into a unified forum to better coordinate,  
 31 facilitate, and fund research, development, deployment, and

Bill No. CS for SB 996

Barcode 150638

1 use of alternative energy technologies. To make better use of  
2 limited resources, the corporation should focus on projects  
3 having near-term, in-state benefits. Additionally, in making  
4 decisions concerning research, development, or deployment  
5 projects, and in awarding grants and other outlays, the  
6 corporation should determine which of the following elements  
7 of product and market development to focus upon in order to  
8 achieve the greatest benefit with respect to research and  
9 manufacturing, in the wholesale and retail markets, and for  
10 consumers. More specifically, the corporation shall:

11 (a) Bring together existing resources by:

12 1. Assisting in the integration of state-government  
13 energy programs.

14 2. Developing an information exchange system,  
15 including:

16 a. Creating a computer database, accessible by any  
17 interested person, by gathering and indexing all information  
18 concerning activities in this state related to programs of  
19 alternative energy technology research, development, and  
20 deployment in universities, at all levels of government  
21 agencies, and in private industry. The database must include a  
22 current index and profile of all research activities,  
23 identified by alternative energy technology area, including a  
24 summary of the project, the amount and sources of funding,  
25 anticipated completion dates, or, in case of completed  
26 research, the conclusions, recommendations, and applicability  
27 of research to state government and private-sector functions.

28 b. Developing an interactive electronic information  
29 point where interested persons can find information and  
30 connect with other interested persons.

31 c. Holding conferences for the purpose of providing

Bill No. CS for SB 996

Barcode 150638

1 additional information exchange and educating the public.

2       (b) Administer state-funded grants and capital outlay  
3 programs, including developing an application program to  
4 determine awards of those grants and outlays, and assist  
5 interested persons in obtaining additional funding for  
6 alternative energy technology projects.

7       (c) Explore the problems faced by those developing  
8 technology in Florida and determine where the problems lie,  
9 i.e., in research, development, obtaining start-up capital and  
10 financing, or finding buyers for the technology, and then  
11 assist in resolving these problems.

12       (d) In cooperation with Enterprise Florida, Inc.,  
13 promote the state as a location for businesses having  
14 operations related to alternative energy technologies.

15       (e) Develop recommendations for legislation to  
16 establish a state energy policy. The corporation shall  
17 continually review the state energy policy and recommend to  
18 the Legislature any additional necessary changes or  
19 improvements. The recommendations of the corporation shall be  
20 based on the guiding principles of reliability, efficiency,  
21 affordability, and diversity, and more specifically on the  
22 following principles:

23           1. The state should have a reliable electric supply  
24 with adequate reserves.

25           2. The transmission and delivery of electricity should  
26 be reliable.

27           3. The generation, transmission, and delivery of  
28 electricity should be accomplished with the least detriment to  
29 the environment and public health.

30           4. The generation, transmission, and delivery of  
31 electricity should be accomplished compatibly with the goals

Bill No. CS for SB 996

Barcode 150638

1 of growth management.

2 5. Electricity generation, transmission, and delivery  
3 facilities should be reasonably secure from damage, taking all  
4 factors into consideration, and recovery from damage should be  
5 prompt.

6 6. Electric rates should be affordable as to base  
7 rates and all recovery-clause additions, with sufficient  
8 incentives for utilities to achieve this goal.

9 7. The state should have a reliable supply of motor  
10 vehicle fuels under normal circumstances and during hurricanes  
11 and other emergency situations.

12 8. In-state research, development, and deployment of  
13 alternative energy technologies and alternative motor vehicle  
14 fuels should be encouraged.

15 9. When possible, the resources of the state should be  
16 used in achieving the goals enumerated in this subsection.

17 10. Consumers of energy should be encouraged and given  
18 incentives to be more efficient in their use of energy.

19  
20 It is the specific intent of the Legislature that this section  
21 does not in any way change the powers, duties, and  
22 responsibilities of the Public Service Commission or the  
23 powers, duties, and responsibilities assigned by the Florida  
24 Electrical Power Plant Siting Act, ss. 403.501-403.518.

25 (5) The corporation shall establish one or more  
26 corporate offices, at least one of which must be located in  
27 Leon County.

28 (6) The corporation shall be governed by a board of  
29 directors consisting of the following members:

30 (a) The Governor or his or her designee.

31 (b) The Commissioner of Agriculture or his or her

Bill No. CS for SB 996

Barcode 150638

1 designee.

2 (c) The Chief Financial Officer or his or her

3 designee.

4 (d) The Attorney General or his or her designee.

5 (e) A member appointed by the President of the Senate.

6 (f) A member appointed by the Speaker of the House of

7 Representatives.

8 (g) The chairman of the Florida Public Service

9 Commission or his or her designee.

10 (h) The president of Enterprise Florida, Inc., or his

11 or her designee.

12 (i) A representative from the State Board of

13 Education, selected by the members of that board.

14 (j) For one initial term, the current chairman of the

15 Florida Energy Commission and one other member of that

16 commission to be selected by the commission members.

17 (k) Any additional board members selected by a

18 consensus of all existing members of the governing board to

19 assist the corporation in carrying out its functions and

20 duties under this section.

21 (7) A member's term of office may not exceed 4 years,

22 and a member may not serve more than two consecutive terms.

23 (8) The Governor shall serve as chairperson of the

24 board. The members of the board of directors must select a

25 vice chairperson biennially, upon selection of any new

26 members. The corporation's president shall keep a record of

27 the proceedings of the board of directors, act as custodian of

28 all books, documents, and papers filed with the board of

29 directors, and keep the minutes of the board of directors.

30 (9) The board of directors must meet at least once

31 each year, upon the call of the chairperson, at the request of

Bill No. CS for SB 996

Barcode 150638

1 the vice chairperson, or at the request of a majority of the  
2 membership. A majority of the total number of all directors  
3 constitutes a quorum. The board may take official action by a  
4 majority vote of the members present at any meeting at which a  
5 quorum is present.

6 (10) Members of the board of directors serve without  
7 compensation, but members, the president, and staff may be  
8 reimbursed for all reasonable, necessary, and actual expenses,  
9 as determined by the board.

10 (11) Each member of the board of directors who is not  
11 otherwise required to file a financial disclosure pursuant to  
12 s. 8, Art. II of the State Constitution or s. 112.3144 must  
13 file a disclosure of financial interests pursuant to s.  
14 112.3145.

15 (12) The corporation's board of directors must appoint  
16 a corporate president and establish and adjust the president's  
17 compensation. The president is the chief administrative and  
18 operational officer of the board of directors and of the  
19 corporation, and shall direct and supervise other employees in  
20 accomplishing the goals and tasks set forth in this section.

21 (13) State officers, agencies, departments, boards,  
22 and commissions may provide such services to the corporation  
23 within each entity's respective functions as may be requested  
24 by the corporation. Upon request of the corporation, the  
25 Governor may temporarily transfer to the corporation any  
26 officers or employees as are considered necessary from time to  
27 time in order to assist the corporation in carrying out its  
28 functions and duties under this section. Officers and  
29 employees so transferred do not lose their career service,  
30 select exempt, or senior management status or rights.

31 (14) The corporation shall receive funding from the



Bill No. CS for SB 996

Barcode 150638

1 state through the Florida Alternative Energy Development  
2 Corporation Trust Fund pursuant to general law. The board of  
3 directors, officers, and employees of the corporation are  
4 responsible for the prudent use of all public and private  
5 funds within the corporation's control and must ensure that  
6 the use of such funds is in accordance with applicable laws,  
7 bylaws, and contractual requirements. In performing all of its  
8 functions, the corporation shall take all possible steps to  
9 ensure the maximum benefit to the state. As part of its  
10 duties, the corporation shall establish strategic priorities,  
11 consistent with this section, to guide funding and resource  
12 allocations and ensure the best use of available resources.

13 (15) By December 31 each year, the corporation must  
14 submit an annual report to the Governor, the Commissioner of  
15 Agriculture, the Chief Financial Officer, the Attorney  
16 General, the President of the Senate, and the Speaker of the  
17 House of Representatives containing:

18 (a) A detailed description of the corporation's  
19 activities and accomplishments for the year.

20 (b) A certified audit by an independent public  
21 accountant of resources and expenditures prepared by an  
22 independent certified public accountant.

23 (c) A statement of the corporation's strategic  
24 priorities and an explanation of their use in guiding resource  
25 allocations.

26 Section 2. Effective upon this act becoming a law,  
27 section 288.10895, Florida Statutes, is created to read:

28 288.10895 Alternative Energy Incentive Program.--

29 (1) PROGRAM CREATED.--The Alternative Energy Incentive  
30 Program is created and shall be operated by the Florida  
31 Alternative Energy Development Corporation. The program shall

Bill No. CS for SB 996

Barcode 150638

1 encourage economic development and research and development in  
2 the state which will commercialize alternative energy  
3 innovations and develop new alternative energy manufacturing,  
4 blending, power generation, and distribution facilities.

5 (2) DEFINITIONS.--As used in this section, the term:

6 (a) "Alternative energy" means electrical, mechanical,  
7 or thermal energy produced from a method that uses one or more  
8 of the following fuels or energy sources: ethanol, biodiesel,  
9 biomass, biogas, waste heat, fuel cells, hydrogen, solar,  
10 hydro, wind, or geothermal.

11 (b) "Average private-sector wage" means the statewide  
12 average wage in the private sector or the average of all  
13 private-sector wages in the county or in the standard  
14 metropolitan area in which the project is located as  
15 determined by the Agency for Workforce Innovation.

16 (c) "Commission" means the Administration Commission,  
17 as set forth in s. 14.202.

18 (d) "Corporation" means the Florida Alternative Energy  
19 Development Corporation.

20 (e) "Jobs" means full-time equivalent positions, as  
21 that term is consistent with terms used by the Agency for  
22 Workforce Innovation and the United States Department of Labor  
23 for purposes of unemployment compensation tax administration  
24 and employment estimation, resulting directly from a project  
25 in this state. The term does not include temporary  
26 construction jobs.

27 (f) "Match" or "matching funds" means actual cash  
28 outlays contributed, including, but not limited to, cash  
29 outlays for wages, rental expenses, travel expenses,  
30 unrecovered indirect costs, and purchases of material and  
31 supplies as a direct benefit to the project, or noncash

Bill No. CS for SB 996

Barcode 150638

1 contributions necessary and reasonable for proper and  
2 efficient accomplishment of project objectives. The value of  
3 noncash contributions shall be established using the following  
4 guidelines:

5 1. Rates for donated or volunteer services of any  
6 person must be consistent with their regular rate of pay, or  
7 the rate of pay of those paid for similar work at a similar  
8 level of experience in the labor market, including the value  
9 of fringe benefits.

10 2. The value of donated expendable property, such as  
11 office supplies or workshop supplies, may not exceed the fair  
12 market value of the property.

13 3. The value of donated real property, such as land,  
14 may not exceed the fair market value of the property.

15 4. Donated space must be valued at fair rental value  
16 of comparable space and facilities in a privately owned  
17 building in the same locale.

18 5. The value of loaned equipment may not exceed its  
19 fair rental value.

20 6. Rates for donated travel expense must be valued at  
21 the approved state rate as defined in s. 112.061.

22 (g) "President" means the president of the Florida  
23 Alternative Energy Development Corporation.

24 (3) ALTERNATIVE ENERGY BUSINESS PROJECT.--

25 (a) "Business project" is defined as the location to  
26 or expansion in this state of a business that manufactures,  
27 blends, or distributes alternative energy, generates power for  
28 sale in this state from an alternative energy source, or  
29 develops new or expanded infrastructure in this state for the  
30 commercialization or distribution of alternative energy.

31 (b) In order to qualify for consideration under the

Bill No. CS for SB 996

Barcode 150638

1 Alternative Energy Incentive Program, a business project must,  
2 at a minimum, establish to the satisfaction of the corporation  
3 that:

4       1. The business project is located in this state;  
5       2. The jobs created by the business project pay an  
6 estimated annual average wage that equals at least 130 percent  
7 of the average private-sector wage. The average wage  
8 requirement may be waived if the corporation determines that  
9 the merits of the individual project or the specific  
10 circumstances warrant such action;

11       3. The business project includes matching funds  
12 provided by the applicant, the local community, or other  
13 available sources. The match requirement may be waived if the  
14 corporation determines that the merits of the individual  
15 project or the specific circumstances warrant such action; and

16       4. The business project meets one of the following  
17 criteria:

18       a. Results in the creation of at least 20 direct, new  
19 jobs at the business;

20       b. Consists of an activity or product that uses  
21 feedstock or other raw materials grown or produced in this  
22 state;

23       c. Has a cumulative investment of at least \$50 million  
24 within a 5-year period; or

25       d. Incorporates an innovative new technology or an  
26 innovative application of an existing technology.

27       (4) ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT  
28 PROJECT.--

29       (a) "Research and development project" is defined as  
30 basic and applied research that is conducted in this state in  
31 the sciences or engineering and that relates to the

Bill No. CS for SB 996

Barcode 150638

1 development, manufacturing, blending, or use of new and  
 2 existing alternative energy technologies. A research and  
 3 development project does not include market research, routine  
 4 consumer product testing, sales research, research in the  
 5 social sciences or psychology, nontechnological activities, or  
 6 technical services.

7 (b) In order to qualify for consideration under the  
 8 Alternative Energy Incentive Program, a research and  
 9 development project must, at a minimum, establish to the  
 10 satisfaction of the corporation that:

11 1. The research and development project will be  
 12 located in this state;

13 2. The jobs created by the research and development  
 14 project will pay an estimated annual average wage that equals  
 15 at least 130 percent of the average private-sector wage. The  
 16 average wage requirement may be waived if the corporation  
 17 determines that the merits of the individual project or the  
 18 specific circumstances warrant such action;

19 3. The research and development project includes  
 20 matching funds provided by the applicant, a public or private  
 21 university or research institution, the local community, or  
 22 other available sources. The match requirement may be waived  
 23 if the corporation determines that the merits of the  
 24 individual project or the specific circumstances warrant such  
 25 action;

26 4. The research and development project includes a  
 27 plan for significant collaboration with a higher education  
 28 institution in the state; and

29 5. The research and development project includes a  
 30 plan for the commercialization of the research through direct  
 31 use by the applicant in this state or the transfer or

Bill No. CS for SB 996

Barcode 150638

1 licensing of new technology to Florida-based businesses that  
2 produce alternative energy for use or sale within the state.

3 (5) APPLICATION REQUIREMENTS.--A business project or  
4 research and development project applicant must submit a  
5 written application to the corporation showing how the award  
6 would support the location of new operations in this state or  
7 the expansion of an existing operation in this state. The  
8 application must include, but need not be limited to:

9 (a) The applicant's federal employer identification  
10 number, unemployment account number, state sales tax  
11 registration number, or related documentation. If such numbers  
12 are not available at the time of application, the numbers must  
13 be submitted to the corporation in writing before the  
14 disbursement of any payments under this section.

15 (b) The location in this state at which the business  
16 project or the research and development project is located or  
17 is to be located.

18 (c) A description of the type of business activity,  
19 product, or research and development undertaken by the  
20 applicant, including six-digit North American Industry  
21 Classification System codes for all activities included in the  
22 project.

23 (d) The applicant's projected investment in the  
24 business project or the research and development project.

25 (e) The total investment, from all sources, in the  
26 business project or the research and development project.

27 (f) The number of net new full-time equivalent jobs in  
28 this state the applicant anticipates having created as of  
29 December 31 of each year in the business project or the  
30 research and development project and the average annual wage  
31 of such jobs.

Bill No. CS for SB 996

Barcode 150638

1       (g) The total number of full-time equivalent employees  
2 currently employed by the applicant in this state, if  
3 applicable.

4       (h) The anticipated commencement date of the business  
5 project or the research and development project.

6       (i) A detailed explanation of why funding under the  
7 Alternative Energy Incentive Program is needed to induce the  
8 applicant to expand or locate in the state and whether an  
9 award would cause the applicant to locate or expand in this  
10 state.

11       (j) If applicable, an estimate of the proportion of  
12 the revenues resulting from the business project or the  
13 research and development project which will be generated  
14 outside this state.

15       (k) A recommendation for specific performance criteria  
16 the applicant would be expected to achieve in order to receive  
17 payments from the fund and penalties or sanctions for failure  
18 to meet or maintain performance conditions.

19       (l) The potential for the business project or the  
20 research and development project to stimulate additional  
21 investment and employment opportunities that equal or exceed  
22 130 percent of the average private-sector wage.

23       (m) A description of the extent to which the research  
24 and development project:

25           1. Is likely to develop a new, emerging, or evolving  
26 form of alternative energy.

27           2. Has or could have a significant collaborative  
28 research and development relationship with one or more  
29 universities or community colleges in this state.

30           3. Will be used by the applicant within this state or  
31 transferred or licensed to Florida-based businesses.

Bill No. CS for SB 996

Barcode 150638

1       (6) AWARD AMOUNT.--The corporation may negotiate the  
 2 proposed amount of an award for any applicant meeting the  
 3 requirements of this section. In negotiating such award, the  
 4 corporation shall consider the amount of the incentive needed  
 5 to cause the applicant to locate or expand in this state in  
 6 conjunction with other relevant effect and cost information  
 7 and analysis as described in this section.

8       (7) RECOMMENDATION.--After fully considering all of  
 9 the criteria identified in this section and completing the  
 10 evaluation, the president shall recommend to the commission  
 11 the approval or disapproval of an award. In recommending  
 12 approval of an award, the president shall include proposed  
 13 performance conditions that the applicant must meet in order  
 14 to obtain incentive funds and any other conditions that must  
 15 be met before the receipt of any incentive funds. The  
 16 commission shall consult with the President of the Senate and  
 17 the Speaker of the House of Representatives before giving  
 18 approval for an award. Upon approval of an award, the  
 19 Executive Office of the Governor shall release the funds  
 20 pursuant to the legislative consultation and review  
 21 requirements set forth in s. 216.177.

22       (8) CERTIFICATION.--Upon approval by the commission  
 23 and release of the funds as set forth in subsection (7), the  
 24 president shall issue a letter certifying the applicant as  
 25 qualified for an award. The corporation and the applicant  
 26 shall enter into an agreement that sets forth the conditions  
 27 for payment of funds under the Alternative Energy Incentive  
 28 Program, including, but not limited to, the total amount of  
 29 funds awarded, the performance conditions that must be met in  
 30 order to obtain the award or portions of the award, the  
 31 methodology for validating performance, the schedule of



Bill No. CS for SB 996

Barcode 150638

1 payments, and sanctions for failure to meet performance  
2 conditions, including any clawback provisions.

3       (9) VALIDATION.--The corporation shall validate the  
4 performance of business projects and research and development  
5 projects that have received an award under the Alternative  
6 Energy Incentive Program. At the conclusion of an award  
7 agreement, or its earlier termination, the corporation shall,  
8 within 90 days, report the results of the award under the  
9 Alternative Energy Incentive Program to the members of the  
10 commission, the President of the Senate, and the Speaker of  
11 the House of Representatives.

12           Section 3. Effective upon this act becoming a law,  
13 subsection (3) of section 377.703, Florida Statutes, is  
14 amended to read:

15           377.703 Additional functions of the Department of  
16 Environmental Protection; energy emergency contingency plan;  
17 federal and state conservation programs.--

18           (3) DEPARTMENT OF ENVIRONMENTAL PROTECTION;  
19 DUTIES.--The Department of Environmental Protection shall, in  
20 addition to assuming the duties and responsibilities provided  
21 by ss. 20.255 and 377.701, perform the following functions  
22 consistent with the development of a state energy policy:

23           (a) The department shall assume the responsibility for  
24 development of an energy emergency contingency plan to respond  
25 to serious shortages of primary and secondary energy sources.  
26 Upon a finding by the Governor, implementation of any  
27 emergency program shall be upon order of the Governor that a  
28 particular kind or type of fuel is, or that the occurrence of  
29 an event which is reasonably expected within 30 days will make  
30 the fuel, in short supply. The department shall then respond  
31 by instituting the appropriate measures of the contingency

Bill No. CS for SB 996

Barcode 150638

1 plan to meet the given emergency or energy shortage. The  
2 Governor may utilize the provisions of s. 252.36(5) to carry  
3 out any emergency actions required by a serious shortage of  
4 energy sources.

5 (b) The department shall constitute the responsible  
6 state agency for performing or coordinating the functions of  
7 any federal energy programs delegated to the state, including  
8 energy supply, demand, conservation, or allocation.

9 (c) The department shall analyze present and proposed  
10 federal energy programs and make recommendations regarding  
11 those programs to the Governor.

12 (d) The department shall coordinate efforts to seek  
13 federal support or other support for state energy conservation  
14 activities, ~~including energy conservation, research, or~~  
15 ~~development~~, and shall be the state agency responsible for the  
16 coordination of multiagency energy conservation programs and  
17 plans.

18 ~~(e) The department shall analyze energy data collected~~  
19 ~~and prepare long-range forecasts of energy supply and demand~~  
20 ~~in coordination with the Florida Public Service Commission,~~  
21 ~~which shall have responsibility for electricity and natural~~  
22 ~~gas forecasts. To this end, the forecasts shall contain:~~

23 ~~1. An analysis of the relationship of state economic~~  
24 ~~growth and development to energy supply and demand, including~~  
25 ~~the constraints to economic growth resulting from energy~~  
26 ~~supply constraints.~~

27 ~~2. Plans for the development of renewable energy~~  
28 ~~resources and reduction in dependence on depletable energy~~  
29 ~~resources, particularly oil and natural gas, and an analysis~~  
30 ~~of the extent to which renewable energy sources are being~~  
31 ~~utilized in the state.~~

Bill No. CS for SB 996

Barcode 150638

1           ~~3. Consideration of alternative scenarios of statewide~~  
2 ~~energy supply and demand for 5, 10, and 20 years, to identify~~  
3 ~~strategies for long range action, including identification of~~  
4 ~~potential social, economic, and environmental effects.~~

5           ~~4. An assessment of the state's energy resources,~~  
6 ~~including examination of the availability of commercially~~  
7 ~~developable and imported fuels, and an analysis of anticipated~~  
8 ~~effects on the state's environment and social services~~  
9 ~~resulting from energy resource development activities or from~~  
10 ~~energy supply constraints, or both.~~

11           ~~(e)(f)~~ The department shall make a report, as  
12 requested by the Governor or the Legislature, reflecting its  
13 activities and making recommendations of policies for  
14 improvement of the state's response to energy supply and  
15 demand and its effect on the health, safety, and welfare of  
16 the people of Florida. The report shall include a report from  
17 the Florida Public Service Commission on electricity and  
18 natural gas and information on energy conservation programs  
19 conducted and under way in the past year and shall include  
20 recommendations for energy conservation programs for the  
21 state, including, but not limited to, the following factors:

22           1. Formulation of specific recommendations for  
23 improvement in the efficiency of energy utilization in  
24 governmental, residential, commercial, industrial, and  
25 transportation sectors.

26           2. Collection and dissemination of information  
27 relating to energy conservation.

28           3. Development and conduct of educational and training  
29 programs relating to energy conservation.

30           4. An analysis of the ways in which state agencies are  
31 seeking to implement s. 377.601(4), the state energy policy,

Bill No. CS for SB 996

Barcode 150638

1 and recommendations for better fulfilling this policy.

2 ~~(f)(g)~~ The department has authority to adopt rules  
3 pursuant to ss. 120.536(1) and 120.54 to implement the  
4 provisions of this act.

5 ~~(h) Promote the development and use of renewable~~  
6 ~~energy resources, in conformance with the provisions of~~  
7 ~~chapter 187 and s. 377.601, by:~~

8 ~~1. Establishing goals and strategies for increasing~~  
9 ~~the use of solar energy in this state.~~

10 ~~2. Aiding and promoting the commercialization of solar~~  
11 ~~energy technology, in cooperation with the Florida Solar~~  
12 ~~Energy Center, Enterprise Florida, Inc., and any other~~  
13 ~~federal, state, or local governmental agency which may seek to~~  
14 ~~promote research, development, and demonstration of solar~~  
15 ~~energy equipment and technology.~~

16 ~~3. Identifying barriers to greater use of solar energy~~  
17 ~~systems in this state, and developing specific recommendations~~  
18 ~~for overcoming identified barriers, with findings and~~  
19 ~~recommendations to be submitted annually in the report to the~~  
20 ~~Legislature required under paragraph (f).~~

21 ~~4. In cooperation with the Department of~~  
22 ~~Transportation, the Department of Community Affairs,~~  
23 ~~Enterprise Florida, Inc., the Florida Solar Energy Center, and~~  
24 ~~the Florida Solar Energy Industries Association, investigating~~  
25 ~~opportunities, pursuant to the National Energy Policy Act of~~  
26 ~~1992 and the Housing and Community Development Act of 1992,~~  
27 ~~for solar electric vehicles and other solar energy~~  
28 ~~manufacturing, distribution, installation, and financing~~  
29 ~~efforts which will enhance this state's position as the leader~~  
30 ~~in solar energy research, development, and use.~~

31 ~~5. Undertaking other initiatives to advance the~~

Bill No. CS for SB 996

Barcode 150638

1 ~~development and use of renewable energy resources in this~~  
2 ~~state.~~

3  
4 ~~In the exercise of its responsibilities under this paragraph,~~  
5 ~~the department shall seek the assistance of the solar energy~~  
6 ~~industry in this state and other interested parties and is~~  
7 ~~authorized to enter into contracts, retain professional~~  
8 ~~consulting services, and expend funds appropriated by the~~  
9 ~~Legislature for such purposes.~~

10       (g)(i) The department shall promote energy  
11 conservation in all energy use sectors throughout the state  
12 and shall constitute the state agency primarily responsible  
13 for this function. To this end, the department shall  
14 coordinate the energy conservation programs of all state  
15 agencies and review and comment on the energy conservation  
16 programs of all state agencies.

17       (j) ~~The department shall serve as the state~~  
18 ~~clearinghouse for indexing and gathering all information~~  
19 ~~related to energy programs in state universities, in private~~  
20 ~~universities, in federal, state, and local government~~  
21 ~~agencies, and in private industry and shall prepare and~~  
22 ~~distribute such information in any manner necessary to inform~~  
23 ~~and advise the citizens of the state of such programs and~~  
24 ~~activities. This shall include developing and maintaining a~~  
25 ~~current index and profile of all research activities, which~~  
26 ~~shall be identified by energy area and may include a summary~~  
27 ~~of the project, the amount and sources of funding, anticipated~~  
28 ~~completion dates, or, in case of completed research,~~  
29 ~~conclusions, recommendations, and applicability to state~~  
30 ~~government and private sector functions. The department shall~~  
31 ~~coordinate, promote, and respond to efforts by all sectors of~~

Bill No. CS for SB 996

Barcode 150638

1 ~~the economy to seek financial support for energy activities.~~  
 2 ~~The department shall provide information to consumers~~  
 3 ~~regarding the anticipated energy use and energy saving~~  
 4 ~~characteristics of products and services in coordination with~~  
 5 ~~any federal, state, or local governmental agencies as may~~  
 6 ~~provide such information to consumers.~~

7       (h)(k) The department shall coordinate energy-related  
 8 programs of state government, including, but not limited to,  
 9 the programs provided in this section. To this end, the  
 10 department shall:

11           1. Provide assistance to other state agencies,  
 12 counties, municipalities, and regional planning agencies to  
 13 further and promote their energy planning activities.

14           2. Require, in cooperation with the Department of  
 15 Management Services, all state agencies to operate state-owned  
 16 and state-leased buildings in accordance with energy  
 17 conservation standards as adopted by the Department of  
 18 Management Services. Every 3 months, the Department of  
 19 Management Services shall furnish the department data on  
 20 agencies' energy consumption in a format mutually agreed upon  
 21 by the two departments.

22           3. Promote the development and use of ~~renewable energy~~  
 23 ~~resources, energy efficiency technologies, and~~ conservation  
 24 measures.

25           4. Promote the recovery of energy from wastes,  
 26 including, but not limited to, the use of waste heat, the use  
 27 of agricultural products as a source of energy, and recycling  
 28 of manufactured products. Such promotion shall be conducted in  
 29 conjunction with, and after consultation with, the Department  
 30 of Environmental Protection, the Florida Public Service  
 31 Commission where electrical generation or natural gas is

Bill No. CS for SB 996

Barcode 150638

1 involved, and any other relevant federal, state, or local  
2 governmental agency having responsibility for resource  
3 recovery programs.

4 ~~(i)(l)~~ The department shall develop, coordinate, and  
5 promote a comprehensive research plan for state programs. Such  
6 plan shall be consistent with state energy policy and shall be  
7 updated on a biennial basis.

8 ~~(j)(m)~~ In recognition of the devastation to the  
9 economy of this state and the dangers to the health and  
10 welfare of residents of this state caused by Hurricane Andrew,  
11 and the potential for such impacts caused by other natural  
12 disasters, the department shall include in its energy  
13 emergency contingency plan and provide to the Department of  
14 Community Affairs for inclusion in the state model energy  
15 efficiency building code specific provisions to facilitate the  
16 use of cost-effective solar energy technologies as emergency  
17 remedial and preventive measures for providing electric power,  
18 street lighting, and water heating service in the event of  
19 electric power outages.

20 Section 4. Section 377.901, Florida Statutes, is  
21 repealed.

22 Section 5. Effective July 1, 2007, paragraph (ccc) of  
23 subsection (7) of section 212.08, Florida Statutes, is  
24 amended, and subsection (19) is added to that section, to  
25 read:

26 212.08 Sales, rental, use, consumption, distribution,  
27 and storage tax; specified exemptions.--The sale at retail,  
28 the rental, the use, the consumption, the distribution, and  
29 the storage to be used or consumed in this state of the  
30 following are hereby specifically exempt from the tax imposed  
31 by this chapter.

Bill No. CS for SB 996

Barcode 150638

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

19           (ccc) Equipment, machinery, and other materials for  
20 renewable energy technologies.--

21           1. As used in this paragraph, the term:

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

30           b. "Ethanol" means nominally anhydrous denatured  
31 alcohol produced by the conversion of carbohydrates



Barcode 150638

1 ~~fermentation of plant sugars~~ meeting the specifications for  
 2 fuel ethanol and fuel ethanol blends with petroleum products  
 3 as adopted by the Department of Agriculture and Consumer  
 4 Services. Ethanol may refer to fuel ethanol blends designated  
 5 EXX, where XX represents the volume percentage of fuel ethanol  
 6 in the blend.

7       c. "Hydrogen fuel cells" means equipment using  
 8 hydrogen or a hydrogen-rich fuel in an electrochemical process  
 9 to generate energy, electricity, or the transfer of heat.

10       2. The sale or use of the following in the state is  
 11 exempt from the tax imposed by this chapter:

12       a. Hydrogen-powered vehicles, materials incorporated  
 13 into hydrogen-powered vehicles, and hydrogen-fueling stations,  
 14 up to a limit of \$2 million in tax each state fiscal year for  
 15 all taxpayers.

16       b. Commercial stationary hydrogen fuel cells, up to a  
 17 limit of \$1 million in tax each state fiscal year for all  
 18 taxpayers.

19       c. Materials used in the distribution of biodiesel  
 20 (B10-B100) and ethanol (E10-100), including fueling  
 21 infrastructure, transportation, and storage, up to a limit of  
 22 ~~\$2~~ ~~\$1~~ million in tax each state fiscal year for all taxpayers.  
 23 Gasoline fueling station pump retrofits for ethanol (E10-E100)  
 24 distribution qualify for the exemption provided in this  
 25 sub-subparagraph.

26       3. The Department of Environmental Protection shall  
 27 provide to the department a list of items eligible for the  
 28 exemption provided in this paragraph.

29       4.a. The exemption provided in this paragraph shall be  
 30 available to a purchaser only through a refund of previously  
 31 paid taxes.

Bill No. CS for SB 996

Barcode 150638

1           b. To be eligible to receive the exemption provided in  
2 this paragraph, a purchaser shall file an application with the  
3 Department of Environmental Protection. The application shall  
4 be developed by the Department of Environmental Protection, in  
5 consultation with the department, and shall require:

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

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

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

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

18           c. Within 30 days after receipt of an application, the  
19 Department of Environmental Protection shall review the  
20 application and shall notify the applicant of any  
21 deficiencies. Upon receipt of a completed application, the  
22 Department of Environmental Protection shall evaluate the  
23 application for exemption and issue a written certification  
24 that the applicant is eligible for a refund or issue a written  
25 denial of such certification within 60 days after receipt of  
26 the application. The Department of Environmental Protection  
27 shall provide the department with a copy of each certification  
28 issued upon approval of an application.

29           d. Each certified applicant shall be responsible for  
30 forwarding a certified copy of the application and copies of  
31 all required documentation to the department within 6 months

Bill No. CS for SB 996

Barcode 150638

1 after certification by the Department of Environmental  
2 Protection.

3 e. The provisions of s. 212.095 do not apply to any  
4 refund application made pursuant to this paragraph. A refund  
5 approved pursuant to this paragraph shall be made within 30  
6 days after formal approval by the department.

7 f. The department may adopt all rules pursuant to ss.  
8 120.536(1) and 120.54 to administer this paragraph, including  
9 rules establishing forms and procedures for claiming this  
10 exemption.

11 g. The Department of Environmental Protection shall be  
12 responsible for ensuring that the total amounts of the  
13 exemptions authorized do not exceed the limits as specified in  
14 subparagraph 2.

15 5. The Department of Environmental Protection shall  
16 determine and publish on a regular basis the amount of sales  
17 tax funds remaining in each fiscal year.

18 6. This paragraph expires July 1, 2010.

19 (19) ENERGY-EFFICIENT PRODUCTS.--

20 (a) In October of each year, the tax levied under this  
21 chapter may not be collected during the 14-day period  
22 beginning at 12:01 a.m., on the first Saturday, on the sale of  
23 a new energy-efficient product having a selling price of  
24 \$1,500 or less per product during that period. This exemption  
25 applies only when the energy-efficient product is purchased  
26 for noncommercial home or personal use and does not apply when  
27 the product is purchased for trade, business, or resale. As  
28 used in this section, the term "energy-efficient product"  
29 means a dishwasher, clothes washer, air conditioner, ceiling  
30 fan, compact florescent light bulb, dehumidifier, programmable  
31 thermostat, or refrigerator that has been designated by the

Bill No. CS for SB 996

Barcode 150638

1 United States Environmental Protection Agency or by the United  
2 States Department of Energy as meeting or exceeding the  
3 requirements under the Energy Star Program of either agency.  
4 Purchases made under this subsection may not be made using a  
5 business or company credit or debit card or check. Any  
6 construction company, building contractor, or commercial  
7 business or entity that purchases or attempts to purchase the  
8 energy-efficient products as exempt under this section commits  
9 the offense of engaging in an unfair method of competition in  
10 violation of s. 501.204, punishable as provided in s.  
11 501.2075.

12 (b) Notwithstanding chapter 120, the Department of  
13 Revenue may adopt rules to administer paragraph (a).

14 Section 6. Effective July 1, 2008, paragraph (ccc) of  
15 subsection (7) of section 212.08, Florida Statutes, as amended  
16 by this act, is amended to read:

17 212.08 Sales, rental, use, consumption, distribution,  
18 and storage tax; specified exemptions.--The sale at retail,  
19 the rental, the use, the consumption, the distribution, and  
20 the storage to be used or consumed in this state of the  
21 following are hereby specifically exempt from the tax imposed  
22 by this chapter.

23 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to  
24 any entity by this chapter do not inure to any transaction  
25 that is otherwise taxable under this chapter when payment is  
26 made by a representative or employee of the entity by any  
27 means, including, but not limited to, cash, check, or credit  
28 card, even when that representative or employee is  
29 subsequently reimbursed by the entity. In addition, exemptions  
30 provided to any entity by this subsection do not inure to any  
31 transaction that is otherwise taxable under this chapter

Bill No. CS for SB 996

Barcode 150638

1 unless the entity has obtained a sales tax exemption  
 2 certificate from the department or the entity obtains or  
 3 provides other documentation as required by the department.  
 4 Eligible purchases or leases made with such a certificate must  
 5 be in strict compliance with this subsection and departmental  
 6 rules, and any person who makes an exempt purchase with a  
 7 certificate that is not in strict compliance with this  
 8 subsection and the rules is liable for and shall pay the tax.  
 9 The department may adopt rules to administer this subsection.

10 (ccc) Equipment, machinery, and other materials for  
 11 renewable energy technologies.--

12 1. As used in this paragraph, the term:

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

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

28 c. "Hydrogen fuel cells" means equipment using  
 29 hydrogen or a hydrogen-rich fuel in an electrochemical process  
 30 to generate energy, electricity, or the transfer of heat.

31 2. The sale or use of the following in the state is

Bill No. CS for SB 996

Barcode 150638

1 exempt from the tax imposed by this chapter:

2 a. Hydrogen-powered vehicles, materials incorporated  
3 into hydrogen-powered vehicles, and hydrogen-fueling stations,  
4 up to a limit of \$2 million in tax each state fiscal year for  
5 all taxpayers.

6 b. Commercial stationary hydrogen fuel cells, up to a  
7 limit of \$1 million in tax each state fiscal year for all  
8 taxpayers.

9 c. Materials used in the distribution of biodiesel  
10 (B10-B100) and ethanol (E10-100), including fueling  
11 infrastructure, transportation, and storage, up to a limit of  
12 \$2 million in tax each state fiscal year for all taxpayers.  
13 Gasoline fueling station pump retrofits for ethanol (E10-E100)  
14 distribution qualify for the exemption provided in this  
15 sub-subparagraph.

16 3. The Florida Alternative Energy Development  
17 Corporation ~~Department of Environmental Protection~~ shall  
18 provide to the department a list of items eligible for the  
19 exemption provided in this paragraph.

20 4. The exemption provided in this paragraph shall be  
21 available only to the end user of the equipment, machinery, or  
22 other materials.

23 5.4.a. The exemption provided in this paragraph shall  
24 be available to a purchaser only through a refund of  
25 previously paid taxes.

26 b. To be eligible to receive the exemption provided in  
27 this paragraph, a purchaser shall file an application with the  
28 Florida Alternative Energy Development Corporation ~~Department~~  
29 ~~of Environmental Protection~~. The application shall be  
30 developed by the Florida Alternative Energy Development  
31 Corporation ~~Department of Environmental Protection~~, in

Bill No. CS for SB 996

Barcode 150638

1 consultation with the department, and shall require:

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

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

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

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

14 c. Within 30 days after receipt of an application, the  
15 Florida Alternative Energy Development Corporation ~~Department~~  
16 ~~of Environmental Protection~~ shall review the application and  
17 shall notify the applicant of any deficiencies. Upon receipt  
18 of a completed application, the Florida Alternative Energy  
19 Development Corporation ~~Department of Environmental Protection~~  
20 shall evaluate the application for exemption and issue a  
21 written certification that the applicant is eligible for a  
22 refund or issue a written denial of such certification within  
23 60 days after receipt of the application. The Florida  
24 Alternative Energy Development Corporation ~~Department of~~  
25 ~~Environmental Protection~~ shall provide the department with a  
26 copy of each certification issued upon approval of an  
27 application.

28 d. Each certified applicant shall be responsible for  
29 forwarding a certified copy of the application and copies of  
30 all required documentation to the department within 6 months  
31 after certification by the Florida Alternative Energy

Bill No. CS for SB 996

Barcode 150638

1 Development Corporation ~~Department of Environmental~~  
2 ~~Protection.~~

3 e. The provisions of s. 212.095 do not apply to any  
4 refund application made pursuant to this paragraph. A refund  
5 approved pursuant to this paragraph shall be made within 30  
6 days after formal approval by the department.

7 f. The department may adopt all rules pursuant to ss.  
8 120.536(1) and 120.54 to administer this paragraph, including  
9 rules establishing forms and procedures for claiming this  
10 exemption.

11 g. The Florida Alternative Energy Development  
12 Corporation ~~Department of Environmental Protection~~ shall be  
13 responsible for ensuring that the total amounts of the  
14 exemptions authorized do not exceed the limits as specified in  
15 subparagraph 2.

16 ~~6.5.~~ The Department of Environmental Protection shall  
17 determine and publish on a regular basis the amount of sales  
18 tax funds remaining in each fiscal year.

19 ~~7.6.~~ This paragraph expires July 1, 2010.

20 Section 7. Effective July 1, 2008, paragraph (y) of  
21 subsection (8) of section 213.053, Florida Statutes, is  
22 amended to read:

23 213.053 Confidentiality and information sharing.--

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

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

30  
31 Disclosure of information under this subsection shall be



Bill No. CS for SB 996

Barcode 150638

1 pursuant to a written agreement between the executive director  
 2 and the agency. Such agencies, governmental or  
 3 nongovernmental, shall be bound by the same requirements of  
 4 confidentiality as the Department of Revenue. Breach of  
 5 confidentiality is a misdemeanor of the first degree,  
 6 punishable as provided by s. 775.082 or s. 775.083.

7 Section 8. Effective July 1, 2007, subsection (1) of  
 8 section 220.192, Florida Statutes, is amended to read:

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

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

13 (a) "Biodiesel" means biodiesel as defined in s.  
 14 212.08(7)(ccc).

15 (b) "Eligible costs" means:

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

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

Bill No. CS for SB 996

Barcode 150638

1 technologies in the state.

2           3. Seventy-five percent of all capital costs,  
3 operation and maintenance costs, and research and development  
4 costs incurred between July 1, 2006, and June 30, 2010, up to  
5 a limit of \$13 ~~\$6.5~~ million per state fiscal year for all  
6 taxpayers, in connection with an investment in the production,  
7 storage, and distribution of biodiesel (B10-B100) and ethanol  
8 (E10-E100) in the state, including the costs of constructing,  
9 installing, and equipping such technologies in the state.  
10 Gasoline fueling station pump retrofits for ethanol (E10-E100)  
11 distribution qualify as an eligible cost under this  
12 subparagraph.

13           (c) "Ethanol" means ethanol as defined in s.  
14 212.08(7)(ccc).

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

17           Section 9. Effective July 1, 2008, section 220.192,  
18 Florida Statutes, as amended by this act, is amended to read:

19           220.192 Renewable energy technologies investment tax  
20 credit.--

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

23           (a) "Biodiesel" means biodiesel as defined in s.  
24 212.08(7)(ccc).

25           (b) "Eligible costs" means:

26           1. Seventy-five percent of all capital costs,  
27 operation and maintenance costs, and research and development  
28 costs incurred between July 1, 2006, and June 30, 2010, up to  
29 a limit of \$3 million per state fiscal year for all taxpayers,  
30 in connection with an investment in hydrogen-powered vehicles  
31 and hydrogen vehicle fueling stations in the state, including,

Bill No. CS for SB 996

Barcode 150638

1 but not limited to, the costs of constructing, installing, and  
2 equipping such technologies in the state.

3           2. Seventy-five percent of all capital costs,  
4 operation and maintenance costs, and research and development  
5 costs incurred between July 1, 2006, and June 30, 2010, up to  
6 a limit of \$1.5 million per state fiscal year for all  
7 taxpayers, and limited to a maximum of \$12,000 per fuel cell,  
8 in connection with an investment in commercial stationary  
9 hydrogen fuel cells in the state, including, but not limited  
10 to, the costs of constructing, installing, and equipping such  
11 technologies in the state.

12           3. Seventy-five percent of all capital costs,  
13 operation and maintenance costs, and research and development  
14 costs incurred between July 1, 2006, and June 30, 2010, up to  
15 a limit of \$13 million per state fiscal year for all  
16 taxpayers, in connection with an investment in the production,  
17 storage, and distribution of biodiesel (B10-B100) and ethanol  
18 (E10-E100) in the state, including the costs of constructing,  
19 installing, and equipping such technologies in the state.  
20 Gasoline fueling station pump retrofits for ethanol (E10-E100)  
21 distribution qualify as an eligible cost under this  
22 subparagraph.

23           (c) "Ethanol" means ethanol as defined in s.  
24 212.08(7)(ccc).

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

27           (2) TAX CREDIT.--For tax years beginning on or after  
28 January 1, 2007, a credit against the tax imposed by this  
29 chapter shall be granted in an amount equal to the eligible  
30 costs. Credits may be used in tax years beginning January 1,  
31 2007, and ending December 31, 2010, after which the credit

Bill No. CS for SB 996

Barcode 150638

1 shall expire. If the credit is not fully used in any one tax  
 2 year because of insufficient tax liability on the part of the  
 3 corporation, the unused amount may be carried forward and used  
 4 in tax years beginning January 1, 2007, and ending December  
 5 31, 2012, after which the credit carryover expires and may not  
 6 be used. A taxpayer that files a consolidated return in this  
 7 state as a member of an affiliated group under s. 220.131(1)  
 8 may be allowed the credit on a consolidated return basis up to  
 9 the amount of tax imposed upon the consolidated group. Any  
 10 eligible cost for which a credit is claimed and which is  
 11 deducted or otherwise reduces federal taxable income shall be  
 12 added back in computing adjusted federal income under s.  
 13 220.13.

14 (3) CORPORATE APPLICATION PROCESS.--Any corporation  
 15 wishing to obtain tax credits available under this section  
 16 must submit to the Florida Alternative Energy Development  
 17 Corporation ~~Department of Environmental Protection~~ an  
 18 application for tax credit which ~~that~~ includes a complete  
 19 description of all eligible costs for which the corporation is  
 20 seeking a credit and a description of the total amount of  
 21 credits sought. The Florida Alternative Energy Development  
 22 Corporation ~~Department of Environmental Protection~~ shall make  
 23 a determination on the eligibility of the applicant for the  
 24 credits sought and certify the determination to the applicant  
 25 and the Department of Revenue. The corporation must attach the  
 26 Florida Alternative Energy Development Corporation's  
 27 ~~Department of Environmental Protection's~~ certification to the  
 28 tax return on which the credit is claimed. The Florida  
 29 Alternative Energy Development Corporation is ~~Department of~~  
 30 ~~Environmental Protection shall be~~ responsible for ensuring  
 31 that the corporate income tax credits granted in each fiscal

Bill No. CS for SB 996

Barcode 150638

1 year do not exceed the limits provided for in this section.

2 The Florida Alternative Energy Development Corporation may  
3 ~~Department of Environmental Protection is authorized to~~ adopt  
4 the necessary rules, guidelines, and application materials for  
5 the application process.

6 (4) TAXPAYER APPLICATION PROCESS.--To claim a credit  
7 under this section, each taxpayer must apply to the Florida  
8 Alternative Energy Development Corporation ~~Department of~~  
9 ~~Environmental Protection~~ for an allocation of each type of  
10 annual credit by the date established by the Florida  
11 Alternative Energy Development Corporation ~~Department of~~  
12 ~~Environmental Protection~~. The application form may be  
13 established by the Florida Alternative Energy Development  
14 Corporation ~~Department of Environmental Protection~~ and shall  
15 include an affidavit from each taxpayer certifying that all  
16 information contained in the application, including all  
17 records of eligible costs claimed as the basis for the tax  
18 credit, are true and correct. Approval of the credits under  
19 this section shall be accomplished on a first-come,  
20 first-served basis, based upon the date complete applications  
21 are received by the Florida Alternative Energy Development  
22 Corporation ~~Department of Environmental Protection~~. A taxpayer  
23 shall submit only one complete application based upon eligible  
24 costs incurred within a particular state fiscal year. The  
25 corporation may not accept incomplete placeholder applications  
26 ~~will not be accepted~~ and such an application does ~~will not~~  
27 secure a place in the first-come, first-served application  
28 line. If a taxpayer does not receive a tax credit allocation  
29 due to the exhaustion of the annual tax credit authorizations,  
30 ~~then~~ such taxpayer may reapply in the following year for those  
31 eligible costs and shall be given ~~will have~~ priority over

Bill No. CS for SB 996

Barcode 150638

1 other applicants for the allocation of credits.

2 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF  
3 CREDITS.--

4 (a) In addition to its existing audit and  
5 investigation authority, the Department of Revenue may perform  
6 any additional financial and technical audits and  
7 investigations, including examining the accounts, books, and  
8 records of the tax credit applicant, which ~~that~~ are necessary  
9 to verify the eligible costs included in the tax credit return  
10 and to ensure compliance with this section. The Florida  
11 Alternative Energy Development Corporation ~~Department of~~  
12 ~~Environmental Protection~~ shall provide technical assistance  
13 when requested by the Department of Revenue on any technical  
14 audits or examinations performed pursuant to this section.

15 (b) It is grounds for forfeiture of previously claimed  
16 and received tax credits if the Department of Revenue  
17 determines, as a result of either an audit or examination or  
18 from information received from the Florida Alternative Energy  
19 Development Corporation ~~Department of Environmental~~  
20 ~~Protection~~, that a taxpayer received tax credits pursuant to  
21 this section to which the taxpayer was not entitled. The  
22 taxpayer is responsible for returning forfeited tax credits to  
23 the Department of Revenue, and such funds shall be paid into  
24 the General Revenue Fund of the state.

25 (c) The Florida Alternative Energy Development  
26 Corporation ~~Department of Environmental Protection~~ may revoke  
27 or modify any written decision granting eligibility for tax  
28 credits under this section if it is discovered that the tax  
29 credit applicant submitted any false statement,  
30 representation, or certification in any application, record,  
31 report, plan, or other document filed in an attempt to receive

Bill No. CS for SB 996

Barcode 150638

1 tax credits under this section. The Florida Alternative Energy  
 2 Development Corporation ~~Department of Environmental Protection~~  
 3 shall immediately notify the Department of Revenue of any  
 4 revoked or modified orders affecting previously granted tax  
 5 credits. Additionally, the taxpayer must notify the Department  
 6 of Revenue of any change in its tax credit claimed.

7 (d) The taxpayer shall file with the Department of  
 8 Revenue an amended return or such other report as the  
 9 Department of Revenue prescribes by rule and shall pay any  
 10 required tax and interest within 60 days after the taxpayer  
 11 receives notification from the Florida Alternative Energy  
 12 Development Corporation ~~Department of Environmental Protection~~  
 13 that previously approved tax credits have been revoked or  
 14 modified. If the revocation or modification order is  
 15 contested, the taxpayer shall file an amended return or other  
 16 report as provided in this paragraph within 60 days after a  
 17 final order is issued following proceedings.

18 (e) A notice of deficiency may be issued by the  
 19 Department of Revenue at any time within 3 years after the  
 20 taxpayer receives formal notification from the Florida  
 21 Alternative Energy Development Corporation ~~Department of~~  
 22 ~~Environmental Protection~~ that previously approved tax credits  
 23 have been revoked or modified. If a taxpayer fails to notify  
 24 the Department of Revenue of any changes to its tax credit  
 25 claimed, a notice of deficiency may be issued at any time.

26 (6) RULES.--The Department of Revenue may ~~shall have~~  
 27 ~~the authority to~~ adopt rules relating to the forms required to  
 28 claim a tax credit under this section, the requirements and  
 29 basis for establishing an entitlement to a credit, and the  
 30 examination and audit procedures required to administer this  
 31 section.

Bill No. CS for SB 996

Barcode 150638

1           (7) PUBLICATION.--The Florida Alternative Energy  
 2 Development Corporation ~~Department of Environmental Protection~~  
 3 shall determine and publish on a regular basis the amount of  
 4 available tax credits remaining in each fiscal year.

5           Section 10. Effective July 1, 2008, section 377.803,  
 6 Florida Statutes, is amended to read:

7           377.803 Definitions.--As used in ss. 377.801-377.806,  
 8 the term:

9           (1) "Act" means the Florida Renewable Energy  
 10 Technologies and Energy Efficiency Act.

11           (2) "Corporation" means the Florida Alternative Energy  
 12 Development Corporation.

13           ~~(2) "Approved metering equipment" means a device~~  
 14 ~~capable of measuring the energy output of a solar thermal~~  
 15 ~~system that has been approved by the commission.~~

16           (3) "Commission" means the Florida Public Service  
 17 Commission.

18           ~~(4) "Department" means the Department of Environmental~~  
 19 ~~Protection.~~

20           (4)(5) "Person" means an individual, partnership,  
 21 joint venture, private or public corporation, association,  
 22 firm, public service company, or any other public or private  
 23 entity.

24           (5)(6) "Renewable energy" means electrical,  
 25 mechanical, or thermal energy produced from a method that uses  
 26 one or more of the following fuels or energy sources:  
 27 hydrogen, biomass, solar energy, geothermal energy, wind  
 28 energy, ocean energy, waste heat, ~~or~~ hydroelectric power,  
 29 ethanol, or biodiesel.

30           (6)(7) "Renewable energy technology" means any  
 31 technology that generates or utilizes a renewable energy



Bill No. CS for SB 996

Barcode 150638

1 resource.

2       ~~(7)(8)~~ "Solar energy system" means equipment that  
3 provides for the collection and use of incident solar energy  
4 for water heating, space heating or cooling, or other  
5 applications that would normally require a conventional source  
6 of energy such as petroleum products, natural gas, or  
7 electricity that performs primarily with solar energy. In  
8 other systems in which solar energy is used in a supplemental  
9 way, only those components that collect and transfer solar  
10 energy shall be included in this definition.

11       ~~(8)(9)~~ "Solar photovoltaic system" means a device that  
12 converts incident sunlight into electrical current.

13       ~~(9)(10)~~ "Solar thermal system" means a device that  
14 traps heat from incident sunlight in order to heat water.

15       Section 11. Effective July 1, 2008, section 377.804,  
16 Florida Statutes, is amended to read:

17       377.804 Renewable Energy Technologies Grants  
18 Program.--

19       (1) The Renewable Energy Technologies Grants Program  
20 is established within the corporation ~~department~~ to provide  
21 renewable energy matching grants for demonstration,  
22 commercialization, research, and development projects relating  
23 to renewable energy technologies.

24       (2) Matching grants for renewable energy technology  
25 demonstration, commercialization, research, and development  
26 projects may be made to any of the following:

- 27       (a) Municipalities and county governments.
- 28       (b) Established for-profit companies licensed to do  
29 business in the state.
- 30       (c) Universities and colleges in the state.
- 31       (d) Utilities located and operating within the state.

Bill No. CS for SB 996

Barcode 150638

1 (e) Not-for-profit organizations.

2 (f) Other qualified persons, as determined by the  
3 corporation ~~department~~.

4 (3) The corporation ~~department~~ may adopt rules  
5 pursuant to ss. 120.536(1) and 120.54 to provide for  
6 application requirements, provide for ranking of applications,  
7 and administer the awarding of grants under this program.

8 (4) Factors the corporation ~~department~~ shall consider  
9 in awarding grants include, but are not limited to:

10 (a) The availability of matching funds or other  
11 in-kind contributions applied to the total project from an  
12 applicant. The corporation ~~department~~ shall give greater  
13 preference to projects that provide such matching funds or  
14 other in-kind contributions.

15 (b) The degree to which the project stimulates  
16 in-state capital investment and economic development in  
17 metropolitan and rural areas, including the creation of jobs  
18 and the future development of a commercial market for  
19 renewable energy technologies.

20 (c) The extent to which the proposed project has been  
21 demonstrated to be technically feasible based on pilot project  
22 demonstrations, laboratory testing, scientific modeling, or  
23 engineering or chemical theory that supports the proposal.

24 (d) The degree to which the project incorporates an  
25 innovative new technology or an innovative application of an  
26 existing technology.

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

31 (f) The degree to which a project demonstrates

Bill No. CS for SB 996

Barcode 150638

1 efficient use of energy and material resources.

2 (g) The degree to which the project fosters overall  
3 understanding and appreciation of renewable energy  
4 technologies.

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

6 (i) Project duration and timeline for expenditures.

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

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

10 (5) The corporation ~~department~~ shall solicit the  
11 expertise of other state agencies in evaluating project  
12 proposals. State agencies shall cooperate with the Department  
13 of Environmental Protection and provide such assistance as  
14 requested.

15 ~~(6) The department shall coordinate and actively~~  
16 ~~consult with the Department of Agriculture and Consumer~~  
17 ~~Services during the review and approval process of grants~~  
18 ~~relating to bioenergy projects for renewable energy~~  
19 ~~technology, and the departments shall jointly determine the~~  
20 ~~grant awards to these bioenergy projects. No grant funding~~  
21 ~~shall be awarded to any bioenergy project without such joint~~  
22 ~~approval. Factors for consideration in awarding grants may~~  
23 ~~include, but are not limited to, the degree to which:~~

24 ~~(a) The project stimulates in-state capital investment~~  
25 ~~and economic development in metropolitan and rural areas,~~  
26 ~~including the creation of jobs and the future development of a~~  
27 ~~commercial market for bioenergy.~~

28 ~~(b) The project produces bioenergy from Florida-grown~~  
29 ~~crops or biomass.~~

30 ~~(c) The project demonstrates efficient use of energy~~  
31 ~~and material resources.~~

Bill No. CS for SB 996

Barcode 150638

1           ~~(d) The project fosters overall understanding and~~  
2 ~~appreciation of bioenergy technologies.~~

3           ~~(e) Matching funds and in-kind contributions from an~~  
4 ~~applicant are available.~~

5           ~~(f) The project duration and the timeline for~~  
6 ~~expenditures are acceptable.~~

7           ~~(g) The project has a reasonable assurance of~~  
8 ~~enhancing the value of agricultural products or will expand~~  
9 ~~agribusiness in the state.~~

10           ~~(h) Preliminary market and feasibility research has~~  
11 ~~been conducted by the applicant or others and shows there is a~~  
12 ~~reasonable assurance of a potential market.~~

13           Section 12. Effective July 1, 2008, section 377.806,  
14 Florida Statutes, is amended to read:

15           377.806 Solar Energy System Incentives Program.--

16           (1) PURPOSE.--The Solar Energy System Incentives  
17 Program is established within the corporation ~~department~~ to  
18 provide financial incentives for the purchase and installation  
19 of solar energy systems. Any resident of the state who  
20 purchases and installs a new solar energy system of 2  
21 kilowatts or larger for a solar photovoltaic system, a solar  
22 energy system that provides at least 50 percent of a  
23 building's hot water consumption for a solar thermal system,  
24 or a solar thermal pool heater, from July 1, 2006, through  
25 June 30, 2010, is eligible for a rebate on a portion of the  
26 purchase price of that solar energy system. Payment of a  
27 rebate may be made only to the end user of an eligible system.

28           (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

29           (a) Eligibility requirements.--A solar photovoltaic  
30 system qualifies for a rebate if:

31           1. The system is installed by a state-licensed master

Bill No. CS for SB 996

Barcode 150638

1 electrician, electrical contractor, or solar contractor.

2           2. The system complies with state interconnection  
3 standards as provided by the commission.

4           3. The system complies with all applicable building  
5 codes as defined by the local jurisdictional authority.

6           (b) Rebate amounts.--The rebate amount shall be set at  
7 \$4 per watt based on the total wattage rating of the system.  
8 The maximum allowable rebate per solar photovoltaic system  
9 installation shall be as follows:

10           1. Twenty thousand dollars for a residence.

11           2. One hundred thousand dollars for a place of  
12 business, a publicly owned or operated facility, or a facility  
13 owned or operated by a private, not-for-profit organization,  
14 including condominiums or apartment buildings.

15           (3) SOLAR THERMAL SYSTEM INCENTIVE.--

16           (a) Eligibility requirements.--A solar thermal system  
17 qualifies for a rebate if:

18           1. The system is installed by a state-licensed solar  
19 or plumbing contractor.

20           2. The system complies with all applicable building  
21 codes as defined by the local jurisdictional authority.

22           (b) Rebate amounts.--Authorized rebates for  
23 installation of solar thermal systems shall be as follows:

24           1. Five hundred dollars for a residence.

25           2. Fifteen dollars per 1,000 Btu up to a maximum of  
26 \$5,000 for a place of business, a publicly owned or operated  
27 facility, or a facility owned or operated by a private,  
28 not-for-profit organization, including condominiums or  
29 apartment buildings. ~~Btu must be verified by approved metering~~  
30 ~~equipment.~~

31           (4) SOLAR THERMAL POOL HEATER INCENTIVE.--

Bill No. CS for SB 996

Barcode 150638

1 (a) Eligibility requirements.--A solar thermal pool  
2 heater qualifies for a rebate if the system is installed by a  
3 state-licensed solar or plumbing contractor and the system  
4 complies with all applicable building codes as defined by the  
5 local jurisdictional authority.

6 (b) Rebate amount.--Authorized rebates for  
7 installation of solar thermal pool heaters shall be \$100 per  
8 installation.

9 (5) APPLICATION.--Application for a rebate must be  
10 made within 90 days after the purchase of the solar energy  
11 equipment.

12 (6) LIMITS.--Rebates are limited to one per type of  
13 system described in paragraph (2)(a) per resident, per state  
14 fiscal year.

15 (7)(6) REBATE AVAILABILITY.--The corporation  
16 ~~department~~ shall determine and publish on a regular basis the  
17 amount of rebate funds remaining in each fiscal year. The  
18 total dollar amount of all rebates issued by the department is  
19 subject to the total amount of appropriations in any fiscal  
20 year for this program. If funds are insufficient during the  
21 current fiscal year, any requests for rebates received during  
22 that fiscal year may be processed during the following fiscal  
23 year. Requests for rebates received in a fiscal year that are  
24 processed during the following fiscal year shall be given  
25 priority over requests for rebates received during the  
26 following fiscal year.

27 (7) RULES.--The corporation ~~department~~ shall adopt  
28 rules pursuant to ss. 120.536(1) and 120.54 to develop rebate  
29 applications and administer the issuance of rebates.

30 Section 13. Effective July 1, 2007, section 366.915,  
31 Florida Statutes, is created to read:

Bill No. CS for SB 996

Barcode 150638

1           366.915 Minimum purchase of renewable energy.--

2           (1) This section may be cited as the "Florida  
3 Renewable Portfolio Standard Act."

4           (2)(a) The Legislature finds that it is in the  
5 public's interest to:

6           1. Encourage investment in renewable energy resources  
7 in order to expand environmentally sustainable methods of  
8 generating electricity.

9           2. Stimulate the economic growth of this state.

10           3. Enhance the continued diversification of the fuel  
11 sources for electricity used in the state.

12           (b) The Legislature further finds and declares that a  
13 program requiring public utilities to use renewable energy is  
14 a way to encourage investments in renewable energy resources,  
15 stimulate economic growth within the state, and enhance the  
16 continued diversification of the state's energy resources.

17           (3) As used in this section, the term:

18           (a) "Biomass" means a power source that is comprised  
19 of, but not limited to, combustible residues or gases from  
20 forest products manufacturing, agricultural and orchard crops,  
21 waste products from livestock and poultry operations and food  
22 processing, urban wood waste, municipal solid waste, municipal  
23 liquid waste treatment operations, and landfill gas.

24           (b) "Renewable energy" means electrical energy  
25 produced from a method that uses one or more of the following  
26 fuels or energy sources: hydrogen produced from sources other  
27 than fossil fuels, biomass, solar energy, geothermal energy,  
28 wind energy, ocean energy, and hydroelectric power. The term  
29 also includes energy-efficiency resources, such as waste heat  
30 from sulfuric acid manufacturing operations and combined heat  
31 and power. It also includes nuclear and coal fuel when coal is

1 used in a facility having potential carbon-dioxide-capturing  
2 technology.

3 (4) Each public utility, as defined in s. 366.02,  
4 shall ensure that by 2015 and for each year thereafter, at  
5 least 50 percent of all new net energy for load, using 2006 as  
6 a base year, is derived from renewable energy produced in this  
7 state.

8 (5) If a public utility must procure renewable energy  
9 in order to satisfy the requirements of this section, the  
10 public utility shall use a competitive-procurement process,  
11 give priority to entities that produce renewable energy in  
12 this state, and use sources of renewable energy which are not  
13 related to or affiliated with the public utility, except when,  
14 and only to the extent that, such entities collectively cannot  
15 produce enough renewable energy to satisfy the requirements of  
16 this section.

17 (6) The Public Service Commission may adopt rules to  
18 ensure that the procurement of renewable energy by public  
19 utilities is conducted in a fair and impartial manner,  
20 consistent with the goals set forth in this section. The  
21 Public Service Commission also may develop an accreditation  
22 process to ensure that any entities providing renewable energy  
23 in this state satisfy the goals of this section.

24 Section 14. Effective July 1, 2007, paragraph (b) of  
25 subsection (2) of section 366.91, Florida Statutes, is amended  
26 to read:

27 366.91 Renewable energy.--

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

29 (b) "Renewable energy" means electrical energy  
30 produced from a method that uses one or more of the following  
31 fuels or energy sources: hydrogen produced from sources other



Bill No. CS for SB 996

Barcode 150638

1 than fossil fuels, biomass, solar energy, geothermal energy,  
 2 wind energy, ocean energy, and hydroelectric power. The term  
 3 also includes the ~~alternative~~ energy efficiency resources  
 4 resource, waste heat, from sulfuric acid manufacturing  
 5 operations, and combined heat and power.

6 Section 15. Effective July 1, 2007, section 366.925,  
 7 Florida Statutes, is created to read:

8 366.925 Electric utilities; net metering.--

9 (1) This section may be cited as the "Florida Net  
 10 Metering Conservation Act."

11 (2) The commission shall develop rules requiring all  
 12 public utilities to develop net-metering programs that meet  
 13 the requirements of this subsection. Each utility shall make  
 14 available meters that measure both energy production and  
 15 consumption by the customer. The customer shall receive credit  
 16 at the full retail rate for energy generated by an eligible  
 17 system. If the customer's system generates more energy than  
 18 the customer consumes during a billing cycle, the utility  
 19 shall pay the customer for the excess generation at its full  
 20 avoided cost, as set forth in s. 366.051.

21 (3) The commission shall develop rules setting the  
 22 interconnection requirements and other standards that  
 23 renewable energy systems must meet in order to ensure public  
 24 safety and reliability for customers who participate in the  
 25 net-metering program.

26 Section 16. Effective July 1, 2007, every wholesaler  
 27 of diesel to a marina within this state must offer biodiesel  
 28 for sale.

29 Section 17. Effective July 1, 2007, section 403.0874,  
 30 Florida Statutes, is created to read:

31 403.0874 Greenhouse gas inventories.--

Bill No. CS for SB 996

Barcode 150638

1       (1) The department shall develop greenhouse gas  
 2 inventories that account for annual greenhouse gases emitted  
 3 into and removed from the atmosphere, and that forecast gases  
 4 emitted into and removed from the atmosphere, for all major  
 5 greenhouse gases and for time periods that are determined  
 6 sufficient by the department to provide for adequate analysis  
 7 and planning.

8       (2) By rule, the department shall define what  
 9 greenhouse gases are to be included in each inventory, the  
 10 criteria for defining major emitters, which emitters must  
 11 report emissions, and what methodologies shall be used to  
 12 estimate gases emitted into and removed from the atmosphere  
 13 and determine those that are not required to be reported.

14       (3) The department may require all major emitters of  
 15 defined greenhouse gases to report emissions according to  
 16 methodologies and reporting systems approved by the department  
 17 and established by rule, which may include the use of  
 18 quality-assured data from continuous emissions-monitoring  
 19 systems.

20       Section 18. Effective July 1, 2007, subsection (2) of  
 21 section 366.04, Florida Statutes, is amended, and subsection  
 22 (7) is added to that section, to read:

23       366.04 Jurisdiction of commission.--

24       (2) In the exercise of its jurisdiction, the  
 25 commission shall have power over electric utilities for the  
 26 following purposes:

27       (a) To prescribe uniform systems and classifications  
 28 of accounts.

29       (b) To prescribe a rate structure for all electric  
 30 utilities.

31       (c) To require electric power conservation and

Bill No. CS for SB 996

Barcode 150638

1 reliability within a coordinated grid, for operational as well  
2 as emergency purposes.

3 (d) To approve territorial agreements between and  
4 among rural electric cooperatives, municipal electric  
5 utilities, and other electric utilities under its  
6 jurisdiction. However, nothing in this chapter shall be  
7 construed to alter existing territorial agreements as between  
8 the parties to such agreements.

9 (e) To resolve, upon petition of a utility or on its  
10 own motion, any territorial dispute involving service areas  
11 between and among rural electric cooperatives, municipal  
12 electric utilities, and other electric utilities under its  
13 jurisdiction. In resolving territorial disputes, the  
14 commission may consider, but not be limited to consideration  
15 of, the ability of the utilities to expand services within  
16 their own capabilities and the nature of the area involved,  
17 including population, the degree of urbanization of the area,  
18 its proximity to other urban areas, and the present and  
19 reasonably foreseeable future requirements of the area for  
20 other utility services.

21 (f) To prescribe and require the filing of periodic  
22 reports and other data as may be reasonably available and as  
23 necessary to exercise its jurisdiction hereunder.

24 (g) To review and approve or deny proposed sales and  
25 transfers of utility assets, including a proposed merger or  
26 acquisition of the utility.

27  
28 No provision of this chapter shall be construed or applied to  
29 impede, prevent, or prohibit any municipally owned electric  
30 utility system from distributing at retail electrical energy  
31 within its corporate limits, as such corporate limits exist on

Bill No. CS for SB 996

Barcode 150638

1 July 1, 1974; however, existing territorial agreements shall  
2 not be altered or abridged hereby.

3 (7) The commission may establish rules and standards  
4 of conduct to insulate and protect the public from business  
5 practices and merger activity that would adversely affect the  
6 credit rating and financial standing of the state's regulated  
7 public utilities. The commission has specific authority to  
8 approve, deny, or impose conditions upon mergers between a  
9 public utility and another entity or a public utility's  
10 affiliated parent or holding company and another entity. As  
11 used in this subsection, the term "assets" includes, but is  
12 not limited to, real assets, financial assets, construction  
13 work in progress, and allowances for funds used during  
14 construction. However, the commission may establish by rule  
15 minimum levels of value of asset transfer which shall be  
16 deemed immaterial because the amount involved would not  
17 adversely affect the utility and therefore is not subject to  
18 this subsection. In the exercise of this jurisdiction, the  
19 commission has the powers set forth in this subsection.

20 (a) The commission may restrict and mandate the use  
21 and terms of a sale or transfer of utility assets. This  
22 includes a restriction against using utility assets as  
23 collateral or a guarantee for any nonutility business. A  
24 regulated public utility doing business in this state may not,  
25 without first obtaining the commission's approval:

26 1. Sell, lease, transfer, assign, or otherwise dispose  
27 of the whole of the property of such regulated public utility  
28 which is necessary or useful in the performance of its duties  
29 to the public or any part thereof of a value in excess of  
30 those values provided in this subsection, or sell, lease,  
31 assign or otherwise dispose of any franchise, permit, or right

Bill No. CS for SB 996

Barcode 150638

1 to maintain and operate such regulated public utility or  
2 public utility property or to perform any service as a public  
3 utility;

4 2. Mortgage or otherwise encumber the whole or any  
5 part of the property of such regulated public utility which is  
6 necessary or useful in the performance of its duties to the  
7 public, including any franchise, permit, or right to maintain  
8 and operate such public utility or public utility property or  
9 to perform any service as a public utility; or

10 3. By any means whatsoever, directly or indirectly,  
11 merge, consolidate, or interconnect any of its lines, plants,  
12 systems, or other property whatsoever, including any  
13 franchise, permit, or right to maintain or operate any public  
14 utility property or to perform any service as a public  
15 utility, or any part thereof, with any other public utility.

16  
17 However, a sale, assignment, lease, or transfer of  
18 utility-related facilities or assets, or any portion thereof,  
19 may occur prior to commission approval if the contract for  
20 sale, lease, assignment, or transfer is made contingent upon  
21 commission approval.

22 (b) A merger or combination affecting any public  
23 utility, affiliated parent, or holding company may not occur  
24 through acquisition or control by stock purchase or otherwise  
25 without the approval of the commission and a determination  
26 that the proposed merger or combination affecting any public  
27 utility through acquisition or control by stock purchase or  
28 otherwise is in the public interest and will fulfill the  
29 commitments, obligations, and representations of the public  
30 utility. However, a merger or combination affecting any public  
31 utility made through acquisition or control by stock purchase

Barcode 150638

1 or otherwise may occur prior to the commission's approval if  
2 such action is made contingent upon commission approval.

3 (c) In its determination of whether a transaction is  
4 in the public interest, the commission may consider whether:

5 1. The transaction will adversely affect the adequacy,  
6 efficiency, and reliability of the electric service that is  
7 provided to the public utility's end-use customers;

8 2. The transaction will result in increased cost of  
9 the electric service that is provided to the public utility's  
10 end-use customers without offsetting benefits;

11 3. The transaction will harm the financial condition  
12 of the public utility; and

13 4. Comparable economic savings can be achieved through  
14 other means, including no transaction, while avoiding the  
15 possible adverse consequences of the proposed transaction.

16 (d) The commission may approve, deny, or require  
17 modification of any request submitted under this subsection. A  
18 public utility seeking review under this subsection shall file  
19 a petition with the commission coincident with or prior to  
20 filing a similar petition to the Federal Energy Regulatory  
21 Commission pursuant to s. 1289, EPACT 2005, s. 203(a) of the  
22 Federal Power Act, 16 U.S.C. s. 824b(a). In support of the  
23 petition, the public utility shall file direct testimony and  
24 supporting documents at the time the initial petition is  
25 submitted to the commission.

26 (e) The commission may adopt rules to administer this  
27 subsection, including setting material asset value thresholds.

28 Section 19. Section 212.086, Florida Statutes, is  
29 created to read:

30 212.086 Energy Efficient Motor Vehicle Sales Tax  
31 Refund Program.--

Bill No. CS for SB 996

Barcode 150638

1       (1) The Energy Efficient Motor Vehicle Sales Tax  
2 Refund Program is established to provide financial incentives  
3 for the purchase of alternative motor vehicles as specified by  
4 this section.

5       (2) Any person who purchases an alternative motor  
6 vehicle from a sales tax dealer in the state is eligible for a  
7 refund of the sales tax paid under this chapter. The sales tax  
8 that is eligible for refund shall be computed on the sales  
9 price of the alternative motor vehicle up to a maximum sales  
10 price of \$15,000.

11       (3) In order to qualify for the sales tax refund under  
12 this section, the alternative motor vehicle must be certified  
13 as a new qualified hybrid motor vehicle, new qualified  
14 alternative fuel motor vehicle, new qualified fuel cell motor  
15 vehicle, or new advanced lean-burn technology motor vehicle by  
16 the Internal Revenue Service for the income tax credit for  
17 alternative motor vehicles under s. 30B of the Internal  
18 Revenue Code of 1986, as amended.

19       (4) Notwithstanding ss. 212.095 and 215.26, an  
20 application for refund must be filed with the department  
21 within 90 days after purchase of the alternative motor vehicle  
22 and must contain the following:

23       (a) The name and address of the person claiming the  
24 refund.

25       (b) A specific description of the alternative motor  
26 vehicle for which a refund is sought, including the vehicle  
27 identification number.

28       (c) The sales invoice or other proof of purchase  
29 showing the amount of sales tax paid, the date of purchase,  
30 and the name and address of the sales tax dealer from whom the  
31 alternative motor vehicle was purchased.

Bill No. CS for SB 996

Barcode 150638

1       (d) A sworn statement that the information provided is  
2 accurate and that the requirements of this section have been  
3 met.

4       (5) The total dollar amount of all refunds issued by  
5 the department is limited to the total amount of  
6 appropriations in any fiscal year for this program. The  
7 department may approve refunds up to the amount appropriated  
8 for this refund program based on the date of filing an  
9 application for refund pursuant to subsection (4). If the  
10 funds are insufficient during the current fiscal year, any  
11 requests for refund received during that fiscal year may be  
12 processed during the following fiscal year, subject to the  
13 appropriation, and have priority over new applications for  
14 refund filed in the following fiscal year. The provisions of  
15 s. 213.255 do not apply to requests for refund which are held  
16 for payment in the following fiscal year.

17       (6) The department shall adopt rules pursuant to ss.  
18 120.536(1) and 120.54 to administer this section, including  
19 rules establishing forms and procedures for claiming this  
20 refund.

21       (7) A taxpayer who receives a refund pursuant to s.  
22 212.08(7)(ccc) may not be allowed a refund provided in this  
23 section.

24       (8) This section is repealed July 1, 2010.

25       Section 20. For the 2007-2008 fiscal year, the sum of  
26 \$ million is appropriated from the General Revenue Fund to  
27 the Administrative Trust Fund of the Department of Revenue for  
28 the purpose of paying sales tax refunds as provided in this  
29 act.

30       Section 21. Subsection (5) is added to section  
31 255.252, Florida Statutes, to read:



Bill No. CS for SB 996

Barcode 150638

1           255.252 Findings and intent.--

2           (5) Each state agency must identify and compile a list  
3 of all state-owned buildings within its inventory which it  
4 determines are suitable to consider for a guaranteed  
5 energy-performance savings contract pursuant to s. 489.145.  
6 Such list shall be submitted to the Department of Management  
7 Services by December 31, 2007, and shall include any criteria  
8 used to determine suitability. The list of suitable buildings  
9 shall be developed from the list of state-owned facilities of  
10 more than 5,000 square feet in area for which the agency pays  
11 for the expenses of utilities and other operating expenses as  
12 they relate to energy use. In consultation with each  
13 department secretary or director, by March 1, 2008, the  
14 Department of Management Services shall evaluate each agency's  
15 facilities found suitable for energy conservation projects,  
16 and shall develop an energy efficiency project schedule based  
17 on factors such as project magnitude, efficiency and  
18 effectiveness of energy conservation measures to be  
19 implemented, and other factors that may be advantageous to  
20 pursue. Such schedule shall provide the deadline for  
21 guaranteed energy-performance savings contract improvements to  
22 be made to the state-owned buildings.

23           Section 22. Paragraph (b) of subsection (2) and  
24 subsection (5) of section 287.063, Florida Statutes, are  
25 amended to read:

26           287.063 Deferred-payment commodity contracts; preaudit  
27 review.--

28           (b) The Chief Financial Officer shall establish, by  
29 rule, criteria for approving purchases made under  
30 deferred-payment contracts which require the payment of  
31 interest. Criteria shall include, but not be limited to, the

Bill No. CS for SB 996

Barcode 150638

1 following provisions:

2           1. No contract shall be approved in which interest  
3 exceeds the statutory ceiling contained in this section.  
4 However, the interest component of any master equipment  
5 financing agreement entered into for the purpose of  
6 consolidated financing of a deferred-payment, installment  
7 sale, or lease-purchase shall be deemed to comply with the  
8 interest rate limitation of this section so long as the  
9 interest component of every interagency agreement under such  
10 master equipment financing agreement complies with the  
11 interest rate limitation of this section.

12           2. No deferred-payment purchase for less than \$30,000  
13 shall be approved, unless it can be satisfactorily  
14 demonstrated and documented to the Chief Financial Officer  
15 that failure to make such deferred-payment purchase would  
16 adversely affect an agency in the performance of its duties.  
17 However, the Chief Financial Officer may approve any  
18 deferred-payment purchase if the Chief Financial Officer  
19 determines that such purchase is economically beneficial to  
20 the state.

21           ~~3. No agency shall obligate an annualized amount of~~  
22 ~~payments for deferred payment purchases in excess of current~~  
23 ~~operating capital outlay appropriations, unless specifically~~  
24 ~~authorized by law or unless it can be satisfactorily~~  
25 ~~demonstrated and documented to the Chief Financial Officer~~  
26 ~~that failure to make such deferred-payment purchase would~~  
27 ~~adversely affect an agency in the performance of its duties.~~

28           3.4. No contract shall be approved which extends  
29 payment beyond 5 years, unless it can be satisfactorily  
30 demonstrated and documented to the Chief Financial Officer  
31 that failure to make such deferred-payment purchase would

Bill No. CS for SB 996

Barcode 150638

1 adversely affect an agency in the performance of its duties.

2 The payment term may not exceed the useful life of the  
3 equipment unless the contract provides for the replacement or  
4 the extension of the useful life of the equipment during the  
5 term of the loan.

6 (5) For purposes of this section, the annualized  
7 amount of any such deferred payment commodity contract must be  
8 supported from available recurring funds appropriated to the  
9 agency in an appropriation category, ~~other than the expense~~  
10 ~~appropriation category~~ as defined in chapter 216, that the  
11 Chief Financial Officer has determined is appropriate or that  
12 the Legislature has designated for payment of the obligation  
13 incurred under this section.

14 Section 23. Subsections (10) and (11) of section  
15 287.064, Florida Statutes, are amended to read:

16 287.064 Consolidated financing of deferred-payment  
17 purchases.--

18 (10) Costs incurred pursuant to a guaranteed energy  
19 performance savings contract, including the cost of energy  
20 conservation measures, each as defined in s. 489.145, may be  
21 financed pursuant to a master equipment financing agreement;  
22 however, the costs of training, operation, and maintenance may  
23 not be financed. The period of time for repayment of the funds  
24 drawn pursuant to the master equipment financing agreement  
25 under this subsection may exceed 5 years but may not exceed 20  
26 10 years for energy conservation measures pursuant to s.  
27 489.145, excluding the costs of training, operation, and  
28 maintenance. The guaranteed energy performance savings  
29 contractor shall provide for the replacement or the extension  
30 of the useful life of the equipment during the term of the  
31 contract.

Bill No. CS for SB 996

Barcode 150638

1           (11) For purposes of consolidated financing of  
2 deferred payment commodity contracts under this section by a  
3 state agency, the annualized amount of any such contract must  
4 be supported from available recurring funds appropriated to  
5 the agency in an appropriation category, ~~other than the~~  
6 ~~expense appropriation category~~ as defined in chapter 216, that  
7 the Chief Financial Officer has determined is appropriate or  
8 that the Legislature has designated for payment of the  
9 obligation incurred under this section.

10           Section 24. Section 489.145, Florida Statutes, is  
11 amended to read:

12           489.145 Guaranteed energy performance savings  
13 contracting.--

14           (1) SHORT TITLE.--This section may be cited as the  
15 "Guaranteed Energy Performance Savings Contracting Act."

16           (2) LEGISLATIVE FINDINGS.--The Legislature finds that  
17 investment in energy conservation measures in agency  
18 facilities can reduce the amount of energy consumed and  
19 produce immediate and long-term savings. It is the policy of  
20 this state to encourage agencies to invest in energy  
21 conservation measures ~~that reduce energy consumption, produce~~  
22 ~~a cost savings for the agency, and improve the quality of~~  
23 ~~indoor air in public facilities and to operate, maintain, and,~~  
24 ~~when economically feasible, build or renovate existing agency~~  
25 ~~facilities in such a manner as~~ to minimize energy consumption  
26 and maximize energy savings. It is further the policy of this  
27 state to encourage agencies to reinvest any energy savings  
28 resulting from energy conservation measures in additional  
29 energy conservation efforts.

30           (3) DEFINITIONS.--As used in this section, the term:

31           (a) "Agency" means the state, a municipality, or a

1 political subdivision.

2 (b) "Energy conservation measure" means a ~~training~~  
3 ~~program~~, facility alteration, or an equipment purchase to be  
4 used in new construction, including an addition to an existing  
5 facility, which reduces energy or energy-related operating  
6 costs and includes, but is not limited to:

7 1. Insulation of the facility structure and systems  
8 within the facility.

9 2. Storm windows and doors, caulking or  
10 weatherstripping, multiglazed windows and doors,  
11 heat-absorbing, or heat-reflective, glazed and coated window  
12 and door systems, additional glazing, reductions in glass  
13 area, and other window and door system modifications that  
14 reduce energy consumption.

15 3. Automatic energy control systems.

16 4. Heating, ventilating, or air-conditioning system  
17 modifications or replacements.

18 5. Replacement or modifications of lighting fixtures  
19 to increase the energy efficiency of the lighting system,  
20 which, at a minimum, must conform to the applicable state or  
21 local building code.

22 6. Energy recovery systems.

23 7. Cogeneration systems that produce steam or forms of  
24 energy such as heat, as well as electricity, for use primarily  
25 within a facility or complex of facilities.

26 8. Energy conservation measures that reduce Btu, kW,  
27 or kWh consumed or provide long-term operating cost reductions  
28 ~~or significantly reduce Btu consumed.~~

29 9. Renewable energy systems, such as solar, biomass,  
30 or wind systems.

31 10. Devices that reduce water consumption or sewer

Bill No. CS for SB 996

Barcode 150638

1 charges.

2 11. Storage systems, such as fuel cells and thermal  
3 storage.

4 12. Generating technologies, such as microturbines.

5 13. Any other repair, replacement, or upgrade of  
6 existing equipment.

7 (c) "Energy cost savings" means a measured reduction  
8 in the cost of fuel, energy consumption, and stipulated  
9 operation and maintenance created from the implementation of  
10 one or more energy conservation measures when compared with an  
11 established baseline for the previous cost of fuel, energy  
12 consumption, and stipulated operation and maintenance.

13 (d) "Guaranteed energy performance savings contract"  
14 means a contract for the evaluation, recommendation, and  
15 implementation of energy conservation measures or  
16 energy-related operational savings measures, which, at a  
17 minimum, shall include:

18 1. The design and installation of equipment to  
19 implement one or more of such measures and, if applicable,  
20 operation and maintenance of such measures.

21 2. The amount of any actual annual savings that meet  
22 or exceed total annual contract payments made by the agency  
23 for the contract and may include allowable cost avoidance. As  
24 used in this section, allowable cost-avoidance calculations  
25 include, but are not limited to, avoided provable budgeted  
26 costs contained in a capital replacement plan less the current  
27 undepreciated value of replaced equipment and the replacement  
28 cost of the new equipment.

29 3. The finance charges incurred by the agency over the  
30 life of the contract.

31 (e) "Guaranteed energy performance savings contractor"

Bill No. CS for SB 996

Barcode 150638

1 means a person or business that is licensed under chapter 471,  
2 chapter 481, or this chapter, and is experienced in the  
3 analysis, design, implementation, or installation of energy  
4 conservation measures through energy performance contracts.

5 (4) PROCEDURES.--

6 (a) An agency may enter into a guaranteed energy  
7 performance savings contract with a guaranteed energy  
8 performance savings contractor to ~~significantly~~ reduce energy  
9 consumption or energy-related operating costs of an agency  
10 facility through one or more energy conservation measures.

11 (b) Before design and installation of energy  
12 conservation measures, the agency must obtain from a  
13 guaranteed energy performance savings contractor a report that  
14 summarizes the costs associated with the energy conservation  
15 measures or energy-related operational cost savings measures  
16 and provides an estimate of the amount of the ~~energy~~ cost  
17 savings. The agency and the guaranteed energy performance  
18 savings contractor may enter into a separate agreement to pay  
19 for costs associated with the preparation and delivery of the  
20 report; however, payment to the contractor shall be contingent  
21 upon the report's projection of energy or operational cost  
22 savings being equal to or greater than the total projected  
23 costs of the design and installation of the report's energy  
24 conservation measures.

25 (c) The agency may enter into a guaranteed energy  
26 performance savings contract with a guaranteed energy  
27 performance savings contractor if the agency finds that the  
28 amount the agency would spend on the energy conservation or  
29 energy-related cost saving measures will not likely exceed the  
30 amount of the energy or energy-related cost savings for up to  
31 20 years from the date of installation, based on the life

Bill No. CS for SB 996

Barcode 150638

1 cycle cost calculations provided in s. 255.255, if the  
2 recommendations in the report were followed and if the  
3 qualified provider or providers give a written guarantee that  
4 the energy or energy-related cost savings will meet or exceed  
5 the costs of the system. However, actual computed cost savings  
6 must meet or exceed the estimated cost savings provided in  
7 program approval. Baseline adjustments used in calculations  
8 must be specified in the contract. The contract may provide  
9 for installment payments for a period not to exceed 20 years.

10 (d) A guaranteed energy performance savings contractor  
11 must be selected in compliance with s. 287.055; except that if  
12 fewer than three firms are qualified to perform the required  
13 services, the requirement for agency selection of three firms,  
14 as provided in s. 287.055(4)(b), and the bid requirements of  
15 s. 287.057 do not apply.

16 (e) Before entering into a guaranteed energy  
17 performance savings contract, an agency must provide published  
18 notice of the meeting in which it proposes to award the  
19 contract, the names of the parties to the proposed contract,  
20 and the contract's purpose.

21 (f) A guaranteed energy performance savings contract  
22 may provide for financing, including tax exempt financing, by  
23 a third party. The contract for third party financing may be  
24 separate from the energy performance contract. A separate  
25 contract for third party financing pursuant to this paragraph  
26 must include a provision that the third party financier must  
27 not be granted rights or privileges that exceed the rights and  
28 privileges available to the guaranteed energy performance  
29 savings contractor.

30 (g) Financing for guaranteed energy performance  
31 savings contracts may be provided under the authority of s.



1 287.064.

2       ~~(h)(g)~~ In determining the amount the agency will  
3 finance to acquire the energy conservation measures, the  
4 agency may reduce such amount by the application of any grant  
5 moneys, rebates, or capital funding available to the agency  
6 for the purpose of buying down the cost of the guaranteed  
7 energy performance savings contract. However, in calculating  
8 the life cycle cost as required in paragraph (c), the agency  
9 shall not apply any grants, rebates, or capital funding. The  
10 Office of the Chief Financial Officer shall review proposals  
11 to ensure that the most effective financing is being used.

12           (5) CONTRACT PROVISIONS.--

13           (a) A guaranteed energy performance savings contract  
14 must include a written guarantee that may include, but is not  
15 limited to the form of, a letter of credit, insurance policy,  
16 or corporate guarantee by the guaranteed energy performance  
17 savings contractor that annual energy cost savings will meet  
18 or exceed the amortized cost of energy conservation measures.

19           (b) The guaranteed energy performance savings contract  
20 must provide that all payments, except obligations on  
21 termination of the contract before its expiration, may be made  
22 over time, but not to exceed 20 years from the date of  
23 complete installation and acceptance by the agency, and that  
24 the annual savings are guaranteed to the extent necessary to  
25 make annual payments to satisfy the guaranteed energy  
26 performance savings contract.

27           (c) The guaranteed energy performance savings contract  
28 must require that the guaranteed energy performance savings  
29 contractor to whom the contract is awarded provide a  
30 100-percent public construction bond to the agency for its  
31 faithful performance, as required by s. 255.05.

Bill No. CS for SB 996

Barcode 150638

1           (d) The guaranteed energy performance savings contract  
2 may contain a provision allocating to the parties to the  
3 contract any annual energy cost savings that exceed the amount  
4 of the energy cost savings guaranteed in the contract.

5           (e) The guaranteed energy performance savings contract  
6 shall require the guaranteed energy performance savings  
7 contractor to provide to the agency an annual reconciliation  
8 of the guaranteed energy or energy-related cost savings. If  
9 the reconciliation reveals a shortfall in annual energy or  
10 energy-related cost savings, the guaranteed energy performance  
11 savings contractor is liable for such shortfall. If the  
12 reconciliation reveals an excess in annual ~~energy~~ cost  
13 savings, the excess savings may be allocated under paragraph  
14 (d) but may not be used to cover potential energy cost savings  
15 shortages in subsequent contract years.

16           (f) The guaranteed energy performance savings contract  
17 must provide for payments of not less than one-twentieth of  
18 the price to be paid within 2 years from the date of the  
19 complete installation and acceptance by the agency using  
20 straight-line amortization for the term of the loan, and the  
21 remaining costs to be paid at least quarterly, not to exceed a  
22 20-year term, based on life cycle cost calculations.

23           (g) The guaranteed energy performance savings contract  
24 may extend beyond the fiscal year in which it becomes  
25 effective; however, the term of any contract expires at the  
26 end of each fiscal year and may be automatically renewed  
27 annually for up to 20 years, subject to the agency making  
28 sufficient annual appropriations based upon continued realized  
29 energy savings.

30           (h) The guaranteed energy performance savings contract  
31 must stipulate that it does not constitute a debt, liability,

Bill No. CS for SB 996

Barcode 150638

1 or obligation of the state.

2 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The  
3 Department of Management Services, with the assistance of the  
4 Office of the Chief Financial Officer, may, within available  
5 resources, provide technical assistance to state agencies  
6 contracting for energy conservation measures and engage in  
7 other activities considered appropriate by the department for  
8 promoting and facilitating guaranteed energy performance  
9 contracting by state agencies. The Office of the Chief  
10 Financial Officer, with the assistance of the Department of  
11 Management Services, shall ~~may, within available resources,~~  
12 develop model contractual and related documents for use by  
13 state agencies. Prior to entering into a guaranteed energy  
14 performance savings contract, any contract or lease for  
15 third-party financing, or any combination of such contracts, a  
16 state agency shall submit such proposed contract or lease to  
17 the Office of the Chief Financial Officer for review and  
18 approval that includes the following:-

19 (a) Supporting information required by s.  
20 216.023(4)(a)9.

21 (b) Documentation supporting recurring funds  
22 requirements in ss. 287.063(5) and 287.064(11).

23 (c) Approval by agency head or designee.

24 (d) An agency measurement and verification plan to  
25 monitor costs savings.

26 (7) FUNDING REPORT.--For purposes of consolidated  
27 financing of deferred payment commodity contracts under this  
28 section by a state agency, the annualized amount of any such  
29 contract must be supported from available recurring funds  
30 appropriated to the agency in an appropriation category, as  
31 defined in chapter 216, which the Chief Financial Officer has

Bill No. CS for SB 996

Barcode 150638

1 determined is appropriate or which the Legislature has  
2 designated for payment of the obligation incurred under this  
3 section.

4  
5 The Office of the Chief Financial Officer may not approve any  
6 contract submitted under this section which does not meet the  
7 requirements of this section.

8 Section 25. Section 366.93, Florida Statutes, is  
9 amended to read:

10 366.93 Cost recovery for the siting, design,  
11 licensing, and construction of nuclear and integrated  
12 gasification combined cycle power plants.--

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

14 (a) "Cost" includes, but is not limited to, all  
15 capital investments, including rate of return, any applicable  
16 taxes, and all expenses, including operation and maintenance  
17 expenses, related to or resulting from the siting, licensing,  
18 design, construction, or operation of the nuclear or  
19 integrated gasification combined cycle power plant.

20 (b) "Electric utility" or "utility" has the same  
21 meaning as that provided in s. 366.8255(1)(a).

22 (c) "Integrated gasification combined cycle power  
23 plant" or "plant" is an electrical power plant as defined in  
24 s. 403.503(13) that uses synthesis gas produced by integrated  
25 gasification technology.

26 ~~(d)(c)~~ "Nuclear power plant" or "plant" is an  
27 electrical power plant as defined in s. 403.503(13) which ~~s.~~  
28 ~~403.503(12) that~~ uses nuclear materials for fuel.

29 (e) "Power plant" or "plant" means a nuclear power  
30 plant or an integrated gasification combined cycle power  
31 plant.

Bill No. CS for SB 996

Barcode 150638

1           ~~(f)(d)~~ "Preconstruction" is that period of time after  
 2 a site has been selected through and including the date the  
 3 utility completes site clearing work. Preconstruction costs  
 4 shall be afforded deferred accounting treatment and shall  
 5 accrue a carrying charge equal to the utility's allowance for  
 6 funds during construction (AFUDC) rate until recovered in  
 7 rates.

8           (2) Within 6 months after the enactment of this act,  
 9 the commission shall establish, by rule, alternative cost  
 10 recovery mechanisms for the recovery of costs incurred in the  
 11 siting, design, licensing, and construction of a nuclear or  
 12 integrated gasification combined cycle power plant. Such  
 13 mechanisms shall be designed to promote utility investment in  
 14 nuclear or integrated gasification combined cycle power plants  
 15 and allow for the recovery in rates of all prudently incurred  
 16 costs, and shall include, but are not limited to:

17           (a) Recovery through the capacity cost recovery clause  
 18 of any preconstruction costs.

19           (b) Recovery through an incremental increase in the  
 20 utility's capacity cost recovery clause rates of the carrying  
 21 costs on the utility's projected construction cost balance  
 22 associated with the nuclear or integrated gasification  
 23 combined cycle power plant. To encourage investment and  
 24 provide certainty, for nuclear or integrated gasification  
 25 combined cycle power plant need petitions submitted on or  
 26 before December 31, 2010, associated carrying costs shall be  
 27 equal to the pretax AFUDC in effect upon this act becoming  
 28 law. For nuclear or integrated gasification combined cycle  
 29 power plants for which need petitions are submitted after  
 30 December 31, 2010, the utility's existing pretax AFUDC rate is  
 31 presumed to be appropriate unless determined otherwise by the

Bill No. CS for SB 996

Barcode 150638

1 | commission in the determination of need for the nuclear or  
2 | integrated gasification combined cycle power plant.

3 |         (3) After a petition for determination of need is  
4 | granted, a utility may petition the commission for cost  
5 | recovery as permitted by this section and commission rules.

6 |         (4) When the nuclear or integrated gasification  
7 | combined cycle power plant is placed in commercial service,  
8 | the utility shall be allowed to increase its base rate charges  
9 | by the projected annual revenue requirements of the nuclear or  
10 | integrated gasification combined cycle power plant based on  
11 | the jurisdictional annual revenue requirements of the plant  
12 | for the first 12 months of operation. The rate of return on  
13 | capital investments shall be calculated using the utility's  
14 | rate of return last approved by the commission prior to the  
15 | commercial inservice date of the nuclear or integrated  
16 | gasification combined cycle power plant. If any existing  
17 | generating plant is retired as a result of operation of the  
18 | nuclear or integrated gasification combined cycle power plant,  
19 | the commission shall allow for the recovery, through an  
20 | increase in base rate charges, of the net book value of the  
21 | retired plant over a period not to exceed 5 years.

22 |         (5) The utility shall report to the commission  
23 | annually the budgeted and actual costs as compared to the  
24 | estimated inservice cost of the nuclear or integrated  
25 | gasification combined cycle power plant provided by the  
26 | utility pursuant to s. 403.519(4), until the commercial  
27 | operation of the nuclear or integrated gasification combined  
28 | cycle power plant. The utility shall provide such information  
29 | on an annual basis following the final order by the commission  
30 | approving the determination of need for the nuclear or  
31 | integrated gasification combined cycle power plant, with the

Bill No. CS for SB 996

Barcode 150638

1 understanding that some costs may be higher than estimated and  
2 other costs may be lower.

3 (6) In the event the utility elects not to complete or  
4 is precluded from completing construction of the nuclear or  
5 integrated gasification combined cycle power plant, the  
6 utility shall be allowed to recover all prudent  
7 preconstruction and construction costs incurred following the  
8 commission's issuance of a final order granting a  
9 determination of need for the nuclear or integrated  
10 gasification combined cycle power plant. The utility shall  
11 recover such costs through the capacity cost recovery clause  
12 over a period equal to the period during which the costs were  
13 incurred or 5 years, whichever is greater. The unrecovered  
14 balance during the recovery period will accrue interest at the  
15 utility's weighted average cost of capital as reported in the  
16 commission's earnings surveillance reporting requirement for  
17 the prior year.

18 Section 26. Subsection (4) of section 403.519, Florida  
19 Statutes, is amended to read:

20 403.519 Exclusive forum for determination of need.--

21 (4) In making its determination on a proposed  
22 electrical power plant using nuclear materials or synthesis  
23 gas produced by integrated gasification combined cycle power  
24 plant as fuel, the commission shall hold a hearing within 90  
25 days after the filing of the petition to determine need and  
26 shall issue an order granting or denying the petition within  
27 135 days after the date of the filing of the petition. The  
28 commission shall be the sole forum for the determination of  
29 this matter and the issues addressed in the petition, which  
30 accordingly shall not be reviewed in any other forum, or in  
31 the review of proceedings in such other forum. In making its

Bill No. CS for SB 996

Barcode 150638

1 determination to either grant or deny the petition, the  
 2 commission shall consider the need for electric system  
 3 reliability and integrity, including fuel diversity, the need  
 4 for base-load generating capacity, and the need for adequate  
 5 electricity at a reasonable cost.

6 (a) The applicant's petition shall include:

7 1. A description of the need for the generation  
 8 capacity.

9 2. A description of how the proposed nuclear or  
 10 integrated gasification combined cycle power plant will  
 11 enhance the reliability of electric power production within  
 12 the state by improving the balance of power plant fuel  
 13 diversity and reducing Florida's dependence on fuel oil and  
 14 natural gas.

15 3. A description of and a nonbinding estimate of the  
 16 cost of the nuclear or integrated gasification combined cycle  
 17 power plant.

18 4. The annualized base revenue requirement for the  
 19 first 12 months of operation of the nuclear or integrated  
 20 gasification combined cycle power plant.

21 5. Information on whether there were any discussions  
 22 with any electric utilities regarding ownership of a portion  
 23 of the nuclear or integrated gasification combined cycle power  
 24 plant by such electric utilities.

25 (b) In making its determination, the commission shall  
 26 take into account matters within its jurisdiction, which it  
 27 deems relevant, including whether the nuclear or integrated  
 28 gasification combined cycle power plant will:

29 1. Provide needed base-load capacity.

30 2. Enhance the reliability of electric power  
 31 production within the state by improving the balance of power



Bill No. CS for SB 996

Barcode 150638

1 plant fuel diversity and reducing Florida's dependence on fuel  
2 oil and natural gas.

3 3. Provide the most cost-effective source of power,  
4 taking into account the need to improve the balance of fuel  
5 diversity, reduce Florida's dependence on fuel oil and natural  
6 gas, reduce air emission compliance costs, and contribute to  
7 the long-term stability and reliability of the electric grid.

8 (c) No provision of rule 25-22.082, Florida  
9 Administrative Code, shall be applicable to a nuclear or  
10 integrated gasification combined cycle power plant sited under  
11 this act, including provisions for cost recovery, and an  
12 applicant shall not otherwise be required to secure  
13 competitive proposals for power supply prior to making  
14 application under this act or receiving a determination of  
15 need from the commission.

16 (d) The commission's determination of need for a  
17 nuclear or integrated gasification combined cycle power plant  
18 shall create a presumption of public need and necessity and  
19 shall serve as the commission's report required by s.  
20 403.507(4)(a). An order entered pursuant to this section  
21 constitutes final agency action. Any petition for  
22 reconsideration of a final order on a petition for need  
23 determination shall be filed within 5 days after the date of  
24 such order. The commission's final order, including any order  
25 on reconsideration, shall be reviewable on appeal in the  
26 Florida Supreme Court. Inasmuch as delay in the determination  
27 of need will delay siting of a nuclear or integrated  
28 gasification combined cycle power plant or diminish the  
29 opportunity for savings to customers under the federal Energy  
30 Policy Act of 2005, the Supreme Court shall proceed to hear  
31 and determine the action as expeditiously as practicable and

Bill No. CS for SB 996

Barcode 150638

1 give the action precedence over matters not accorded similar  
2 precedence by law.

3 (e) After a petition for determination of need for a  
4 nuclear or integrated gasification combined cycle power plant  
5 has been granted, the right of a utility to recover any costs  
6 incurred prior to commercial operation, including, but not  
7 limited to, costs associated with the siting, design,  
8 licensing, or construction of the plant, shall not be subject  
9 to challenge unless and only to the extent the commission  
10 finds, based on a preponderance of the evidence adduced at a  
11 hearing before the commission under s. 120.57, that certain  
12 costs were imprudently incurred. Proceeding with the  
13 construction of the nuclear or integrated gasification  
14 combined cycle power plant following an order by the  
15 commission approving the need for the nuclear or integrated  
16 gasification combined cycle power plant under this act shall  
17 not constitute or be evidence of imprudence. Imprudence shall  
18 not include any cost increases due to events beyond the  
19 utility's control. Further, a utility's right to recover costs  
20 associated with a nuclear or integrated gasification combined  
21 cycle power plant may not be raised in any other forum or in  
22 the review of proceedings in such other forum. Costs incurred  
23 prior to commercial operation shall be recovered pursuant to  
24 chapter 366.

25 Section 27. For the 2007-2008 fiscal year, the sum of  
26 \$500,000 is appropriated from the General Revenue Fund to the  
27 Florida Alternative Energy Development Corporation Trust Fund  
28 for the purpose of funding the activities of the Florida  
29 Alternative Energy Development Corporation for the 2007-2008  
30 fiscal year.

31 Section 28. For the 2007-2008 fiscal year, the sum of

Bill No. CS for SB 996

Barcode 150638

1 \$40 million is appropriated from the General Revenue Fund to  
2 the Florida Alternative Energy Trust Fund for purposes of  
3 funding the Alternative Energy Incentive Program.

4       Section 29. For the 2007-2008 fiscal year, the sum of  
5 \$15 million is appropriated from the General Revenue Fund to  
6 the Florida Alternative Energy Trust Fund for the purpose of  
7 funding the Renewable Energy Technologies Grants Program.

8       Section 30. For the 2007-2008 fiscal year, the sum of  
9 \$2.5 million is appropriated from the General Revenue Fund to  
10 the Department of Environmental Protection for the purpose of  
11 funding commercial and consumer solar incentives authorized in  
12 s. 377.806, Florida Statutes.

13       Section 31. For the 2007-2008 fiscal year, the sum of  
14 \$65,763 is appropriated from the General Revenue Fund to the  
15 Department of Revenue for the purpose of administering the  
16 energy-efficient products sales tax holiday.

17       Section 32. Except as otherwise expressly provided in  
18 this act, this act shall take effect upon becoming a law.

19  
20

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

22 And the title is amended as follows:

23       Delete everything before the enacting clause

24

25 and insert:

26                               A bill to be entitled  
27       An act relating to energy; creating s.  
28       288.10894, F.S.; creating the Florida  
29       Alternative Energy Development Corporation;  
30       providing legislative findings; providing  
31       definitions; requiring that the corporation

Bill No. CS for SB 996

Barcode 150638

1           comply with public-meetings and public-records  
2           laws; providing for the organization, purpose,  
3           and duties of the corporation; providing for  
4           the membership of the board of directors of the  
5           corporation; requiring the disclosure of  
6           financial interests by board members; requiring  
7           an annual report; creating s. 288.10895, F.S.;  
8           creating the Alternative Energy Incentive  
9           Program for the purpose of encouraging economic  
10          development and research; providing  
11          definitions; providing for the program to be  
12          operated by the Florida Alternative Energy  
13          Development Corporation; providing the  
14          qualification criteria for a business to  
15          receive an award under the program; providing a  
16          grant-application process and requirements for  
17          such application; providing for an evaluation  
18          and award process; requiring that the  
19          corporation validate the performance of  
20          projects funded under the program; amending s.  
21          377.703, F.S.; deleting provisions requiring  
22          that the Department of Environmental Protection  
23          conduct energy research and development, plan  
24          for the development of renewable energy  
25          resources, promote the development and use of  
26          renewable energy resources, and create a  
27          database of all energy programs in the state;  
28          repealing s. 377.901, F.S., relating to the  
29          creation and operations of the Florida Energy  
30          Commission; amending s. 212.08, F.S.;  
31          increasing the limitation on a tax exemption

Bill No. CS for SB 996

Barcode 150638

1 for materials used in the distribution of  
2 biodiesel and ethanol; clarifying the  
3 definition of the term "ethanol"; creating an  
4 annual tax holiday for energy-efficient  
5 products; defining the term "energy-efficient  
6 product"; authorizing the Department of Revenue  
7 to adopt rules; requiring the Florida  
8 Alternative Energy Development Corporation  
9 rather than the Department of Environmental  
10 Protection to certify eligibility for the sales  
11 tax exemption for equipment, technology, and  
12 other materials for renewable energy; amending  
13 s. 213.053, F.S.; providing for the Department  
14 of Revenue to provide information to the  
15 Florida Alternative Energy Development  
16 Corporation rather than the Department of  
17 Environmental Protection for purposes of  
18 administering the sales tax exemption and the  
19 corporate income tax credit; amending s.  
20 220.192, F.S.; requiring the Florida  
21 Alternative Energy Development Corporation  
22 rather than the Department of Environmental  
23 Protection to determine eligibility for the  
24 corporate income tax credits for investments in  
25 renewable energy technologies; amending s.  
26 377.803, F.S.; defining the term "corporation"  
27 for purposes of the Florida Renewable Energy  
28 Technologies and Energy Efficiency Act;  
29 amending s. 377.804, F.S.; providing for the  
30 Florida Alternative Energy Development  
31 Corporation rather than the Department of

Bill No. CS for SB 996

Barcode 150638

1 Environmental Protection to administer the  
2 Renewable Energy Technologies Grants Program;  
3 amending s. 377.806, F.S.; requiring the  
4 Florida Alternative Energy Development  
5 Corporation rather than the Department of  
6 Environmental Protection to administer the  
7 Solar Energy Incentives Program; creating s.  
8 366.915, F.S.; creating the Florida Renewable  
9 Portfolio Standard Act; providing legislative  
10 findings; providing definitions; requiring  
11 public utilities to sell a minimum amount of  
12 renewable energy; authorizing the Public  
13 Service Commission to adopt rules; amending s.  
14 366.91, F.S.; redefining the term "renewable  
15 energy"; creating s. 366.925, F.S.; providing a  
16 short title; directing the Public Service  
17 Commission to develop rules requiring all  
18 public utilities to develop net-metering  
19 programs; providing for a customer to receive  
20 credit for electricity generated by renewable  
21 energy systems owned by the customer; directing  
22 the commission to adopt rules setting the  
23 standards that renewable energy systems must  
24 meet in order for customers to qualify for the  
25 program; requiring every wholesaler of diesel  
26 fuel to a marina within the state to offer  
27 biodiesel for sale; creating s. 403.0874, F.S.;  
28 requiring the Department of Environmental  
29 Protection to conduct an inventory of  
30 greenhouse gas emissions; amending s. 366.04,  
31 F.S.; authorizing the Public Service Commission

Bill No. CS for SB 996

Barcode 150638

1 to review and approve sales and transfers of  
2 public utility assets, including in a merger;  
3 authorizing the commission to adopt rules;  
4 creating s. 212.086, F.S.; providing a  
5 financial incentive for the purchase of an  
6 alternative motor vehicle; providing that any  
7 person who purchases an alternative motor  
8 vehicle from a sales tax dealer is eligible for  
9 a refund of the sales tax paid; requiring that  
10 the alternative motor vehicle be certified  
11 under the Internal Revenue Code of 1986, as  
12 amended, as a new qualified hybrid motor  
13 vehicle, new qualified alternative fuel motor  
14 vehicle, new qualified fuel cell motor vehicle,  
15 or new advanced lean-burn technology motor  
16 vehicle; requiring that an application for  
17 refund be filed with the Department of Revenue;  
18 providing that the total dollar amount of  
19 refunds is limited to the total amount of  
20 appropriations in any fiscal year; authorizing  
21 a request for a refund to be held for payment  
22 in the following fiscal year under certain  
23 circumstances; requiring the department to  
24 adopt rules; providing for future repeal of the  
25 program; amending s. 255.252, F.S.; requiring  
26 an inventory of state-owned buildings and an  
27 energy efficiency project schedule for  
28 guaranteed energy-performance savings contract  
29 improvements; amending s. 287.063, F.S.;  
30 requiring that the term of payment for  
31 consolidated equipment finance contracts may

Bill No. CS for SB 996

Barcode 150638

1 not extend beyond the anticipated useful life  
2 of the equipment financed; deleting the  
3 requirement that the Chief Financial Officer  
4 establish criteria that prohibits a state  
5 agency from obligating an annualized amount of  
6 payments for certain deferred payment  
7 purchases; amending s. 287.064, F.S.; extending  
8 the period of time allowed for repayment of  
9 funds under the guaranteed energy-performance  
10 savings contract; amending s. 489.145, F.S.;  
11 clarifying certain definitions; providing  
12 additional requirements for a state agency to  
13 enter into a guaranteed energy-performance  
14 savings contract; providing for financing of  
15 contracts related to guaranteed  
16 energy-performance savings; requiring the  
17 Department of Financial Services to review  
18 proposals to ensure that the most effective  
19 financing is used; requiring the Office of the  
20 Chief Financial Officer to develop model  
21 contractual and related documents; requiring  
22 that contracts or leases submitted by a state  
23 agency to the Office of Chief Financial Officer  
24 meet certain criteria; amending s. 366.93,  
25 F.S.; revising definitions related to certain  
26 power plants to include integrated gasification  
27 combined cycle power plants; requiring the  
28 Public Service Commission to implement rules  
29 related to integrated gasification combined  
30 cycle power plant cost recovery; requiring a  
31 report; amending s. 403.519, F.S.; providing



Bill No. CS for SB 996

Barcode 150638

1 requirements and procedures for determination  
2 of need for integrated gasification combined  
3 cycle power plants; providing an exemption from  
4 purchased power supply bid rules under certain  
5 circumstances; providing appropriations;  
6 providing effective dates.

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