

1 A bill to be entitled
2 An act relating to renewable energy; providing legislative
3 findings regarding the state's energy policy; creating the
4 Task Force on Oil and Natural Gas Inventory; providing for
5 membership of the task force; requiring appointments to be
6 made by a certain date; providing for administrative
7 support; providing for duties and responsibilities;
8 requiring the task force to submit a report and
9 recommendations to the Legislature by a certain date;
10 amending s. 196.175, F.S.; revising provisions relating to
11 the renewable energy source exemption; revising the date
12 on which certain energy source devices are excluded from
13 the exemption; amending s. 212.08, F.S.; revising the
14 definition of "ethanol"; defining the term "renewable
15 fuel"; providing a tax exemption for the sale or use of
16 renewable fuel; providing that such exemption is limited
17 to one purchase of an eligible item; amending s. 220.192,
18 F.S.; defining the terms "corporation" and "renewable
19 fuel"; revising the definition of "eligible costs" to
20 include renewable fuels; providing for transfer of the
21 renewable energy technologies investment tax credit;
22 providing requirements for such transfer; requiring that
23 the tax credit be passed through to certain taxpayers;
24 authorizing the Department of Revenue to adopt rules
25 regarding the transfer and pass through of such tax
26 credit; amending s. 220.193, F.S.; defining the term
27 "sale" or "sold"; providing that the use of the renewable
28 energy production credit does not reduce the alternative

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29 minimum tax credit; repealing s. 52, chapter 2007-73, Laws
30 of Florida, relating to restoring joint agency approval
31 requirements for the Renewable Energy Technologies Grants
32 Program; amending s. 377.806, F.S.; requiring an applicant
33 to file a preapplication to receive a rebate under the
34 solar photovoltaic system incentive; deleting a provision
35 that requires Btu to be verified in determining the rebate
36 amount; limiting rebates to one type of system per
37 resident per fiscal year; requiring the Department of
38 Environmental Protection to adopt rules regarding
39 applications for rebate reservations and rebate payments;
40 amending s. 570.957, F.S.; extending the expiration date
41 for the Farm-to-Fuel Grants Program; providing an
42 effective date.

43
44 WHEREAS, the Legislature finds it is in the public interest
45 to keep Florida an attractive place to live, work, and do
46 business as the state's economy continues to make the transition
47 from a low-cost state to a high-cost state and the state's
48 population continues to grow, and

49 WHEREAS, projections indicate that Florida will add 10
50 million new residents by 2030 and the state's energy needs are
51 expected to grow 30 percent by 2017 and 76 percent by 2030, and

52 WHEREAS, Florida must meet these needs and still provide
53 affordable and reliable energy to consumers and businesses, and

54 WHEREAS, the Legislature finds that it is in the public
55 interest to develop a comprehensive energy policy that balances
56 environmentally responsible, affordable, and reliable energy for

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57 Floridians, and

58 WHEREAS, Florida must invest in research and development
59 for alternative and renewable energy, promote conservation and
60 efficiency, create clean energy jobs to support the growth of
61 the alternative energy industry, promote incentive-based
62 emission reductions programs, and keep all energy options
63 available, and

64 WHEREAS, Florida should create an inventory of the oil and
65 natural gas resources located off the coast, and

66 WHEREAS, the Legislature finds it is important to promote
67 alternative and renewable energy technologies, including
68 alternative fuels and technologies for electric power plants and
69 motor vehicles and energy conservation, and

70 WHEREAS, Florida and the United States in general are
71 overly dependent on foreign oil to meet the energy needs of
72 buildings and motor vehicles, and

73 WHEREAS, alternative and renewable energy and energy
74 conservation technologies have the potential to decrease oil
75 dependency, minimize volatility of fuel cost, and improve
76 environmental conditions, and

77 WHEREAS, in-state research, development, deployment, and
78 use of these technologies can make the state a leader in new and
79 innovative technologies and encourage investment and economic
80 development, and

81 WHEREAS, the Legislature finds it is in the public interest
82 to create 10,000 high-skill, high-wage clean technology jobs to
83 support the growth of the alternative energy industry in Florida
84 and help diversify the state's economy, and

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85 WHEREAS, the Legislature finds it is in the public interest
 86 to invest in alternative and renewable energy technology
 87 research and development because our current technology is not
 88 advanced enough to provide electricity and automobile fuels at
 89 an affordable and reliable rate and meet greenhouse gas
 90 reduction goals, and

91 WHEREAS, the Legislature finds it is in the public interest
 92 to keep all energy and fuel options open for consideration in
 93 developing a comprehensive energy policy that balances
 94 affordable, reliable, and environmentally responsible energy for
 95 Florida, and

96 WHEREAS, it is important to know where the state's fuel
 97 resources are and to what extent the state has access to those
 98 resources, NOW, THEREFORE,

99

100 Be It Enacted by the Legislature of the State of Florida:

101

102 Section 1. Task Force on Oil and Natural Gas Inventory.--

103 (1) There is created the Task Force on Oil and Natural Gas
 104 Inventory to study, examine, and report to the Legislature
 105 regarding the feasibility of oil and natural gas exploration in
 106 the coastal waters of the Gulf of Mexico within the jurisdiction
 107 of the state.

108 (2) The task force shall be composed of:

109 (a) Two members appointed by the Governor.

110 (b) Two members appointed by the President of the Senate.

111 (c) Two members appointed by the Speaker of the House of
 112 Representatives.

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113 (d) The Commissioner of Agriculture or a designee.

114 (e) The Secretary of Environmental Protection or a
115 designee.

116 (f) The chair of the Florida Energy Commission or a
117 designee.

118 (g) The chair of the Governor's Action Team on Climate and
119 Energy or a designee.

120 (h) The chair of the Public Service Commission.

121 (3) Appointments to the task force shall be made by August
122 1, 2008. Members shall choose a chair and vice chair from the
123 membership of the task force.

124 (4) The Department of Environmental Protection's clerical
125 and professional staff shall provide administrative support to
126 the task force. The task force may request the clerical and
127 professional staff of the standing committees of the Senate and
128 the House of Representatives to provide such support, if the
129 task force finds it appropriate.

130 (5) In conducting the study, the task force shall consider
131 comprehensive implications relating to energy, economic
132 development, tourism, commercial and recreational fishing, the
133 environment, agriculture, manufacturing, public safety, national
134 security, employment, and the possible effects on state and
135 local economies. In order to consider these comprehensive
136 effects, the task force shall seek the expertise of interested
137 and knowledgeable persons from public, private, and nonprofit
138 organizations, including, but not limited to, the following
139 state agencies:

140 (a) The Department of Environmental Protection.

- 141 (b) The Department of Health.
- 142 (c) The Office of Tourism, Trade, and Economic
- 143 Development.
- 144 (d) The Department of Agriculture and Consumer Services.
- 145 (e) The Fish and Wildlife Conservation Commission.
- 146 (f) The Public Service Commission.
- 147 (6) The task force shall submit its report and
- 148 recommendations to the Legislature by January 8, 2009, on which
- 149 date the task force is dissolved.

150 Section 2. Section 196.175, Florida Statutes, is amended
 151 to read:

152 196.175 Renewable energy source exemption.--

153 (1) Improved real property upon which a renewable energy
 154 source device is installed and operated shall be entitled to an
 155 exemption in the amount of ~~not greater than the lesser of:~~

156 ~~(a) The assessed value of such real property less any~~
 157 ~~other exemptions applicable under this chapter;~~

158 ~~(b) the original cost of the device, including the~~
 159 ~~installation cost thereof, but excluding the cost of replacing~~
 160 ~~previously existing property removed or improved in the course~~
 161 ~~of such installation; or~~

162 ~~(c) Eight percent of the assessed value of such property~~
 163 ~~immediately following installation.~~

164 (2) The exempt amount authorized under subsection (1)
 165 shall apply in full if the device was installed and operative
 166 throughout the 12-month period preceding January 1 of the year
 167 of application for this exemption. If the device was operative

168 for a portion of that period, the exempt amount authorized under
 169 this section shall be reduced proportionally.

170 (3) It shall be the responsibility of the applicant for an
 171 exemption pursuant to this section to demonstrate affirmatively
 172 to the satisfaction of the property appraiser that he or she
 173 meets the requirements for exemption under this section and that
 174 the original cost ~~pursuant to paragraph (1)(b)~~ and the period
 175 for which the device was operative, as indicated on the
 176 exemption application, are correct.

177 (4) No exemption authorized pursuant to this section shall
 178 be granted for a period of more than 10 years. No exemption
 179 shall be granted with respect to renewable energy source devices
 180 installed before July 1, 2008 ~~January 1, 1980, or after December~~
 181 ~~31, 1990~~.

182 Section 3. Paragraph (ccc) of subsection (7) of section
 183 212.08, Florida Statutes, is amended to read:

184 212.08 Sales, rental, use, consumption, distribution, and
 185 storage tax; specified exemptions.--The sale at retail, the
 186 rental, the use, the consumption, the distribution, and the
 187 storage to be used or consumed in this state of the following
 188 are hereby specifically exempt from the tax imposed by this
 189 chapter.

190 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 191 entity by this chapter do not inure to any transaction that is
 192 otherwise taxable under this chapter when payment is made by a
 193 representative or employee of the entity by any means,
 194 including, but not limited to, cash, check, or credit card, even
 195 when that representative or employee is subsequently reimbursed

196 by the entity. In addition, exemptions provided to any entity by
 197 this subsection do not inure to any transaction that is
 198 otherwise taxable under this chapter unless the entity has
 199 obtained a sales tax exemption certificate from the department
 200 or the entity obtains or provides other documentation as
 201 required by the department. Eligible purchases or leases made
 202 with such a certificate must be in strict compliance with this
 203 subsection and departmental rules, and any person who makes an
 204 exempt purchase with a certificate that is not in strict
 205 compliance with this subsection and the rules is liable for and
 206 shall pay the tax. The department may adopt rules to administer
 207 this subsection.

208 (ccc) Equipment, machinery, and other materials for
 209 renewable energy technologies.--

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

211 a. "Biodiesel" means the mono-alkyl esters of long-chain
 212 fatty acids derived from plant or animal matter for use as a
 213 source of energy and meeting the specifications for biodiesel
 214 and biodiesel blends with petroleum products as adopted by the
 215 Department of Agriculture and Consumer Services. Biodiesel may
 216 refer to biodiesel blends designated BXX, where XX represents
 217 the volume percentage of biodiesel fuel in the blend.

218 b. "Ethanol" means an ~~nominal~~ anhydrous denatured
 219 alcohol produced by the conversion of carbohydrates ~~fermentation~~
 220 ~~of plant sugars~~ meeting the specifications for fuel ethanol and
 221 fuel ethanol blends with petroleum products as adopted by the
 222 Department of Agriculture and Consumer Services. Ethanol may

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223 refer to fuel ethanol blends designated EXX, where XX represents
224 the volume percentage of fuel ethanol in the blend.

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

228 d. "Renewable fuel" means any motor vehicle fuel that is
229 used to replace or reduce the quantity of fossil fuel present in
230 a fuel mixture that is used to fuel a motor vehicle and is
231 produced from grain; starch; oilseeds; vegetable, animal, or
232 fish materials, including fats, greases, and oils; sugarcane;
233 sugar beets; sugar components; tobacco; potatoes; other biomass;
234 or natural gas produced from a biogas source, including a
235 landfill, sewage waste treatment plant, feedlot, or other place
236 where there is decaying organic material. This term includes
237 cellulosic biomass ethanol, waste-derived ethanol, biodiesel
238 (mono-alkyl ester), nonester renewable diesel, and blending
239 components derived from renewable fuel.

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

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

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

249 c. Materials used in the distribution of biodiesel (B10-
250 B100), renewable fuels, and ethanol (E10-E100), including

251 fueling infrastructure, transportation, and storage, up to a
 252 limit of \$1 million in tax each state fiscal year for all
 253 taxpayers. Gasoline fueling station pump retrofits for ethanol
 254 (E10-E100) distribution qualify for the exemption provided in
 255 this sub-subparagraph.

256 3. The Department of Environmental Protection shall
 257 provide to the department a list of items eligible for the
 258 exemption provided in this paragraph.

259 4.a. The exemption provided in this paragraph shall be
 260 available to a purchaser only through a refund of previously
 261 paid taxes. Only one purchase of an eligible item is subject to
 262 refund. A purchaser who has received a refund on an eligible
 263 item shall notify any subsequent purchaser of the item that such
 264 item is no longer eligible for a refund of paid taxes. The
 265 purchaser shall provide the notice to the subsequent purchaser
 266 on the sales invoice or other proof of purchase.

267 b. To be eligible to receive the exemption provided in
 268 this paragraph, a purchaser shall file an application with the
 269 Department of Environmental Protection. The application shall be
 270 developed by the Department of Environmental Protection, in
 271 consultation with the department, and shall require:

272 (I) The name and address of the person claiming the
 273 refund.

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

277 (III) The sales invoice or other proof of purchase showing
 278 the amount of sales tax paid, the date of purchase, and the name

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279 | and address of the sales tax dealer from whom the property was
280 | purchased.

281 | (IV) A sworn statement that the information provided is
282 | accurate and that the requirements of this paragraph have been
283 | met.

284 | c. Within 30 days after receipt of an application, the
285 | Department of Environmental Protection shall review the
286 | application and shall notify the applicant of any deficiencies.
287 | Upon receipt of a completed application, the Department of
288 | Environmental Protection shall evaluate the application for
289 | exemption and issue a written certification that the applicant
290 | is eligible for a refund or issue a written denial of such
291 | certification within 60 days after receipt of the application.
292 | The Department of Environmental Protection shall provide the
293 | department with a copy of each certification issued upon
294 | approval of an application.

295 | d. Each certified applicant shall be responsible for
296 | forwarding a certified copy of the application and copies of all
297 | required documentation to the department within 6 months after
298 | certification by the Department of Environmental Protection.

299 | e. The provisions of s. 212.095 do not apply to any refund
300 | application made pursuant to this paragraph. A refund approved
301 | pursuant to this paragraph shall be made within 30 days after
302 | formal approval by the department.

303 | f. The department may adopt all rules pursuant to ss.
304 | 120.536(1) and 120.54 to administer this paragraph, including
305 | rules establishing forms and procedures for claiming this
306 | exemption.

307 g. The Department of Environmental Protection shall be
 308 responsible for ensuring that the total amounts of the
 309 exemptions authorized do not exceed the limits as specified in
 310 subparagraph 2.

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

314 6. This paragraph expires July 1, 2010.

315 Section 4. Subsections (1), (6), and (7) of section
 316 220.192, Florida Statutes, are amended, present subsections (6)
 317 and (7) of that section are renumbered as subsections (7) and
 318 (8), respectively, and a new subsection (6) is added to that
 319 section, to read:

320 220.192 Renewable energy technologies investment tax
 321 credit.--

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

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

324 212.08(7)(ccc).

325 (b) "Corporation" means a general partnership, limited
 326 partnership, limited liability company, unincorporated business,
 327 or other business entity in which a taxpayer owns an interest
 328 which is taxed as a partnership or is disregarded as a separate
 329 entity from the taxpayer for tax purposes.

330 (c) ~~(b)~~ "Eligible costs" means:

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

335 connection with an investment in hydrogen-powered vehicles and
 336 hydrogen vehicle fueling stations in the state, including, but
 337 not limited to, the costs of constructing, installing, and
 338 equipping such technologies in the state.

339 2. Seventy-five percent of all capital costs, operation
 340 and maintenance costs, and research and development costs
 341 incurred between July 1, 2006, and June 30, 2010, up to a limit
 342 of \$1.5 million per state fiscal year for all taxpayers, and
 343 limited to a maximum of \$12,000 per fuel cell, in connection
 344 with an investment in commercial stationary hydrogen fuel cells
 345 in the state, including, but not limited to, the costs of
 346 constructing, installing, and equipping such technologies in the
 347 state.

348 3. Seventy-five percent of all capital costs, operation
 349 and maintenance costs, and research and development costs
 350 incurred between July 1, 2006, and June 30, 2010, up to a limit
 351 of \$6.5 million per state fiscal year for all taxpayers, in
 352 connection with an investment in the production, storage, and
 353 distribution of biodiesel (B10-B100), renewable fuels, and
 354 ethanol (E10-E100) in the state, including the costs of
 355 constructing, installing, and equipping such technologies in the
 356 state. Gasoline fueling station pump retrofits for ethanol (E10-
 357 E100) distribution qualify as an eligible cost under this
 358 subparagraph.

359 (d)~~(e)~~ "Ethanol" means ethanol as defined in s.
 360 212.08(7)(ccc).

361 (e)~~(d)~~ "Hydrogen fuel cell" means hydrogen fuel cell as
 362 defined in s. 212.08(7)(ccc).

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363 (f) "Renewable fuel" means renewable fuel as defined in s.
364 212.08(7)(ccc).

365 (6) TRANSFERABILITY OF CREDIT.--

366 (a) Any corporation and any subsequent transferee who
367 receives the tax credit may transfer such tax credit, in whole
368 or in part, to any taxpayer by written agreement without
369 transferring any ownership interest in the property generating
370 the tax credit or any interest in the entity that owns the
371 property. Transferees are entitled to apply the credit against
372 the tax, which has the same effect as if the transferee had
373 incurred the eligible costs.

374 (b) To complete the transfer, the transferor shall send a
375 written statement to the Department of Revenue as notice of the
376 assignor's intent to transfer the tax credit to the assignee.
377 The written statement must include the date the transfer is
378 effective; the assignee's name, address, federal taxpayer
379 identification number, and tax period; and the amount of tax
380 credit to be transferred. The Department of Revenue shall issue,
381 upon receipt of such statement, a certificate to the assignee
382 reflecting the tax credit amounts transferred. The assignee
383 shall attach a copy of the certificate to each tax return in
384 which the tax credit is used.

385 (c) If a tax credit is derived from an entity that is a
386 corporation as defined in subsection (1) but is not transferred
387 by such entity to a taxpayer pursuant to this subsection, the
388 tax credit must be passed through to a taxpayer designated as a
389 partner, member, or owner, respectively, in a manner agreed to
390 by such person, regardless of whether any portion of the federal

391 energy tax credit relating to eligible costs is allocated to
 392 such person.

393 (7)-(6) RULES.--The Department of Revenue shall have the
 394 authority to adopt rules relating to:

395 (a) The forms required to claim a tax credit under this
 396 section, the requirements and basis for establishing an
 397 entitlement to a credit, and the examination and audit
 398 procedures required to administer this section.

399 (b) The implementation and administration of a transfer of
 400 a tax credit, including the forms, reporting requirements, and
 401 the specific procedures, guidelines, and requirements necessary
 402 to transfer the tax credit.

403 (c) The implementation and administration of a pass
 404 through of a tax credit to an owner, member, or partner,
 405 including the forms, reporting requirements, and the specific
 406 procedures, guidelines, and requirements necessary for the pass
 407 through of credit.

408 (8)-(7) PUBLICATION.--The Department of Environmental
 409 Protection shall determine and publish on a regular basis the
 410 amount of available tax credits remaining in each fiscal year.

411 Section 5. Paragraph (f) is added to subsection (2) and
 412 paragraph (j) is added to subsection (3) of section 220.193,
 413 Florida Statutes, to read:

414 220.193 Florida renewable energy production credit.--

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

416 (f) "Sale" or "sold" means the use of electricity by the
 417 producer of such electricity which decreases the amount of
 418 electricity that the producer would otherwise have to purchase.

419 (3) An annual credit against the tax imposed by this
 420 section shall be allowed to a taxpayer, based on the taxpayer's
 421 production and sale of electricity from a new or expanded
 422 Florida renewable energy facility. For a new facility, the
 423 credit shall be based on the taxpayer's sale of the facility's
 424 entire electrical production. For an expanded facility, the
 425 credit shall be based on the increases in the facility's
 426 electrical production that are achieved after May 1, 2006.

427 (j) A taxpayer's use of the credit granted pursuant to
 428 this section does not reduce the amount of any credit available
 429 to such taxpayer under s. 220.186.

430 Section 6. Section 52 of chapter 2007-73, Laws of Florida,
 431 is repealed.

432 Section 7. Paragraph (c) is added to subsection (2) of
 433 section 377.806, Florida Statutes, paragraph (b) of subsection
 434 (3) and subsection (7) of that section are amended, present
 435 subsections (6) and (7) of that section are renumbered as
 436 subsections (7) and (8), respectively, and a new subsection (6)
 437 is added to that section, to read:

438 377.806 Solar Energy System Incentives Program.--

439 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

440 (c) Application.--To be eligible to receive a rebate,
 441 applicants shall file a preapplication form with the department
 442 which demonstrates that the planned system will meet the
 443 applicable requirements of this section. The department shall
 444 review the preapplication to determine if it complies with the
 445 requirements of this section, notify the applicant within 30
 446 days after receipt of the preapplication that it has been

447 received and meets such requirements, and reserve funding for
 448 the preapplication for up to 90 days after the date on which the
 449 notice is issued to the applicant. Within 90 days after the
 450 purchase of the solar photovoltaic system, the applicant shall
 451 submit a separate application for a rebate payment to the
 452 department.

453 (3) SOLAR THERMAL SYSTEM INCENTIVE.--

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

- 456 1. Five hundred dollars for a residence.
- 457 2. Fifteen dollars per 1,000 Btu up to a maximum of \$5,000
 458 for a place of business, a publicly owned or operated facility,
 459 or a facility owned or operated by a private, not-for-profit
 460 organization, including condominiums or apartment buildings. ~~Btu~~
 461 ~~must be verified by approved metering equipment.~~

462 (6) LIMITATION.--Rebates are limited to one type of system
 463 per resident per fiscal year.

464 (7)-(6) REBATE AVAILABILITY.--The department shall
 465 determine and publish on a regular basis the amount of rebate
 466 funds remaining in each fiscal year. The total dollar amount of
 467 all rebates issued by the department is subject to the total
 468 amount of appropriations in any fiscal year for this program. If
 469 funds are insufficient during the current fiscal year, any
 470 requests for rebates received during that fiscal year may be
 471 processed during the following fiscal year. Requests for rebates
 472 received in a fiscal year that are processed during the
 473 following fiscal year shall be given priority over requests for
 474 rebates received during the following fiscal year.

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475 | (8)~~(7)~~ RULES.--The department shall adopt rules pursuant
476 | to ss. 120.536(1) and 120.54 to develop applications for rebate
477 | reservations and rebate payments ~~rebate applications~~ and
478 | administer the issuance of rebates.

479 | Section 8. Subsection (3) of section 570.957, Florida
480 | Statutes, is amended to read:

481 | 570.957 Farm-to-Fuel Grants Program.--

482 | (3) This section expires July 1, 2009 ~~2008~~.

483 | Section 9. This act shall take effect July 1, 2008.