

Bill No. SB 1544



099258

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: WD	.	
3/13/2008	.	
	.	
	.	

DRAFT STRIKE ALL AMENDMENT TO SB 1544—ENERGY BY SENATOR SAUNDERS  
WORKSHOP ONLY

1 The Committee on Environmental Preservation and Conservation  
2 (Saunders) recommended the following **amendment**:

3  
4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

7  
8 Section 1. Section 110.171, Florida Statutes, is amended  
9 to read:

10 110.171 State employee telecommuting program.--

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

12 ~~(a) "Agency" means any official, officer, commission,~~  
13 ~~board, authority, council, committee, or department of state~~  
14 ~~government.~~

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15        (a) ~~(b)~~ "Department" means the Department of Management  
16 Services.

17        (b) "On-site work location" means the office or location  
18 that an employing state government entity normally provides for  
19 its qualified telecommuting employee.

20        (c) "Qualified telecommuting employee" means an employee  
21 selected for the telecommuting program, based on the  
22 requirements of his or her employment position and his or her  
23 ability to perform assigned work at an offsite location, who  
24 meets the following criteria:

25            1. The employee has demonstrated an ability to complete  
26 his or her assigned work with minimal supervision;

27            2. The job classification, workload characteristics, or  
28 position of the employee has been identified by the employing  
29 state government entity as appropriate for telecommuting; and

30            3. The employee is not under a performance improvement  
31 plan or disciplinary action that indicates a need for close  
32 supervision of his or her assigned work.

33        (d) "State government entity" or "entity" any state  
34 government administrative unit listed in chapter 20 or the State  
35 Constitution, and also includes water management districts, the  
36 Senate, the House of Representatives, the state court system,  
37 the State University System, the State Community College System,  
38 or any other agency, commission, council, office, board,  
39 authority, department, or official of state government.

40        (e) ~~(e)~~ "Telecommuting" means a work arrangement whereby  
41 selected state employees are allowed to perform the normal  
42 duties and responsibilities of their positions, through the use

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43 of computers or telecommunications, at home or another place  
44 apart from the employees' usual place of work.

45 (f) "Telecommuting schedule" means the work schedule of a  
46 qualified telecommuting employee, indicating the days each week,  
47 or weeks each month, that the employee will be telecommuting and  
48 those days or weeks the employee will be in the on-site work  
49 location. The schedule must be composed in such a way so that  
50 the employee's work location for any given day is readily  
51 ascertainable. Occasional variations from the schedule are  
52 acceptable given the needs of the state government entity and  
53 the ability of the employee to accomplish assigned state  
54 business.

55 (g) "Telecommuting site" means the location of the  
56 qualified telecommuting employee during the hours his or her  
57 telecommuting schedule indicates he or she is telecommuting.

58 (2) The department shall:

59 (a) Establish and coordinate the state employee  
60 telecommuting program and administer this section.

61 (b) Appoint a statewide telecommuting coordinator to  
62 provide technical assistance to state government entities  
63 ~~agencies~~ and to promote telecommuting in state government.

64 (c) Identify state employees who are participating in a  
65 telecommuting program and their job classifications through the  
66 state personnel payroll information subsystem created under s.  
67 110.116.

68 (3) By September 30, 2009 ~~October 1, 1994~~, each state  
69 government entity agency shall complete a telecommuting plan to  
70 include ~~identify and maintain~~ a current listing of the job

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71 | classifications and positions that the state government entity  
72 | ~~agency~~ considers appropriate for telecommuting. The  
73 | telecommuting plan ~~Agencies that adopt a state employee~~  
74 | ~~telecommuting program~~ must also:

75 |       (a) Provide measurable financial benefits associated with  
76 | reduced office space requirements, reductions in energy  
77 | consumption, and reductions in associated emissions of  
78 | greenhouse gases resulting from telecommuting. Governmental  
79 | entities operating in office space owned or managed by the  
80 | department shall consult the department in the development and  
81 | implementation of a telecommuting plan. The proposed  
82 | telecommuting plan must give equal consideration to career  
83 | service and exempt positions in their selection of employees to  
84 | participate in the telecommuting program.

85 |       (b) Provide that an employee's participation in a  
86 | telecommuting program will not adversely affect eligibility for  
87 | advancement or any other employment rights or benefits.

88 |       (c) Provide that participation by an employee in a  
89 | telecommuting program is voluntary, and that the employee may  
90 | elect to cease to participate in a telecommuting program at any  
91 | time.

92 |       (d) Adopt provisions to allow for the termination of an  
93 | employee's participation in the program if the employee's  
94 | continued participation would not be in the best interests of  
95 | the state government entity ~~agency~~.

96 |       (e) Provide that an employee is not currently under a  
97 | performance improvement plan in order to participate in the  
98 | program.

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99           (f) Ensure that employees participating in the program are  
100 subject to the same rules regarding attendance, leave,  
101 performance reviews, and separation action as are other  
102 employees.

103           (g) Establish the reasonable conditions that the state  
104 government entity will ~~agency plans to~~ impose in order to ensure  
105 the appropriate use and maintenance of any equipment or items  
106 provided for use at a qualified telecommuting employee's  
107 telecommuting site ~~participating employee's home or other place~~  
108 ~~apart from the employee's usual place of work~~, including the  
109 installation and maintenance of any telephone equipment and  
110 ongoing communications costs at the telecommuting site which is  
111 to be used for official use only.

112           (h) Prohibit state maintenance of an employee's personal  
113 equipment used in telecommuting, including any liability for  
114 personal equipment and costs for personal utility expenses  
115 associated with telecommuting.

116           (i) Describe the security controls that the state  
117 government entity ~~agency~~ considers appropriate.

118           (j) Provide that qualified telecommuting employees are  
119 covered by workers' compensation under chapter 440, when  
120 performing official duties at an alternate worksite, such as the  
121 home.

122           (k) Prohibit employees engaged in a telecommuting program  
123 from conducting face-to-face state business at the telecommuting  
124 site ~~homesite~~.

125           (l) Require a written agreement that specifies the terms  
126 and conditions of telecommuting, which includes verification by

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127 the employee that the home office provides work space that is  
128 free of safety and fire hazards, together with an agreement  
129 which holds the state harmless against any and all claims,  
130 excluding workers' compensation claims, resulting from an  
131 employee working in the home office, and which must be signed  
132 and agreed to by the telecommuter and the supervisor.

133 (4) The telecommuting plan for each state government  
134 entity, and pertinent supporting documents, must be posted on  
135 the entity's website to allow access by employees and the  
136 public.

137 Section 2. Subsection (3) of section 186.007, Florida  
138 Statutes, is amended to read:

139 186.007 State comprehensive plan; preparation; revision.--

140 (3) In the state comprehensive plan, the Executive Office  
141 of the Governor may include goals, objectives, and policies  
142 related to the following program areas: economic opportunities;  
143 agriculture; employment; public safety; education; energy;  
144 global climate change; health concerns; social welfare concerns;  
145 housing and community development; natural resources and  
146 environmental management; recreational and cultural  
147 opportunities; historic preservation; transportation; and  
148 governmental direction and support services.

149 Section 3. Section 193.804, Florida Statutes, is created  
150 to read:

151 193.804 Assessment of solar energy devices.--

152 (1) If a taxpayer adds any solar energy device to his or  
153 her homestead, the value of the solar energy device shall not be  
154 added to the assessed value of the property for the property



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155 taxes. A taxpayer claiming the right to a solar energy device  
156 assessment for ad valorem taxes shall so state in a return filed  
157 as provided by law giving a brief description of the device. The  
158 property appraiser may require the taxpayer to produce such  
159 additional evidence as may be necessary to prove the taxpayer's  
160 right to have the properties subject to a solar energy device  
161 assessment.

162 (2) If a property appraiser questions whether a taxpayer  
163 is entitled, in whole or in part, to a solar energy device  
164 assessment under this section, he or she may refer the matter to  
165 the Department of Environmental Protection for a recommendation.  
166 If the property appraiser refers the matter, he or she shall  
167 notify the taxpayer of such action. The Department of  
168 Environmental Protection shall immediately consider whether the  
169 taxpayer is entitled to the solar energy device assessment and  
170 certify its recommendation to the property appraiser.

171 (3) The Department of Environmental Protection shall adopt  
172 rules to administer the solar energy device assessment  
173 provisions of this section.

174 Section 4. Paragraph (ccc) of subsection (7) of section  
175 212.08, Florida Statutes, is amended to read:

176 212.08 Sales, rental, use, consumption, distribution, and  
177 storage tax; specified exemptions.--The sale at retail, the  
178 rental, the use, the consumption, the distribution, and the  
179 storage to be used or consumed in this state of the following  
180 are hereby specifically exempt from the tax imposed by this  
181 chapter.

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182 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any  
183 entity by this chapter do not inure to any transaction that is  
184 otherwise taxable under this chapter when payment is made by a  
185 representative or employee of the entity by any means,  
186 including, but not limited to, cash, check, or credit card, even  
187 when that representative or employee is subsequently reimbursed  
188 by the entity. In addition, exemptions provided to any entity by  
189 this subsection do not inure to any transaction that is  
190 otherwise taxable under this chapter unless the entity has  
191 obtained a sales tax exemption certificate from the department  
192 or the entity obtains or provides other documentation as  
193 required by the department. Eligible purchases or leases made  
194 with such a certificate must be in strict compliance with this  
195 subsection and departmental rules, and any person who makes an  
196 exempt purchase with a certificate that is not in strict  
197 compliance with this subsection and the rules is liable for and  
198 shall pay the tax. The department may adopt rules to administer  
199 this subsection.

200 (ccc) Equipment, machinery, and other materials for  
201 renewable energy technologies.--

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

203 a. "Biodiesel" means the mono-alkyl esters of long-chain  
204 fatty acids derived from plant or animal matter for use as a  
205 source of energy and meeting the specifications for biodiesel  
206 and biodiesel blends with petroleum products as adopted by the  
207 Department of Agriculture and Consumer Services. Biodiesel may  
208 refer to biodiesel blends designated BXX, where XX represents  
209 the volume percentage of biodiesel fuel in the blend.



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210           b. "Ethanol" means an ~~nominally~~ anhydrous denatured  
211 alcohol produced by the conversion of carbohydrates ~~fermentation~~  
212 ~~of plant sugars~~ meeting the specifications for fuel ethanol and  
213 fuel ethanol blends with petroleum products as adopted by the  
214 Department of Agriculture and Consumer Services. Ethanol may  
215 refer to fuel ethanol blends designated EXX, where XX represents  
216 the volume percentage of fuel ethanol in the blend.

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

220           d. "Wind energy" or "wind turbines" means rotary  
221 mechanical equipment that uses wind to produce at least 10kw of  
222 electrical energy.

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

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

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

232           c. Materials used in the distribution of biodiesel (B10-  
233 B100) and ethanol (E10-E100), including fueling infrastructure,  
234 transportation, and storage, up to a limit of \$1 million in tax  
235 each state fiscal year for all taxpayers. Gasoline fueling  
236 station pump retrofits for ethanol (E10-E100) distribution  
237 qualify for the exemption provided in this sub-subparagraph.

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238 d. Wind turbines, up to a limit of \$1 million in tax each  
239 state fiscal year for all taxpayers.

240 3. The Department of Environmental Protection shall  
241 provide to the department a list of items eligible for the  
242 exemption provided in this paragraph.

243 4.a. The exemption provided in this paragraph shall be  
244 available to a purchaser only through a refund of previously  
245 paid taxes. Only the initial purchase of an eligible item from  
246 the manufacturer is subject to refund. A purchaser who has  
247 received a refund on an eligible item must notify any subsequent  
248 purchaser of the item that the item is no longer eligible for a  
249 refund of tax paid. This notification must be provided to the  
250 subsequent purchaser on the sales invoice or other proof of  
251 purchase.

252 b. To be eligible to receive the exemption provided in  
253 this paragraph, a purchaser shall file an application with the  
254 Department of Environmental Protection. The application shall be  
255 developed by the Department of Environmental Protection, in  
256 consultation with the department, and shall require:

257 (I) The name and address of the person claiming the  
258 refund.

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

262 (III) The sales invoice or other proof of purchase showing  
263 the amount of sales tax paid, the date of purchase, and the name  
264 and address of the sales tax dealer from whom the property was  
265 purchased.

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266 (IV) A sworn statement that the information provided is  
267 accurate and that the requirements of this paragraph have been  
268 met.

269 c. Within 30 days after receipt of an application, the  
270 Department of Environmental Protection shall review the  
271 application and shall notify the applicant of any deficiencies.  
272 Upon receipt of a completed application, the Department of  
273 Environmental Protection shall evaluate the application for  
274 exemption and issue a written certification that the applicant  
275 is eligible for a refund or issue a written denial of such  
276 certification within 60 days after receipt of the application.  
277 The Department of Environmental Protection shall provide the  
278 department with a copy of each certification issued upon  
279 approval of an application.

280 d. Each certified applicant shall be responsible for  
281 forwarding a certified copy of the application and copies of all  
282 required documentation to the department within 6 months after  
283 certification by the Department of Environmental Protection.

284 e. The provisions of s. 212.095 do not apply to any refund  
285 application made pursuant to this paragraph. A refund approved  
286 pursuant to this paragraph shall be made within 30 days after  
287 formal approval by the department.

288 f. The Department of Environmental Protection shall adopt,  
289 by rule, an application form, including the required content and  
290 documentation to support the application, to claim the  
291 exemption. The department may adopt all other rules pursuant to  
292 ss. 120.536(1) and 120.54 to administer this paragraph,

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293 including rules establishing additional forms and procedures for  
294 claiming this exemption.

295 g. The Department of Environmental Protection shall be  
296 responsible for ensuring that the total amounts of the  
297 exemptions authorized do not exceed the limits as specified in  
298 subparagraph 2.

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

302 6. This paragraph expires July 1, 2010, except as it  
303 relates to wind turbines. The paragraph relating to wind  
304 turbines expires July 1, 2012.

305 Section 5. Subsections (1), (2), and (6) of section  
306 220.192, Florida Statutes, are amended to read:

307 220.192 Renewable energy technologies investment tax  
308 credit.--

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

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

311 212.08(7)(ccc).

312 (b) "Eligible costs" means:

313 1. Seventy-five percent of all capital costs, operation  
314 and maintenance costs, and research and development costs  
315 incurred between July 1, 2006, and June 30, 2010, up to a limit  
316 of \$3 million per state fiscal year for all taxpayers, in  
317 connection with an investment in hydrogen-powered vehicles and  
318 hydrogen vehicle fueling stations in the state, including, but  
319 not limited to, the costs of constructing, installing, and  
320 equipping such technologies in the state.

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321           2. Seventy-five percent of all capital costs, operation  
322 and maintenance costs, and research and development costs  
323 incurred between July 1, 2006, and June 30, 2010, up to a limit  
324 of \$1.5 million per state fiscal year for all taxpayers, and  
325 limited to a maximum of \$12,000 per fuel cell, in connection  
326 with an investment in commercial stationary hydrogen fuel cells  
327 in the state, including, but not limited to, the costs of  
328 constructing, installing, and equipping such technologies in the  
329 state.

330           3. Seventy-five percent of all capital costs, operation  
331 and maintenance costs, and research and development costs  
332 incurred between July 1, 2006, and June 30, 2010, up to a limit  
333 of \$6.5 million per state fiscal year for all taxpayers, in  
334 connection with an investment in the production, storage, and  
335 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in  
336 the state, including the costs of constructing, installing, and  
337 equipping such technologies in the state. Gasoline fueling  
338 station pump retrofits for ethanol (E10-E100) distribution  
339 qualify as an eligible cost under this subparagraph.

340           4. Seventy-five percent of all capital, operation and  
341 maintenance costs, and research and development costs incurred  
342 between July 1, 2008, and June 30, 2012, up to a limit of \$9  
343 million per state fiscal year for all taxpayers, in connection  
344 with an investment in the production of wind energy.

345           (c) "Ethanol" means ethanol as defined in s.  
346 212.08(7)(ccc).

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

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349 (e) "Wind energy" or "wind turbine" has the same meaning  
350 as in s. 212.08(7)(ccc).

351 (2) TAX CREDIT.--

352 (a) For tax years beginning on or after January 1, 2007, a  
353 credit against the tax imposed by this chapter shall be granted  
354 in an amount equal to the eligible costs. Credits may be used in  
355 tax years beginning January 1, 2007, and ending December 31,  
356 2010, after which the credit shall expire. If the credit is not  
357 fully used in any one tax year because of insufficient tax  
358 liability on the part of the corporation, the unused amount may  
359 be carried forward and used in tax years beginning January 1,  
360 2007, and ending December 31, 2012, after which the credit  
361 carryover expires and may not be used. A taxpayer that files a  
362 consolidated return in this state as a member of an affiliated  
363 group under s. 220.131(1) may be allowed the credit on a  
364 consolidated return basis up to the amount of tax imposed upon  
365 the consolidated group. Any eligible cost for which a credit is  
366 claimed and which is deducted or otherwise reduces federal  
367 taxable income shall be added back in computing adjusted federal  
368 income under s. 220.13.

369 1. For tax years beginning on or after January 1, 2009, a  
370 credit against the tax imposed by this chapter shall be granted  
371 in an amount equal to the eligible costs related to wind energy.  
372 Credits may be used in tax years beginning January 1, 2009, and  
373 ending December 31, 2012, after which the credit shall expire.  
374 If the credit is not fully used in any one tax year because of  
375 insufficient tax liability on the part of the corporation, the  
376 unused amount may be carried forward and used in tax years

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377 beginning January 1, 2009, and ending December 31, 2014, after  
378 which the credit carryover expires and may not be used.

379 2. A taxpayer who files a consolidated return in this  
380 state as a member of an affiliated group under s. 220.131(1),  
381 may be allowed the credit on a consolidated return basis up to  
382 the amount of tax imposed upon the consolidated group. Any  
383 eligible cost for which a credit is claimed and which is  
384 deducted or otherwise reduces federal taxable income shall be  
385 added back in computing adjusted federal income under s. 220.13.

386 (b) A corporation and a subsequent transferee allowed the  
387 tax credit may transfer the tax credit, in whole or in part, to  
388 any taxpayer by written agreement, without the requirement of  
389 transferring any ownership interest in the property generating  
390 the tax credit or any interest in the entity that owns the  
391 property. A transferee is entitled to apply the credits against  
392 the tax with the same effect as if the transferee had incurred  
393 the eligible costs.

394 1. To perfect the transfer, the transferor must provide a  
395 written transfer statement providing notice to the Department of  
396 Revenue of the assignor's intent to transfer the tax credits to  
397 the assignee; the date the transfer is effective; the assignee's  
398 name, address, federal taxpayer identification number, and tax  
399 period; and the amount of tax credits to be transferred. The  
400 Department of Revenue shall issue, upon receipt of a transfer  
401 statement conforming to the requirements of this section, a  
402 certificate to the assignee reflecting the tax credit amounts  
403 transferred, a copy of which shall be attached to each tax  
404 return by an assignee in which such tax credits are used.

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405       2. Tax credits derived by such entities treated as  
406 corporations under this section which are not transferred by  
407 such entities to other taxpayers under this subsection must be  
408 passed through to the taxpayers designated as partners, members,  
409 or owners, respectively, in any manner agreed to by such  
410 persons, whether or not the persons are allocated or allowed any  
411 portion of the federal energy tax credit with respect to the  
412 eligible costs.

413       (6) RULES.--The Department of Revenue may ~~shall have the~~  
414 ~~authority to~~ adopt rules relating to:

415       (a) The forms required to claim a tax credit under this  
416 section, the requirements and basis for establishing an  
417 entitlement to a credit, and the examination and audit  
418 procedures required to administer this section.

419       (b) The implementation and administration of the  
420 provisions allowing a transfer of tax credits, including rules  
421 prescribing forms, reporting requirements, and the specific  
422 procedures, guidelines, and requirements necessary for a tax  
423 credit to be transferred.

424       Section 6. Paragraph (d) of subsection (3) of section  
425 255.249, Florida Statutes, is amended to read:

426       255.249 Department of Management Services; responsibility;  
427 department rules.--

428       (3)

429       (d) By June 30 of each year, each state agency shall  
430 annually provide to the department all information regarding  
431 agency programs affecting the need for or use of space by that  
432 agency, reviews of lease-expiration schedules for each



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433 geographic area, active and planned full-time equivalent data,  
434 business case analyses related to consolidation plans by an  
435 agency, telecommuting plans, and current occupancy and  
436 relocation costs, inclusive of furnishings, fixtures and  
437 equipment, data, and communications.

438 Section 7. Section 255.251, Florida Statutes, is amended  
439 to read:

440 255.251 Energy Conservation and Sustainable ~~in~~ Buildings  
441 Act; short title.--Sections 255.21-255.258 may ~~This act shall be~~  
442 cited as the "Florida Energy Conservation and Sustainable ~~in~~  
443 Buildings Act ~~of 1974.~~"

444 Section 8. Section 255.252, Florida Statutes, is amended  
445 to read:

446 255.252 Findings and intent.--

447 (1) Operating and maintenance expenditures associated with  
448 energy equipment and with energy consumed in state-financed and  
449 leased buildings represent a significant cost over the life of a  
450 building. Energy conserved by appropriate building design not  
451 only reduces the demand for energy but also reduces costs for  
452 building operation. ~~For example, commercial buildings are~~  
453 ~~estimated to use from 20 to 80 percent more energy than would be~~  
454 ~~required if energy-conserving designs were used.~~ The size,  
455 design, orientation, and operability of windows, the ratio of  
456 ventilating air to air heated or cooled, the level of lighting  
457 consonant with space-use requirements, the handling of occupancy  
458 loads, and the ability to zone off areas not requiring  
459 equivalent levels of heating or cooling are but a few of the  
460 considerations necessary to conserving energy.

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461           (2) Significant efforts are needed to build energy-  
462 efficient state-owned buildings that meet environmental  
463 standards and underway by the General Services Administration,  
464 the National Institute of Standards and Technology, and others  
465 to detail the considerations and practices for energy  
466 conservation in buildings. Most important is that energy-  
467 efficient designs provide energy savings over the life of the  
468 building structure. ~~Conversely, energy-inefficient designs cause~~  
469 ~~excess and wasteful energy use and high costs over that life.~~  
470 With buildings lasting many decades and with energy costs  
471 escalating rapidly, it is essential that the costs of operation  
472 and maintenance for energy-using equipment and sustainable  
473 materials be included in all design proposals for state-owned  
474 state buildings.

475           (3) In order that such energy-efficiency and sustainable  
476 materials considerations become a function of building design,  
477 and also a model for future application in the private sector,  
478 it shall be the policy of the state that buildings constructed  
479 and financed by the state be designed and constructed with a  
480 goal of meeting or exceeding the Platinum rating of the United  
481 States Green Building Council (USGBC) Leadership in Energy and  
482 Environmental Design (LEED) rating system ~~in a manner which will~~  
483 ~~minimize the consumption of energy used in the operation and~~  
484 ~~maintenance of such buildings.~~ It is further the policy of the  
485 state, when economically feasible, to retrofit existing state-  
486 owned buildings in a manner which will minimize the consumption  
487 of energy used in the operation and maintenance of such  
488 buildings.

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489           (4) In addition to designing and constructing new  
490 buildings to be energy-efficient, it shall be the policy of the  
491 state to operate, maintain, and renovate existing state  
492 facilities, or provide for their renovation, in accordance with  
493 the United States Green Building Council's Leadership in Energy  
494 and Environmental Design for Existing Buildings (LEED-EB) for  
495 smaller renovations, or the United States Green Building  
496 Council's Leadership in Energy and Environmental Design for New  
497 Construction (LEED-NC) for major renovations, with a goal of  
498 achieving the Platinum level in order to ~~in a manner which will~~  
499 minimize energy consumption and maximize building sustainability  
500 as well as ensure that facilities leased by the state are  
501 operated so as to minimize energy use. State government entities  
502 Agencies are encouraged to consider shared savings financing of  
503 such energy efficiency and conservation projects, using  
504 contracts which split the resulting savings for a specified  
505 period of time between the state government entity agency and  
506 the private firm or cogeneration contracts which otherwise  
507 permit the state to lower its net energy costs. Such energy  
508 contracts may be funded from the operating budget.

509           (5) Each state government entity must identify and compile  
510 a list of all state-owned buildings within its inventory which  
511 it determines are suitable for a guaranteed energy performance  
512 savings contract pursuant to s. 489.145. The list of state-owned  
513 buildings compiled by each state government entity shall be  
514 submitted to the Department of Management Services by December  
515 31, 2008, and must include all criteria used to determine  
516 suitability. The list of suitable buildings shall be developed

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517 from the list of state-owned facilities greater than 5,000  
518 square feet in area and for which the state government entity is  
519 responsible for paying the expenses of utilities and other  
520 operating expenses as they relate to energy use. In consultation  
521 with each state government entity executive officer, by July 1,  
522 2009, the department shall prioritize all facilities owned by a  
523 state government entity deemed suitable for energy conservation  
524 projects by each state government entity and shall develop an  
525 energy efficiency project schedule based on factors such as  
526 project magnitude, efficiency and effectiveness of energy  
527 conservation measures to be implemented, and other factors that  
528 may prove to be advantageous to pursue. The schedule shall  
529 provide the deadline for guaranteed energy performance savings  
530 contract improvements to be made to the state-owned buildings.

531 Section 9. Section 255.253, Florida Statutes, is amended  
532 to read:

533 255.253 Definitions; ss. 255.251-255.258.--

534 (1) "Department" means the Department of Management  
535 Services.

536 (2) "Facility" means a building or other structure.

537 (3) "Energy performance index or indices" (EPI) means a  
538 number describing the energy requirements at the building  
539 boundary of a facility, per square foot of floor space or per  
540 cubic foot of occupied volume, as appropriate under defined  
541 internal and external ambient conditions over an entire seasonal  
542 cycle. As experience develops on the energy performance achieved  
543 with state building, the indices (EPI) will serve as a measure  
544 of building performance with respect to energy consumption.

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545 (4) "Life-cycle costs" means the cost of owning,  
546 operating, and maintaining the facility over the life of the  
547 structure. This may be expressed as an annual cost for each year  
548 of the facility's use.

549 (5) "Shared savings financing" means the financing of  
550 energy conservation measures and maintenance services through a  
551 private firm which may own any purchased equipment for the  
552 duration of a contract, which may ~~shall~~ not exceed 10 years  
553 unless so authorized by the department. The ~~Such~~ contract shall  
554 specify that the private firm will be recompensed either out of  
555 a negotiated portion of the savings resulting from the  
556 conservation measures and maintenance services provided by the  
557 private firm or, in the case of a cogeneration project, through  
558 the payment of a rate for energy lower than would otherwise have  
559 been paid for the same energy from current sources.

560 (6) "State government entity" means any state government  
561 entity listed in chapter 20 or the State Constitution, and also  
562 includes water management districts, the Senate, the House of  
563 Representatives, the state court system, the State University  
564 System, the State Community College System, or any other agency,  
565 commission, council, office, board, authority, department, or  
566 official of state government.

567 (7) "Sustainable building" means a building that is  
568 healthy and comfortable for its occupants and is economical to  
569 operate while conserving resources, including energy, water, raw  
570 materials, and land, and minimizing the generation and use of  
571 toxic materials and waste in its design, construction,  
572 landscaping, and operation.

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573           (8) "Sustainable building rating" means a rating  
574 established by the United States Green Building Council (USGBC)  
575 Leadership in Energy and Environmental Design (LEED) rating  
576 system.

577           Section 10. Section 255.254, Florida Statutes, is amended  
578 to read:

579           255.254 No facility constructed or leased without life-  
580 cycle costs.--

581           (1) A No state government entity may not agency shall  
582 lease, construct, or have constructed, within limits prescribed  
583 herein, a facility without having secured from the department an  
584 a proper evaluation of life-cycle costs, as computed by an  
585 architect or engineer. Furthermore, construction shall proceed  
586 only upon disclosing to the department, for the facility chosen,  
587 the life-cycle costs as determined in s. 255.255, its  
588 sustainable building rating goal, and the capitalization of the  
589 initial construction costs of the building. The life-cycle costs  
590 and the sustainable building rating goal shall be a primary  
591 considerations ~~consideration~~ in the selection of a building  
592 design. ~~Such analysis shall be required only for construction of~~  
593 ~~buildings with an area of 5,000 square feet or greater.~~ For  
594 leased buildings ~~areas~~ of 5,000 ~~20,000~~ square feet or greater  
595 within a given building boundary, an energy performance ~~a life-~~  
596 ~~cycle~~ analysis shall be performed, and a lease shall ~~only~~ be  
597 made only if ~~where~~ there is a showing that the energy ~~life-cycle~~  
598 costs incurred by the state are minimal compared to available  
599 like facilities. Any building leased by the state from a  
600 private-sector vendor must include, as a part of the lease,

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601 provisions for monthly energy use data to be collected and  
602 submitted monthly to the department by the owner of the  
603 building.

604 (2) On and after January 1, 1979, a ~~ne~~ state government  
605 entity may not ~~agency shall~~ initiate construction or have  
606 construction initiated, prior to approval thereof by the  
607 department, on a facility or self-contained unit of any  
608 facility, the design and construction of which incorporates or  
609 contemplates the use of an energy system other than a solar  
610 energy system when the life-cycle costs analysis prepared by the  
611 department has determined that a solar energy system is the most  
612 cost-efficient energy system for the facility or unit.

613 (3) After September 30, 1985, when any state government  
614 entity ~~agency~~ must replace or supplement major items of energy-  
615 consuming equipment in existing state-owned or leased facilities  
616 or any self-contained unit of any facility with other major  
617 items of energy-consuming equipment, the selection of such items  
618 shall be made on the basis of a life-cycle cost analysis of  
619 alternatives in accordance with rules promulgated by the  
620 department under s. 255.255.

621 Section 11. Subsection (1) of section 255.255, Florida  
622 Statutes, is amended to read:

623 255.255 Life-cycle costs.--

624 (1) The department shall adopt ~~promulgate~~ rules and  
625 procedures, including energy conservation performance  
626 guidelines, based on sustainable building ratings, for  
627 conducting a life-cycle cost analysis of alternative  
628 architectural and engineering designs and alternative major

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629 items of energy-consuming equipment to be retrofitted in  
630 existing state-owned or leased facilities and for developing  
631 energy performance indices to evaluate the efficiency of energy  
632 utilization for competing designs in the construction of state-  
633 financed and leased facilities.

634 Section 12. Section 255.257, Florida Statutes, is amended  
635 to read:

636 255.257 Energy management; buildings occupied by state  
637 government entities ~~agencies~~.--

638 (1) ENERGY CONSUMPTION AND COST DATA.--Each state  
639 government entity ~~agency~~ shall collect data on energy  
640 consumption and cost. The data gathered shall be on state-owned  
641 facilities and metered state-leased facilities of 5,000 net  
642 square feet or more. These data will be used in the computation  
643 of the effectiveness of the state energy management plan and the  
644 effectiveness of the energy management program of each ~~of the~~  
645 state government entity ~~agencies~~.

646 (2) ENERGY MANAGEMENT COORDINATORS.--Each state government  
647 entity ~~agency, the Florida Public Service Commission, the~~  
648 ~~Department of Military Affairs, and the judicial branch~~ shall  
649 appoint a coordinator whose responsibility shall be to advise  
650 the head of the state government entity ~~agency~~ on matters  
651 relating to energy consumption in facilities under the control  
652 of that head or in space occupied by the various units  
653 comprising that state government entity ~~agency~~, in vehicles  
654 operated by that state government entity ~~agency~~, and in other  
655 energy-consuming activities of the state government entity  
656 ~~agency~~. The coordinator shall implement the energy management



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657 program agreed upon by the state government entity ~~agency~~  
658 concerned.

659 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.--The  
660 Department of Management Services shall ~~may~~ develop a state  
661 energy management plan consisting of, but not limited to, the  
662 following elements:

- 663 (a) Data-gathering requirements;
- 664 (b) Building energy audit procedures;
- 665 (c) Uniform data analysis procedures;
- 666 (d) Employee energy education program measures;
- 667 (e) Energy consumption reduction techniques;
- 668 (f) Training program for state government entity ~~agency~~  
669 energy management coordinators; and
- 670 (g) Guidelines for building managers.

671  
672 The plan shall include a description of the actions that each  
673 state government entity must take to reduce consumption of  
674 electricity and nonrenewable energy sources used for space  
675 heating and cooling, ventilation, lighting, water heating, and  
676 transportation.

677 (4) ENERGY AND ENVIRONMENTAL DESIGN.--

678 (a) Each state government entity shall adopt the standards  
679 of the United States Green Building Council's Leadership in  
680 Energy and Environmental Design for New Construction (LEED-NC)  
681 for all new buildings, with a goal of achieving the LEED-NC  
682 Platinum level rating for each construction project.

683 (b) Each state government entity shall implement the  
684 United States Green Building Council's Leadership in Energy and

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685 Environmental Design for Existing Buildings (LEED-EB) for all  
686 buildings currently owned and operated by the department on  
687 behalf of client agencies. A state governmental entity may  
688 prioritize implementation of LEED-EB standards in order to gain  
689 the greatest environmental benefit within existing budget for  
690 property management.

691 (c) A state government entity may not enter into a new  
692 leasing agreement for office space which does not meet Energy  
693 Star building standards, except when determined by the  
694 appropriate state government entity executive that no other  
695 viable or cost-effective alternative exists.

696 (d) Each state government entity shall develop energy-  
697 conservation measures and guidelines for new and existing office  
698 space if the state government entity occupies more than 5,000  
699 square feet. The conservation measures shall focus on programs  
700 that reduce energy consumption and, when established, provide a  
701 net reduction in occupancy costs.

702 Section 13. Section 286.275, Florida Statutes, is created  
703 to read:

704 286.275 .-- Section 286.28 Climate Friendly Public  
705 Business.--

706 (1) The legislature recognizes the importance of  
707 leadership by state government in the area of energy efficiency  
708 and in reducing the greenhouse gas emissions of state government  
709 operations. The following shall pertain to all state government  
710 entities, as defined in this section, when conducting public  
711 business.



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712       (a) The Department of Management Services shall develop  
713 the "Florida Climate Friendly Preferred Products List." In  
714 maintaining that list, the department in consultation with the  
715 Department of Environmental Protection, will continually assess  
716 products currently available for purchase under State Term  
717 Contracts to identify specific products and vendors that have  
718 clear energy efficiency or other environmental benefits over  
719 competing products. When procuring products from state term  
720 contracts, state government entities shall first consult the  
721 Florida Climate Friendly Preferred Products List and procure  
722 such products provided that the cost does not exceed by 5% the  
723 most cost effective alternative commodity not included on the  
724 list.

725       (b) Effective July 1, 2008, state government entities shall  
726 only contract for meeting and conference space with hotels or  
727 conference facilities that have received the "Green Lodging"  
728 designation from the Department of Environmental Protection for  
729 best practices in water, energy and waste efficiency standards,  
730 unless the responsible state government entity's chief executive  
731 officer makes a determination that no other viable alternative  
732 exists. The Department of Environmental Protection is authorized  
733 to adopt rules to implement the "Green Lodging" program.

734       (c) The Department of Environmental Protection is  
735 authorized to establish voluntary technical assistance programs  
736 in accordance with s. 403.074. Such programs may include the  
737 Clean Marinas, Clean Boatyards, Clean Retailers, Clean Boaters,  
738 and Green Yards programs. The programs may include  
739 certifications, designations, or other forms of recognition.

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740 The Department is authorized to implement some or all of these  
741 programs through rulemaking, but need not implement any programs  
742 through rulemaking provided that they do not impose requirements  
743 on any person not wishing to participate in these programs. All  
744 state government entities shall patronize businesses that have  
745 received such certifications or designations to the greatest  
746 extent practical.

747 (d) Each state government entity shall assure that all  
748 maintained vehicles meet minimum maintenance schedules shown to  
749 reduce fuel consumption which includes assuring appropriate tire  
750 pressures and tread depth; replacing fuel filters and emission  
751 filters at recommended intervals; using proper motor oils; and  
752 performing timely motor maintenance. Each state government  
753 entity will measure and report compliance to the Department of  
754 Management Services through the Equipment Management Information  
755 System database.

756 (e) When procuring new vehicles, all state government  
757 entities shall first define the intended purpose for a vehicle  
758 and determine which of the following use classes the vehicle is  
759 being procured for:

- 760 1. State business travel, designated operator;
- 761 2. State business travel, pool operators;
- 762 3. Construction, agricultural or maintenance work;
- 763 4. Conveyance of passengers;
- 764 5. Conveyance of building or maintenance materials and  
765 supplies;
- 766 6. Off-road vehicles, motorcycles and all-terrain  
767 vehicles;

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768        7. Emergency response; or

769        8. Other.

770        Vehicles in subparagraphs 1. through 8., when being processed  
771        for purchase or leasing agreements, must be selected for the  
772        greatest fuel efficiency available for a given use class when  
773        fuel economy data are available. Exceptions may be made for  
774        certain individual vehicles in subparagraph 7. when accompanied,  
775        during the procurement process, by documentation indicating  
776        that the operator or operators will exclusively be emergency  
777        first responders or have special documented need for exceptional  
778        vehicle performance characteristics. Any request for an  
779        exception must be approved by the purchasing entity's chief  
780        executive officer and any exceptional performance  
781        characteristics denoted as a part of the procurement process  
782        prior to purchase.

783        (f) All state government entities shall use ethanol and  
784        biodiesel blended fuels when available. State government  
785        entities administering central fueling operations for state-  
786        owned vehicles shall procure biofuels for fleet needs to the  
787        greatest extent practicable.

788  
789        (2) When used in this section, the term "state government  
790        entity" means any state government entity listed in chapter 20  
791        or the Florida State Constitution and also includes water  
792        management districts, the Florida Senate, the Florida House of  
793        Representatives, the Florida State Court System, the State  
794        University System, the Community College System, or any other

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795 agency, commission, council, office, board, authority,  
796 department or official of state government.

797 Section 14. Paragraph (b) of subsection (2) and subsection  
798 (5) of section 287.063, Florida Statutes, are amended to read:

799 287.063 Deferred-payment commodity contracts; preaudit  
800 review.--

801 (2)

802 (b) The Chief Financial Officer shall establish, by rule,  
803 criteria for approving purchases made under deferred-payment  
804 contracts which require the payment of interest. Criteria shall  
805 include, but not be limited to, the following provisions:

806 1. No contract shall be approved in which interest exceeds  
807 the statutory ceiling contained in this section. However, the  
808 interest component of any master equipment financing agreement  
809 entered into for the purpose of consolidated financing of a  
810 deferred-payment, installment sale, or lease-purchase shall be  
811 deemed to comply with the interest rate limitation of this  
812 section so long as the interest component of every interagency  
813 agreement under such master equipment financing agreement  
814 complies with the interest rate limitation of this section.

815 2. No deferred-payment purchase for less than \$30,000  
816 shall be approved, unless it can be satisfactorily demonstrated  
817 and documented to the Chief Financial Officer that failure to  
818 make such deferred-payment purchase would adversely affect an  
819 agency in the performance of its duties. However, the Chief  
820 Financial Officer may approve any deferred-payment purchase if  
821 the Chief Financial Officer determines that such purchase is  
822 economically beneficial to the state.

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823 ~~3. No agency shall obligate an annualized amount of~~  
824 ~~payments for deferred-payment purchases in excess of current~~  
825 ~~operating capital outlay appropriations, unless specifically~~  
826 ~~authorized by law or unless it can be satisfactorily~~  
827 ~~demonstrated and documented to the Chief Financial Officer that~~  
828 ~~failure to make such deferred-payment purchase would adversely~~  
829 ~~affect an agency in the performance of its duties.~~

830 3.4. No contract shall be approved which extends payment  
831 beyond 5 years, unless it can be satisfactorily demonstrated and  
832 documented to the Chief Financial Officer that failure to make  
833 such deferred-payment purchase would adversely affect an agency  
834 in the performance of its duties. The payment term may not  
835 exceed the useful life of the equipment unless the contract  
836 provides for the replacement or the extension of the useful life  
837 of the equipment during the term of the deferred payment  
838 contract.

839 (5) For purposes of this section, the annualized amount of  
840 any such deferred payment commodity contract must be supported  
841 from available recurring funds appropriated to the agency in an  
842 appropriation category, ~~other than the expense appropriation~~  
843 ~~category~~ as defined in chapter 216, that the Chief Financial  
844 Officer has determined is appropriate or that the Legislature  
845 has designated for payment of the obligation incurred under this  
846 section.

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

849 287.064 Consolidated financing of deferred-payment  
850 purchases.--

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851 (10) Costs incurred pursuant to a guaranteed energy  
852 performance savings contract, including the cost of energy  
853 conservation measures, each as defined in s. 489.145, may be  
854 financed pursuant to a master equipment financing agreement;  
855 however, the costs of training, operation, and maintenance may  
856 not be financed. The period of time for repayment of the funds  
857 drawn pursuant to the master equipment financing agreement under  
858 this subsection may exceed 5 years but may not exceed 20 ~~10~~  
859 years for energy conservation measures under s. 489.145,  
860 excluding the costs of training, operation, and maintenance. The  
861 guaranteed energy performance savings contractor shall provide  
862 for the replacement or the extension of the useful life of the  
863 equipment during the term of the contract.

864 (11) For purposes of consolidated financing of deferred  
865 payment commodity contracts under this section by a state  
866 agency, any such contract must be supported from available  
867 recurring funds appropriated to the agency in an appropriation  
868 category, ~~other than the expense appropriation category~~ as  
869 defined in chapter 216, that the Chief Financial Officer has  
870 determined is appropriate or that the Legislature has designated  
871 for payment of the obligation incurred under this section.

872 Section 16. Present paragraphs (a) through (n) of  
873 subsection (2) of section 288.1089, Florida Statutes, are  
874 redesignated as paragraphs (b) through (o), respectively, and a  
875 new paragraph (a) is added to that subsection, subsection (3) of  
876 that section is amended, and paragraph (d) is added to  
877 subsection (4) of that section, to read:

878 288.1089 Innovation Incentive Program.--



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

880 (a) "Alternative and renewable energy" means electrical,  
881 mechanical, or thermal energy produced from a method that uses  
882 one or more of the following fuels or energy sources: ethanol,  
883 cellulosic ethanol, biobutanol, biodiesel, biomass, biogas,  
884 hydrogen fuel cells, ocean energy, hydrogen, solar, hydro, wind,  
885 or geothermal.

886 (3) To be eligible for consideration for an innovation  
887 incentive award, an innovation business, ~~or~~ research and  
888 development entity, or alternative and renewable energy project  
889 must submit a written application to Enterprise Florida, Inc.,  
890 before making a decision to locate new operations in this state  
891 or expand an existing operation in this state. The application  
892 must include, but not be limited to:

893 (a) The applicant's federal employer identification  
894 number, unemployment account number, and state sales tax  
895 registration number. If such numbers are not available at the  
896 time of application, they must be submitted to the office in  
897 writing prior to the disbursement of any payments under this  
898 section.

899 (b) The location in this state at which the project is  
900 located or is to be located.

901 (c) A description of the type of business activity,  
902 product, or research and development undertaken by the  
903 applicant, including six-digit North American Industry  
904 Classification System codes for all activities included in the  
905 project.

906 (d) The applicant's projected investment in the project.

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907 (e) The total investment, from all sources, in the  
908 project.

909 (f) The number of net new full-time equivalent jobs in  
910 this state the applicant anticipates having created as of  
911 December 31 of each year in the project and the average annual  
912 wage of such jobs.

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

916 (h) The anticipated commencement date of the project.

917 (i) A detailed explanation of why the innovation incentive  
918 is needed to induce the applicant to expand or locate in the  
919 state and whether an award would cause the applicant to locate  
920 or expand in this state.

921 (j) If applicable, an estimate of the proportion of the  
922 revenues resulting from the project that will be generated  
923 outside this state.

924 (4) To qualify for review by the office, the applicant  
925 must, at a minimum, establish the following to the satisfaction  
926 of Enterprise Florida, Inc., and the office:

927 (d) For an alternative and renewable energy project in  
928 this state, the project must:

929 1. Demonstrate a plan for significant higher education  
930 collaboration.

931 2. Provide the state, at a minimum, a break-even return on  
932 investment within a 20-year period.

933 3. Include matching funds provided by the applicant or  
934 other available sources. This requirement may be waived if the

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935 office and the department determine that the merits of the  
936 individual project or the specific circumstances warrant such  
937 action.

938 Section 17. Subsections (1) and (7) and paragraphs (a) and  
939 (b) of subsection (8) of section 339.175, Florida Statutes, are  
940 amended to read:

941 339.175 Metropolitan planning organization.--

942 (1) PURPOSE.--It is the intent of the Legislature to  
943 encourage and promote the safe and efficient management,  
944 operation, and development of surface transportation systems  
945 that will serve the mobility needs of people and freight and  
946 foster economic growth and development within and through  
947 urbanized areas of this state while minimizing transportation-  
948 related fuel consumption, ~~and~~ air pollution, and greenhouse gas  
949 emissions through metropolitan transportation planning processes  
950 identified in this section. To accomplish these objectives,  
951 metropolitan planning organizations, referred to in this section  
952 as M.P.O.'s, shall develop, in cooperation with the state and  
953 public transit operators, transportation plans and programs for  
954 metropolitan areas. The plans and programs for each metropolitan  
955 area must provide for the development and integrated management  
956 and operation of transportation systems and facilities,  
957 including pedestrian walkways and bicycle transportation  
958 facilities that will function as an intermodal transportation  
959 system for the metropolitan area, based upon the prevailing  
960 principles provided in s. 334.046(1). The process for developing  
961 such plans and programs shall provide for consideration of all  
962 modes of transportation and shall be continuing, cooperative,

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963 and comprehensive, to the degree appropriate, based on the  
964 complexity of the transportation problems to be addressed. To  
965 ensure that the process is integrated with the statewide  
966 planning process, M.P.O.'s shall develop plans and programs that  
967 identify transportation facilities that should function as an  
968 integrated metropolitan transportation system, giving emphasis  
969 to facilities that serve important national, state, and regional  
970 transportation functions. For the purposes of this section,  
971 those facilities include the facilities on the Strategic  
972 Intermodal System designated under s. 339.63 and facilities for  
973 which projects have been identified pursuant to s. 339.2819(4).

974 (7) LONG-RANGE TRANSPORTATION PLAN.--Each M.P.O. must  
975 develop a long-range transportation plan that addresses at least  
976 a 20-year planning horizon. The plan must include both long-  
977 range and short-range strategies and must comply with all other  
978 state and federal requirements. The prevailing principles to be  
979 considered in the long-range transportation plan are: preserving  
980 the existing transportation infrastructure; enhancing Florida's  
981 economic competitiveness; and improving travel choices to ensure  
982 mobility. The long-range transportation plan must be consistent,  
983 to the maximum extent feasible, with future land use elements  
984 and the goals, objectives, and policies of the approved local  
985 government comprehensive plans of the units of local government  
986 located within the jurisdiction of the M.P.O., and with adopted  
987 regional visions that integrate transportation and land use  
988 planning to provide for sustainable growth and reduce greenhouse  
989 gas emissions. The approved long-range transportation plan must  
990 be considered by local governments in the development of the

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991 transportation elements in local government comprehensive plans  
992 and any amendments thereto. The long-range transportation plan  
993 must, at a minimum:

994 (a) Identify transportation facilities, including, but not  
995 limited to, major roadways, airports, seaports, spaceports,  
996 commuter rail systems, transit systems, and intermodal or  
997 multimodal terminals that will function as an integrated  
998 metropolitan transportation system. The long-range  
999 transportation plan must give emphasis to those transportation  
1000 facilities that serve national, statewide, or regional  
1001 functions, and must consider the goals and objectives identified  
1002 in the Florida Transportation Plan as provided in s. 339.155. If  
1003 a project is located within the boundaries of more than one  
1004 M.P.O., the M.P.O.'s must coordinate plans regarding the project  
1005 in the long-range transportation plan.

1006 (b) Include a financial plan that demonstrates how the  
1007 plan can be implemented, indicating resources from public and  
1008 private sources which are reasonably expected to be available to  
1009 carry out the plan, and recommends any additional financing  
1010 strategies for needed projects and programs. The financial plan  
1011 may include, for illustrative purposes, additional projects that  
1012 would be included in the adopted long-range transportation plan  
1013 if reasonable additional resources beyond those identified in  
1014 the financial plan were available. For the purpose of developing  
1015 the long-range transportation plan, the M.P.O. and the  
1016 department shall cooperatively develop estimates of funds that  
1017 will be available to support the plan implementation. Innovative  
1018 financing techniques may be used to fund needed projects and

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1019 programs. Such techniques may include the assessment of tolls,  
1020 the use of value capture financing, or the use of value pricing.

1021 (c) Assess capital investment and other measures necessary  
1022 to:

1023 1. Ensure the preservation of the existing metropolitan  
1024 transportation system including requirements for the operation,  
1025 resurfacing, restoration, and rehabilitation of major roadways  
1026 and requirements for the operation, maintenance, modernization,  
1027 and rehabilitation of public transportation facilities; and

1028 2. Make the most efficient use of existing transportation  
1029 facilities to relieve vehicular congestion and maximize the  
1030 mobility of people and goods.

1031 (d) Indicate, as appropriate, proposed transportation  
1032 enhancement activities, including, but not limited to,  
1033 pedestrian and bicycle facilities, scenic easements,  
1034 landscaping, historic preservation, mitigation of water  
1035 pollution due to highway runoff, and control of outdoor  
1036 advertising.

1037 (e) In addition to the requirements of paragraphs (a)-(d),  
1038 in metropolitan areas that are classified as nonattainment areas  
1039 for ozone or carbon monoxide, the M.P.O. must coordinate the  
1040 development of the long-range transportation plan with the State  
1041 Implementation Plan developed pursuant to the requirements of  
1042 the federal Clean Air Act.

1043  
1044 In the development of its long-range transportation plan, each  
1045 M.P.O. must provide the public, affected public agencies,  
1046 representatives of transportation agency employees, freight

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1047 shippers, providers of freight transportation services, private  
1048 providers of transportation, representatives of users of public  
1049 transit, and other interested parties with a reasonable  
1050 opportunity to comment on the long-range transportation plan.  
1051 The long-range transportation plan must be approved by the  
1052 M.P.O.

1053 (8) TRANSPORTATION IMPROVEMENT PROGRAM.--Each M.P.O.  
1054 shall, in cooperation with the state and affected public  
1055 transportation operators, develop a transportation improvement  
1056 program for the area within the jurisdiction of the M.P.O. In  
1057 the development of the transportation improvement program, each  
1058 M.P.O. must provide the public, affected public agencies,  
1059 representatives of transportation agency employees, freight  
1060 shippers, providers of freight transportation services, private  
1061 providers of transportation, representatives of users of public  
1062 transit, and other interested parties with a reasonable  
1063 opportunity to comment on the proposed transportation  
1064 improvement program.

1065 (a) Each M.P.O. is responsible for developing, annually, a  
1066 list of project priorities and a transportation improvement  
1067 program. The prevailing principles to be considered by each  
1068 M.P.O. when developing a list of project priorities and a  
1069 transportation improvement program are: preserving the existing  
1070 transportation infrastructure; enhancing Florida's economic  
1071 competitiveness; and improving travel choices to ensure  
1072 mobility. The transportation improvement program will be used to  
1073 initiate federally aided transportation facilities and  
1074 improvements as well as other transportation facilities and

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1075 improvements including transit, rail, aviation, spaceport, and  
1076 port facilities to be funded from the State Transportation Trust  
1077 Fund within its metropolitan area in accordance with existing  
1078 and subsequent federal and state laws and rules and regulations  
1079 related thereto. The transportation improvement program shall be  
1080 consistent, to the maximum extent feasible, with the approved  
1081 local government comprehensive plans of the units of local  
1082 government whose boundaries are within the metropolitan area of  
1083 the M.P.O., and with adopted regional visions that integrate  
1084 transportation and land use planning to provide for sustainable  
1085 growth and reduce greenhouse gas emissions, and include those  
1086 projects programmed pursuant to s. 339.2819(4).

1087 (b) Each M.P.O. annually shall prepare a list of project  
1088 priorities and shall submit the list to the appropriate district  
1089 of the department by October 1 of each year; however, the  
1090 department and a metropolitan planning organization may, in  
1091 writing, agree to vary this submittal date. The list of project  
1092 priorities must be formally reviewed by the technical and  
1093 citizens' advisory committees, and approved by the M.P.O.,  
1094 before it is transmitted to the district. The approved list of  
1095 project priorities must be used by the district in developing  
1096 the district work program and must be used by the M.P.O. in  
1097 developing its transportation improvement program. The annual  
1098 list of project priorities must be based upon project selection  
1099 criteria that, at a minimum, consider the following:

- 1100 1. The approved M.P.O. long-range transportation plan;
- 1101 2. The Strategic Intermodal System Plan developed under s.
- 1102 339.64.



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- 1103 3. The priorities developed pursuant to s. 339.2819(4).  
1104 4. The results of the transportation management systems;  
1105 ~~and~~  
1106 5. The M.P.O.'s public-involvement procedures; and-  
1107 6. To provide for sustainable growth and reduce greenhouse  
1108 gas emissions.

1109 Section 18. Section 366.82, Florida Statutes, is amended  
1110 to read:

1111 366.82 Definition; goals; plans; programs; annual reports;  
1112 energy audits.--

1113 (1) For the purposes of ss. 366.80-366.85 and 403.519,  
1114 "utility" means any person or entity of whatever form which  
1115 provides electricity or natural gas at retail to the public,  
1116 specifically including municipalities or instrumentalities  
1117 thereof and cooperatives organized under the Rural Electric  
1118 Cooperative Law and specifically excluding any municipality or  
1119 instrumentality thereof, any cooperative organized under the  
1120 Rural Electric Cooperative Law, or any other person or entity  
1121 providing natural gas at retail to the public whose annual sales  
1122 volume is less than 100 million therms or any municipality or  
1123 instrumentality thereof and any cooperative organized under the  
1124 Rural Electric Cooperative Law providing electricity at retail  
1125 to the public whose annual sales as of July 1, 1993, to end-use  
1126 customers is less than 2,000 gigawatt hours.

1127 (2) The commission shall adopt appropriate goals for  
1128 increasing the efficiency of energy consumption and increasing  
1129 the development of cogeneration, specifically including goals  
1130 designed to increase the conservation of expensive resources,

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1131 such as petroleum fuels, to reduce and control the growth rates  
1132 of electric consumption, and to reduce the growth rates of  
1133 weather-sensitive peak demand. The Executive Office of the  
1134 Governor shall be a party in the proceedings to adopt goals. The  
1135 commission may change the goals for reasonable cause. The time  
1136 period to review the goals, however, must ~~shall~~ not exceed 5  
1137 years. After the programs and plans to meet those goals are  
1138 completed, the commission shall determine what further goals,  
1139 programs, or plans are warranted and, if so, shall adopt them.

1140 (3) The commission shall publish a notice of proposed  
1141 rulemaking no later than July 1, 2009, requiring utilities to  
1142 offset 20 percent of their annual load-growth through energy  
1143 efficiency and conservation measures thereby constituting an  
1144 energy efficiency portfolio standard. The commission may allow  
1145 efficiency investments across generation, transmission, and  
1146 distribution as well as efficiencies within the user base. As  
1147 part of the implementation rules, the commission shall create an  
1148 in-state market for tradable credits enabling those utilities  
1149 that exceed the standard to sell credits to those that cannot  
1150 meet the standard for a given year. This efficiency standard is  
1151 separate from and exclusive of the renewable portfolio standard  
1152 that requires electricity providers to obtain a minimum  
1153 percentage of their power from renewable energy resources.

1154 (4)~~(3)~~ Following adoption of goals pursuant to subsection  
1155 (3) ~~(2)~~, the commission shall require each utility to develop  
1156 plans and programs to meet the overall goals within its service  
1157 area. If any plan or program includes loans, collection of  
1158 loans, or similar banking functions by a utility and the plan is

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1159 approved by the commission, the utility shall perform such  
1160 functions, notwithstanding any other provision of the law. The  
1161 commission may pledge up to \$5 million of the Florida Public  
1162 Service Regulatory Trust Fund to guarantee such loans. However,  
1163 no utility shall be required to loan its funds for the purpose  
1164 of purchasing or otherwise acquiring conservation measures or  
1165 devices, but nothing herein shall prohibit or impair the  
1166 administration or implementation of a utility plan as submitted  
1167 by a utility and approved by the commission under this  
1168 subsection. If the commission disapproves a plan, it shall  
1169 specify the reasons for disapproval, and the utility whose plan  
1170 is disapproved shall resubmit its modified plan within 30 days.  
1171 Prior approval by the commission shall be required to modify or  
1172 discontinue a plan, or part thereof, which has been approved. If  
1173 any utility has not implemented its programs and is not  
1174 substantially in compliance with the provisions of its approved  
1175 plan at any time, the commission shall adopt programs required  
1176 for that utility to achieve the overall goals. Utility programs  
1177 may include variations in rate design, load control,  
1178 cogeneration, residential energy conservation subsidy, or any  
1179 other measure within the jurisdiction of the commission which  
1180 the commission finds likely to be effective; this provision  
1181 shall not be construed to preclude these measures in any plan or  
1182 program.

1183 (5)~~(4)~~ The commission shall require periodic reports from  
1184 each utility and shall provide the Legislature and the Governor  
1185 with an annual report by March 1 of the goals it has adopted and  
1186 its progress toward meeting those goals. The commission shall

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1187 | also consider the performance of each utility pursuant to ss.  
1188 | 366.80-366.85 and 403.519 when establishing rates for those  
1189 | utilities over which the commission has ratesetting authority.

1190 |       (6) The commission shall require municipal and cooperative  
1191 | utilities that are exempt from the Florida Energy Efficiency and  
1192 | Conservation Act to submit an annual report to the commission  
1193 | identifying energy efficiency and conservation goals and the  
1194 | actions taken to meet those goals.

1195 |       ~~(7)~~(5) The commission shall require each utility to offer,  
1196 | or to contract to offer, energy audits to its residential  
1197 | customers. This requirement need not be uniform, but may be  
1198 | based on such factors as level of usage, geographic location, or  
1199 | any other reasonable criterion, so long as all eligible  
1200 | customers are notified. The commission may extend this  
1201 | requirement to some or all commercial customers. The commission  
1202 | shall set the charge for audits by rule, not to exceed the  
1203 | actual cost, and may describe by rule the general form and  
1204 | content of an audit. In the event one utility contracts with  
1205 | another utility to perform audits for it, the utility for which  
1206 | the audits are performed shall pay the contracting utility the  
1207 | reasonable cost of performing the audits. Each utility over  
1208 | which the commission has ratesetting authority shall estimate  
1209 | its costs and revenues for audits, conservation programs, and  
1210 | implementation of its plan for the immediately following 6-month  
1211 | period. Reasonable and prudent unreimbursed costs projected to  
1212 | be incurred, or any portion of such costs, may be added to the  
1213 | rates which would otherwise be charged by a utility upon  
1214 | approval by the commission, provided that the commission shall

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1215 not allow the recovery of the cost of any company image-  
1216 enhancing advertising or of any advertising not directly related  
1217 to an approved conservation program. Following each 6-month  
1218 period, each utility shall report the actual results for that  
1219 period to the commission, and the difference, if any, between  
1220 actual and projected results shall be taken into account in  
1221 succeeding periods. The state plan as submitted for  
1222 consideration under the National Energy Conservation Policy Act  
1223 shall not be in conflict with any state law or regulation.

1224 (8) ~~(6)~~ (a) Notwithstanding the provisions of s. 377.703,  
1225 the commission shall be the responsible state agency for  
1226 performing, coordinating, implementing, or administering the  
1227 functions of the state plan submitted for consideration under  
1228 the National Energy Conservation Policy Act and any acts  
1229 amendatory thereof or supplemental thereto and for performing,  
1230 coordinating, implementing, or administering the functions of  
1231 any future federal program delegated to the state which relates  
1232 to consumption, utilization, or conservation of electricity or  
1233 natural gas; and the commission shall have exclusive  
1234 responsibility for preparing all reports, information, analyses,  
1235 recommendations, and materials related to consumption,  
1236 utilization, or conservation of electrical energy which are  
1237 required or authorized by s. 377.703.

1238 (b) The Executive Office of the Governor shall be a party  
1239 in the proceedings to adopt goals and shall file with the  
1240 commission comments on the proposed goals including, but not  
1241 limited to:

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1242 1. An evaluation of utility load forecasts, including an  
1243 assessment of alternative supply and demand side resource  
1244 options.

1245 2. An analysis of various policy options which can be  
1246 implemented to achieve a least-cost strategy.

1247 (9) (7) The commission shall establish all minimum  
1248 requirements for energy auditors used by each utility. The  
1249 commission is authorized to contract with any public agency or  
1250 other person to provide any training, testing, evaluation, or  
1251 other step necessary to fulfill the provisions of this  
1252 subsection.

1253 (10) The commission shall immediately initiate rulemaking  
1254 to allow utilities to install solar hot water systems and other  
1255 renewable energy efficient technologies in residential homes and  
1256 commercial facilities while retaining ownership of the systems.  
1257 Utility expenditures for this purpose shall be placed in the  
1258 utility's rate base as a capital investment and depreciated over  
1259 20 years. The utilities may apply the credits for the investment  
1260 in the solar hot water systems or other renewable energy  
1261 efficient technologies to their renewable portfolio standard or  
1262 their energy efficiency portfolio standard as determined in  
1263 subsection (3).

1264 Section 19. Paragraph (d) of subsection (1) of section  
1265 366.8255, Florida Statutes, is amended to read:

1266 366.8255 Environmental cost recovery.--

1267 (1) As used in this section, the term:

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1268 (d) "Environmental compliance costs" includes all costs or  
1269 expenses incurred by an electric utility in complying with  
1270 environmental laws or regulations, including but not limited to:

1271 1. Inservice capital investments, including the electric  
1272 utility's last authorized rate of return on equity thereon;

1273 2. Operation and maintenance expenses;

1274 3. Fuel procurement costs;

1275 4. Purchased power costs;

1276 5. Emission allowance costs;

1277 6. Direct taxes on environmental equipment; ~~and~~

1278 7. Costs or expenses prudently incurred for scientific  
1279 research and geological assessments of carbon capture and  
1280 storage for the purpose of reducing an electric utility's  
1281 greenhouse gas emissions when such costs or expenses are  
1282 incurred in joint research projects with this state's government  
1283 agencies and universities; and by an electric utility pursuant  
1284 to an agreement entered into on or after the effective date of  
1285 this act and prior to October 1, 2002, between the electric  
1286 utility and the Florida Department of Environmental Protection  
1287 or the United States Environmental Protection Agency for the  
1288 exclusive purpose of ensuring compliance with ozone ambient air  
1289 quality standards by an electrical generating facility owned by  
1290 the electric utility.

1291 8. Costs or expenses prudently incurred for the  
1292 quantification, reporting, and verification of greenhouse gas  
1293 emissions by third parties as required for participation in  
1294 emission registries.

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1295 Section 20. Section 377.601, Florida Statutes, is amended  
1296 to read:

1297 377.601 Legislative intent.--

1298 (1) The Legislature finds that this state's energy  
1299 security can be increased by lessening dependence on foreign  
1300 oil, that the impacts of global climate change can be reduced  
1301 through the reduction of greenhouse gas emissions, and that the  
1302 implementation of alternative energy technologies can be the  
1303 source of new jobs and employment opportunities for many  
1304 Floridians. The Legislature further finds that this state is  
1305 positioned at the front line against potential impacts of global  
1306 climate change. Human and economic costs of those impacts can be  
1307 averted and, where necessary, adapted to by a concerted effort  
1308 to make this state's communities more resilient and less  
1309 vulnerable to these impacts. In focusing the government's policy  
1310 and efforts to protect this state, its citizens, and resources,  
1311 the Legislature believes that a single government entity have a  
1312 specific focus on energy and climate change is both desirable  
1313 and advantageous. ~~the ability to deal effectively with present~~  
1314 ~~shortages of resources used in the production of energy is~~  
1315 ~~aggravated and intensified because of inadequate or nonexistent~~  
1316 ~~information and that intelligent response to these problems and~~  
1317 ~~to the development of a state energy policy demands accurate and~~  
1318 ~~relevant information concerning energy supply, distribution, and~~  
1319 ~~use. The Legislature finds and declares that a procedure for the~~  
1320 ~~collection and analysis of data on the energy flow in this state~~  
1321 ~~is essential to the development and maintenance of an energy~~  
1322 ~~profile defining the characteristics and magnitudes of present~~



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1323 ~~and future energy demands and availability so that the state may~~  
1324 ~~rationaly deal with present energy problems and anticipate~~  
1325 ~~future energy problems.~~

1326 ~~(2) The Legislature further recognizes that every state~~  
1327 ~~official dealing with energy problems should have current and~~  
1328 ~~reliable information on the types and quantity of energy~~  
1329 ~~resources produced, imported, converted, distributed, exported,~~  
1330 ~~stored, held in reserve, or consumed within the state.~~

1331 ~~(3) It is the intent of the Legislature in the passage of~~  
1332 ~~this act to provide the necessary mechanisms for the effective~~  
1333 ~~development of information necessary to rectify the present lack~~  
1334 ~~of information which is seriously handicapping the state's~~  
1335 ~~ability to deal effectively with the energy problem. To this~~  
1336 ~~end, the provisions of ss. 377.601-377.608 should be given the~~  
1337 ~~broadest possible interpretation consistent with the stated~~  
1338 ~~legislative desire to procure vital information.~~

1339 ~~(2)(4)~~ It is the policy of the State of Florida to:

1340 (a) Recognize and address the potential impacts of global  
1341 climate change wherever possible. ~~Develop and promote the~~  
1342 ~~effective use of energy in the state and discourage all forms of~~  
1343 ~~energy waste.~~

1344 (b) Play a leading role in developing and instituting  
1345 energy management programs aimed at promoting energy  
1346 conservation, energy security, and the reduction of greenhouse  
1347 gas emissions.

1348 (c) Include energy considerations in all state, regional,  
1349 and local planning.

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1350 (d) Utilize and manage effectively energy resources used  
1351 within state agencies.

1352 (e) Encourage local governments to include energy  
1353 considerations in all planning and to support their work in  
1354 promoting energy management programs.

1355 (f) Include the full participation of citizens in the  
1356 development and implementation of energy programs.

1357 (g) Consider in its decisions the energy needs of each  
1358 economic sector, including residential, industrial, commercial,  
1359 agricultural, and governmental uses and reduce those needs  
1360 whenever possible.

1361 (h) Promote energy education and the public dissemination  
1362 of information on energy and its environmental, economic, and  
1363 social impact.

1364 (i) Encourage the research, development, demonstration,  
1365 and application of alternative energy resources, particularly  
1366 renewable energy resources.

1367 (j) Consider, in its decisionmaking, the social, economic,  
1368 security, and environmental impacts of energy-related  
1369 activities, including the whole life-cycle impacts of any  
1370 potential energy use choices, so that detrimental effects of  
1371 these activities are understood and minimized.

1372 (k) Develop and maintain energy emergency preparedness  
1373 plans to minimize the effects of an energy shortage within  
1374 Florida.

1375 Section 21. Section 403.44, Florida Statutes, is created  
1376 to read:

1377 403.44 Florida Climate Protection Act.--

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1378       (1) The Legislature finds it is in the best interest of  
1379 this state to document, to the greatest extent practicable,  
1380 greenhouse gas (GHG) emissions and to pursue a market-based  
1381 emissions abatement program, such as cap-and-trade, to address  
1382 GHG emissions reductions.

1383       (2) As used in this section, the term:

1384       (a) "Allowance" means a credit issued by the department  
1385 through allotments or auction which represents an authorization  
1386 to emit specific amounts of greenhouse gases, as further defined  
1387 in department rule.

1388       (b) "Cap-and-trade" or "emissions trading" means an  
1389 administrative approach used to control pollution by providing a  
1390 limit on total allowable emissions, providing for allowances to  
1391 emit pollutants, and providing for the transfer of the  
1392 allowances among pollutant sources as a means of compliance with  
1393 emission limits.

1394       (c) "Greenhouse gas" includes carbon dioxide, methane,  
1395 nitrous oxide, and fluorinated gases such as hydrofluorocarbons,  
1396 perfluorocarbons, and sulfur hexafluoride.

1397       (d) "Leakage" means emission abatement that is achieved in  
1398 one location and subject to emission control regulation may be  
1399 offset by increased emissions in an unregulated locations.

1400       (e) "Major emitter" means an electric utility regulated  
1401 under this chapter.

1402       (3) A major emitter must use the climate registry for  
1403 purposes of emission registration and reporting.

1404       (4) The Department of Environmental Protection shall  
1405 establish the methodologies, reporting periods, and reporting



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1406 systems that must be used when major emitters report to the  
1407 climate registry. The department may require the use of quality-  
1408 assured data from continuous emissions-monitoring systems.

1409 (5) The department may adopt rules for a cap-and-trade  
1410 regulatory program to reduce greenhouse gas emissions from major  
1411 emitters. When developing the rules, the department shall  
1412 consult with the Governor's action team and the Florida Energy  
1413 Commission. The rules shall not become effective until ratified  
1414 by the Legislature.

1415 (6) The rules of the cap-and-trade regulatory program  
1416 shall include, but are not limited to:

1417 (a) A statewide limit or cap on the amount of GHG  
1418 emissions emitted by a major emitter.

1419 (b) Methods, requirements, and conditions for allocating  
1420 the cap among major emitters.

1421 (c) Methods, requirements, and conditions for emissions  
1422 allowances and the process for issuing emissions allowances.

1423 (d) The relationship between allowances and the specific  
1424 amounts of greenhouse gases they represent.

1425 (e) A process for the trade of allowances between major  
1426 emitters, including a registry, tracking, or accounting system  
1427 for such trades.

1428 (f) A safety valve to stop or modify the cap-and-trade  
1429 process in order to reduce price and cost risks associated with  
1430 the electric generation market in this state.

1431 (g) A process to allow the department to exercise its  
1432 authority to discourage leakage of GHG emissions to neighboring  
1433 states attributable to the implementation of this program.

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1434           (h) Provisions for a trial period on the trading of  
1435 allowances before full implementation of a trading system.

1436           (i) Other requirements necessary or desirable to implement  
1437 this section.

1438           Section 22. Section 489.145, Florida Statutes, is amended  
1439 to read:

1440           489.145 Guaranteed energy performance savings  
1441 contracting.--

1442           (1) SHORT TITLE.--This section may be cited as the  
1443 "Guaranteed Energy Performance Savings Contracting Act."

1444           (2) LEGISLATIVE FINDINGS.--The Legislature finds that  
1445 investment in energy conservation measures in agency facilities  
1446 can reduce the amount of energy consumed and produce immediate  
1447 and long-term savings. It is the policy of this state to  
1448 encourage agencies to invest in energy conservation measures  
1449 that ~~reduce energy consumption, produce a cost savings for the~~  
1450 ~~agency, and improve the quality of indoor air in public~~  
1451 ~~facilities and to operate, maintain, and, when economically~~  
1452 ~~feasible, build or renovate existing agency facilities in such a~~  
1453 ~~manner as to~~ minimize energy consumption and maximize energy  
1454 savings. It is further the policy of this state to encourage  
1455 agencies to reinvest any energy savings resulting from energy  
1456 conservation measures in additional energy conservation efforts.

1457           (3) DEFINITIONS.--As used in this section, the term:

1458           (a) "Agency" means the state, a municipality, or a  
1459 political subdivision.

1460           (b) "Energy conservation measure" means a ~~training~~  
1461 ~~program,~~ facility alteration, or equipment purchase to be used

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1462 in new construction, including an addition to an existing  
1463 facility, which reduces energy or energy-relayed operating costs  
1464 and includes, but is not limited to:

1465 1. Insulation of the facility structure and systems within  
1466 the facility.

1467 2. Storm windows and doors, caulking or weatherstripping,  
1468 multiglazed windows and doors, heat-absorbing, or heat-  
1469 reflective, glazed and coated window and door systems,  
1470 additional glazing, reductions in glass area, and other window  
1471 and door system modifications that reduce energy consumption.

1472 3. Automatic energy control systems.

1473 4. Heating, ventilating, or air-conditioning system  
1474 modifications or replacements.

1475 5. Replacement or modifications of lighting fixtures to  
1476 increase the energy efficiency of the lighting system, which, at  
1477 a minimum, must conform to the applicable state or local  
1478 building code.

1479 6. Energy recovery systems.

1480 7. Cogeneration systems that produce steam or forms of  
1481 energy such as heat, as well as electricity, for use primarily  
1482 within a facility or complex of facilities.

1483 8. Energy conservation measures that reduce British  
1484 thermal units (Btu), kilowatts (kW), or kilowatt hours (kWh)  
1485 consumed or provide long-term operating cost reductions ~~or~~  
1486 ~~significantly reduce Btu consumed.~~

1487 9. Renewable energy systems, such as solar, biomass, or  
1488 wind systems.

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- 1489           10. Devices that reduce water consumption or sewer  
1490 charges.
- 1491           11. Storage systems, such as fuel cells and thermal  
1492 storage.
- 1493           12. Generating technologies, such as microturbines.
- 1494           13. Any other repair, replacement, or upgrade of existing  
1495 equipment.
- 1496           (c) "Energy cost savings" means a measured reduction in  
1497 the cost of fuel, energy consumption, and stipulated operation  
1498 and maintenance created from the implementation of one or more  
1499 energy conservation measures when compared with an established  
1500 baseline for the previous cost of fuel, energy consumption, and  
1501 stipulated operation and maintenance.
- 1502           (d) "Guaranteed energy performance savings contract" means  
1503 a contract for the evaluation, recommendation, and  
1504 implementation of energy conservation measures or energy-related  
1505 operational saving measures, which, at a minimum, shall include:
- 1506           1. The design and installation of equipment to implement  
1507 one or more of such measures and, if applicable, operation and  
1508 maintenance of such measures.
- 1509           2. The amount of any actual annual savings that meet or  
1510 exceed total annual contract payments made by the agency for the  
1511 contract.
- 1512           3. The finance charges incurred by the agency over the  
1513 life of the contract and may include allowable cost avoidance.  
1514 As used in this section, allowable cost avoidance calculations  
1515 include, but are not limited to, avoided provable budgeted costs  
1516 contained in a capital replacement plan less the current



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1517 undepreciated value of replaced equipment and the replacement  
1518 cost of the new equipment.

1519 (e) "Guaranteed energy performance savings contractor"  
1520 means a person or business that is licensed under chapter 471,  
1521 chapter 481, or this chapter, and is experienced in the  
1522 analysis, design, implementation, or installation of energy  
1523 conservation measures through energy performance contracts.

1524 (4) PROCEDURES.--

1525 (a) An agency may enter into a guaranteed energy  
1526 performance savings contract with a guaranteed energy  
1527 performance savings contractor to ~~significantly~~ reduce energy  
1528 consumption or energy-related operating costs of an agency  
1529 facility through one or more energy conservation measures.

1530 (b) Before design and installation of energy conservation  
1531 measures, the agency must obtain from a guaranteed energy  
1532 performance savings contractor a report that summarizes the  
1533 costs associated with the energy conservation measures or  
1534 energy-related operational cost saving measures and provides an  
1535 estimate of the amount of the ~~energy~~ cost savings. The agency  
1536 and the guaranteed energy performance savings contractor may  
1537 enter into a separate agreement to pay for costs associated with  
1538 the preparation and delivery of the report; however, payment to  
1539 the contractor shall be contingent upon the report's projection  
1540 of energy or operational cost savings being equal to or greater  
1541 than the total projected costs of the design and installation of  
1542 the report's energy conservation measures.

1543 (c) The agency may enter into a guaranteed energy  
1544 performance savings contract with a guaranteed energy



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1545 performance savings contractor if the agency finds that the  
1546 amount the agency would spend on the energy conservation or  
1547 energy-related cost saving measures will not likely exceed the  
1548 amount of the energy or energy-related cost savings for up to 20  
1549 years from the date of installation, based on the life cycle  
1550 cost calculations provided in s. 255.255, if the recommendations  
1551 in the report were followed and if the qualified provider or  
1552 providers give a written guarantee that the energy or energy-  
1553 related cost savings will meet or exceed the costs of the  
1554 system. However, actual computed cost savings must meet or  
1555 exceed the estimated cost savings provided in each agency's  
1556 program approval. Baseline adjustments used in calculations must  
1557 be specified in the contract. The contract may provide for  
1558 installment payments for a period not to exceed 20 years.

1559 (d) A guaranteed energy performance savings contractor  
1560 must be selected in compliance with s. 287.055; except that if  
1561 fewer than three firms are qualified to perform the required  
1562 services, the requirement for agency selection of three firms,  
1563 as provided in s. 287.055(4)(b), and the bid requirements of s.  
1564 287.057 do not apply.

1565 (e) Before entering into a guaranteed energy performance  
1566 savings contract, an agency must provide published notice of the  
1567 meeting in which it proposes to award the contract, the names of  
1568 the parties to the proposed contract, and the contract's  
1569 purpose.

1570 (f) A guaranteed energy performance savings contract may  
1571 provide for financing, including tax-exempt financing, by a  
1572 third party. The contract for third party financing may be

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1573 separate from the energy performance contract. A separate  
1574 contract for third party financing must include a provision that  
1575 the third party financier under this paragraph must not be  
1576 granted rights or privileges that exceed the rights and  
1577 privileges available to the guaranteed energy performance  
1578 savings contractor.

1579 (g) Financing for guaranteed energy performance savings  
1580 contracts may be provided under the authority of s. 287.064.

1581 (h) The Office of the Chief Financial Officer shall review  
1582 proposals to ensure that the most effective financing is being  
1583 used.

1584 (i) ~~(g)~~ In determining the amount the agency will finance  
1585 to acquire the energy conservation measures, the agency may  
1586 reduce such amount by the application of any grant moneys,  
1587 rebates, or capital funding available to the agency for the  
1588 purpose of buying down the cost of the guaranteed energy  
1589 performance savings contract. However, in calculating the life  
1590 cycle cost as required in paragraph (c), the agency shall not  
1591 apply any grants, rebates, or capital funding.

1592 (5) CONTRACT PROVISIONS.--

1593 (a) A guaranteed energy performance savings contract must  
1594 include a written guarantee that may include, but is not limited  
1595 to the form of, a letter of credit, insurance policy, or  
1596 corporate guarantee by the guaranteed energy performance savings  
1597 contractor that annual energy cost savings will meet or exceed  
1598 the amortized cost of energy conservation measures.

1599 (b) The guaranteed energy performance savings contract  
1600 must provide that all payments, except obligations on



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1601 termination of the contract before its expiration, may be made  
1602 over time, but not to exceed 20 years from the date of complete  
1603 installation and acceptance by the agency, and that the annual  
1604 savings are guaranteed to the extent necessary to make annual  
1605 payments to satisfy the guaranteed energy performance savings  
1606 contract.

1607 (c) The guaranteed energy performance savings contract  
1608 must require that the guaranteed energy performance savings  
1609 contractor to whom the contract is awarded provide a 100-percent  
1610 public construction bond to the agency for its faithful  
1611 performance, as required by s. 255.05.

1612 (d) The guaranteed energy performance savings contract may  
1613 contain a provision allocating to the parties to the contract  
1614 any annual energy cost savings that exceed the amount of the  
1615 energy cost savings guaranteed in the contract.

1616 (e) The guaranteed energy performance savings contract  
1617 shall require the guaranteed energy performance savings  
1618 contractor to provide to the agency an annual reconciliation of  
1619 the guaranteed energy or energy-related cost savings. If the  
1620 reconciliation reveals a shortfall in annual energy or energy-  
1621 related cost savings, the guaranteed energy performance savings  
1622 contractor is liable for such shortfall. If the reconciliation  
1623 reveals an excess in annual energy cost savings, the excess  
1624 savings may be allocated under paragraph (d) but may not be used  
1625 to cover potential energy cost savings shortages in subsequent  
1626 contract years.

1627 (f) The guaranteed energy performance savings contract  
1628 must provide for payments of not less than one-twentieth of the

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1629 price to be paid within 2 years from the date of the complete  
1630 installation and acceptance by the agency using straight-line  
1631 amortization for the term of the loan, and the remaining costs  
1632 to be paid at least quarterly, not to exceed a 20-year term,  
1633 based on life cycle cost calculations.

1634 (g) The guaranteed energy performance savings contract may  
1635 extend beyond the fiscal year in which it becomes effective;  
1636 however, the term of any contract expires at the end of each  
1637 fiscal year and may be automatically renewed annually for up to  
1638 20 years, subject to the agency making sufficient annual  
1639 appropriations based upon continued realized energy savings.

1640 (h) The guaranteed energy performance savings contract  
1641 must stipulate that it does not constitute a debt, liability, or  
1642 obligation of the state.

1643 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The  
1644 Department of Management Services, with the assistance of the  
1645 Office of the Chief Financial Officer, shall ~~may~~, within  
1646 available resources, provide technical assistance to state  
1647 agencies contracting for energy conservation measures and engage  
1648 in other activities considered appropriate by the department for  
1649 promoting and facilitating guaranteed energy performance  
1650 contracting by state agencies. The Office of the Chief Financial  
1651 Officer, with the assistance of the Department of Management  
1652 Services, shall ~~may, within available resources,~~ develop model  
1653 contractual and related documents for use by state agencies.  
1654 Prior to entering into a guaranteed energy performance savings  
1655 contract, any contract or lease for third-party financing, or  
1656 any combination of such contracts, a state agency shall submit

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1657 such proposed contract or lease to the Office of the Chief  
1658 Financial Officer for review and approval. A proposed contract  
1659 or lease must include:

1660 (a) Supporting information required by s. 216.023(4) (a);

1661 (b) Documentation supporting recurring funds requirements  
1662 in ss. 287.063(5) and 287.064(11);

1663 (c) Approval by the chief executive officer of the  
1664 government entity, or his or her designee; and

1665 (d) An agency measurement and verification plan to monitor  
1666 costs savings.

1667 (7) FUNDING SUPPORT.--For purposes of consolidated  
1668 financing of deferred payment commodity contracts under this  
1669 section by an agency, any contract must be supported from  
1670 available funds appropriated to the agency in an appropriation  
1671 category, as defined in chapter 216, which the Chief Financial  
1672 Officer has determined is appropriate or which the Legislature  
1673 has designated for payment of the obligation incurred under this  
1674 section. The Office of the Chief Financial Officer may not  
1675 approve any contract submitted under this section which does not  
1676 meet the requirements of this section.

1677 Section 23. Section 526.201, Florida Statutes, is created  
1678 to read:

1679 526.201 Short title.--Sections 526.201-526.2012, may be  
1680 cited as the "Florida Renewable Fuel Standard Act."

1681 Section 24. Section 553.9061, Florida Statutes, is created  
1682 to read:

1683 553.9061 Scheduled increases in thermal efficiency  
1684 standards.--

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1685       (1) The purpose of this section is to establish a schedule  
1686 of increases in the energy performance of buildings subject to  
1687 the Energy Efficiency Code for Building Construction. The  
1688 Florida Building Commission shall implement the following goals  
1689 through the triennial code adoption process:

1690       (a) Include the necessary provisions in the 2010 edition  
1691 of the Energy Efficiency Code for Building Construction to  
1692 increase the energy performance of new buildings by at least 20  
1693 percent as compared to the 2007 energy code;

1694       (b) Increase the energy efficiency requirements of the  
1695 2013 edition of the Energy Efficiency Code for Building  
1696 Construction by at least 30 percent as compared to the 2007  
1697 energy code;

1698       (c) Increase the energy efficiency requirements of the  
1699 2016 edition of the Energy Efficiency Code for Building  
1700 Construction by at least 40 percent as compared to the 2007  
1701 energy code; and

1702       (d) Increase the energy efficiency requirements of the  
1703 2019 edition of the Energy Efficiency Code for Building  
1704 Construction by at least 50 percent as compared to the 2007  
1705 energy code.

1706       (2) The Florida Building Commission shall identify within  
1707 code-support and compliance documentation the specific building  
1708 options and elements available to meet the energy performance  
1709 goals identified in this section.

1710       Section 25. Subsection (1) of section 553.957, Florida  
1711 Statutes, is amended to read:

1712       553.957 Products covered by this part.--

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1713 (1) The provisions of this part apply to the testing,  
1714 certification, and enforcement of energy conservation standards  
1715 for the following types of new commercial and residential  
1716 products sold in the state:

1717 (a) Refrigerators, refrigerator-freezers, and freezers  
1718 which can be operated by alternating current electricity,  
1719 excluding:

- 1720 1. Any type designed to be used without doors; and  
1721 2. Any type which does not include a compressor and  
1722 condenser unit as an integral part of the cabinet assembly.

1723 (b) Lighting equipment.

1724 (c) Showerheads.

1725 (d) Electric water heaters used to heat potable water in  
1726 homes or businesses.

1727 (e) Electric motors used to pump water within swimming  
1728 pools.

1729 (f) Water heaters for swimming pools such that only such  
1730 devices that use solar thermal radiation to heat water may be  
1731 sold or installed in this state.

1732 (g) ~~(d)~~ Any other type of consumer product which the  
1733 department classifies as a covered product as specified in this  
1734 part.

1735 Section 26. Sections 220.193, and 377.701, Florida  
1736 Statutes, are repealed.

1737 Section 27. The Public Service Commission shall analyze  
1738 utility revenue decoupling and provide a report and  
1739 recommendations to the Governor, the President of the Senate,

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1740 and the Speaker of the House of Representatives by January 1,  
1741 2009.

1742 Section 28. This act shall take effect July 1, 2008.

1743  
1744 ===== T I T L E A M E N D M E N T =====

1745 And the title is amended as follows:

1746  
1747 Delete everything before the enacting clause  
1748 and insert:

1749 A bill to be entitled  
1750 An act relating to energy conservation; providing an  
1751 effective date.SB 1544