

By Senator Baker

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1 A bill to be entitled
2 An act relating to renewable energy; providing legislative
3 findings regarding the state's energy policy; creating the
4 Task Force on Oil and Natural Gas Inventory; providing for
5 membership of the task force; requiring appointments to be
6 made by a certain date; providing for administrative
7 support; providing for duties and responsibilities;
8 requiring the task force to submit a report and
9 recommendations to the Legislature by a certain date;
10 amending s. 196.175, F.S.; revising provisions relating to
11 the renewable energy source exemption; revising the date
12 on which certain energy source devices are excluded from
13 the exemption; amending s. 212.08, F.S.; revising the
14 definition of "ethanol"; defining the term "renewable
15 fuel"; providing a tax exemption for the sale or use of
16 renewable fuel; providing that such exemption is limited
17 to one purchase of an eligible item; amending s. 220.192,
18 F.S.; defining the term "corporation"; revising the
19 definition of "eligible costs" to include renewable fuels;
20 providing for transfer of the renewable energy
21 technologies investment tax credit; providing requirements
22 for such transfer; requiring that the tax credit be passed
23 through to certain taxpayers; authorizing the Department
24 of Revenue to adopt rules regarding the transfer and pass
25 through of such tax credit; amending s. 220.193, F.S.;
26 defining the term "sale" or "sold"; providing that the use
27 of the renewable energy production credit does not reduce
28 the alternative minimum tax credit; repealing s. 52,
29 chapter 2007-73, Laws of Florida, relating to the

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

42
43 WHEREAS, the Legislature finds it is in the public interest
44 to keep Florida an attractive place to live, work, and do
45 business as the state's economy continues to make the transition
46 from a low-cost state to a high-cost state and the state's
47 population continues to grow, and

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

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

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

57 WHEREAS, Florida must invest in research and development for
58 alternative and renewable energy, promote conservation and

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59 efficiency, create clean energy jobs to support the growth of the
60 alternative energy industry, promote incentive-based emission
61 reductions programs, and keep all energy options available, and

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

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

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

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

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

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

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

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88 | goals, and

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

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

97 |

98 | Be It Enacted by the Legislature of the State of Florida:

99 |

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

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

106 | (2) The task force shall be composed of:

107 | (a) Two members appointed by the Governor;

108 | (b) Two members appointed by the President of the Senate;

109 | (c) Two members appointed by the Speaker of the House of
110 | Representatives;

111 | (d) The Commissioner of Agriculture or a designee;

112 | (e) The Secretary of Environmental Protection or a
113 | designee;

114 | (f) The chair of the Florida Energy Commission or a
115 | designee;

116 | (g) The chair of the Governor's Action Team on Climate and

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117 Energy or a designee; and

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

119 (3) Appointments to the task force shall be made by August
120 1, 2008. Members shall choose a chair and vice chair from the
121 membership of the task force.

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

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

138 (a) The Department of Environmental Protection;

139 (b) The Department of Health;

140 (c) The Office of Tourism, Trade, and Economic Development;

141 (d) The Department of Agriculture and Consumer Services;

142 (e) The Fish and Wildlife Conservation Commission; and

143 (f) The Public Service Commission.

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144 (6) The task force shall submit its report and
145 recommendations to the Legislature by January 8, 2009, on which
146 date the task force is dissolved.

147 Section 2. Section 196.175, Florida Statutes, is amended to
148 read:

149 196.175 Renewable energy source exemption.--

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

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

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

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

161 (2) The exempt amount authorized under subsection (1) shall
162 apply in full if the device was installed and operative
163 throughout the 12-month period preceding January 1 of the year of
164 application for this exemption. If the device was operative for a
165 portion of that period, the exempt amount authorized under this
166 section shall be reduced proportionally.

167 (3) It shall be the responsibility of the applicant for an
168 exemption pursuant to this section to demonstrate affirmatively
169 to the satisfaction of the property appraiser that he or she
170 meets the requirements for exemption under this section and that
171 the original cost ~~pursuant to paragraph (1)(b)~~ and the period for

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172 which the device was operative, as indicated on the exemption
173 application, are correct.

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

179 Section 3. Paragraph (ccc) of subsection (7) of section
180 212.08, Florida Statutes, is amended to read:

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

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

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201 subsection and the rules is liable for and shall pay the tax. The
202 department may adopt rules to administer this subsection.

203 (ccc) Equipment, machinery, and other materials for
204 renewable energy technologies.--

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

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

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

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

223 d. "Renewable fuel" means any motor vehicle fuel that is
224 used to replace or reduce the quantity of fossil fuel present in
225 a fuel mixture that is used to fuel a motor vehicle and is
226 produced from any of the following: grain, starch, oilseeds,
227 vegetable, animal, or fish materials including fats, greases, and
228 oils, sugarcane, sugar beets, sugar components, tobacco,
229 potatoes, other biomass, or natural gas produced from a biogas

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230 source, including a landfill, sewage waste treatment plant,
231 feedlot, or other place where there is decaying organic material.
232 This term includes cellulosic biomass ethanol, waste-derived
233 ethanol, biodiesel (mono-alkyl ester), non-ester renewable
234 diesel, and blending components derived from renewable fuel.

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

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

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

243 c. Materials used in the distribution of biodiesel (B10-
244 B100), renewable fuels, and ethanol (E10-E100), including fueling
245 infrastructure, transportation, and storage, up to a limit of \$1
246 million in tax each state fiscal year for all taxpayers. Gasoline
247 fueling station pump retrofits for ethanol (E10-E100)
248 distribution qualify for the exemption provided in this sub-
249 subparagraph.

250 3. The Department of Environmental Protection shall provide
251 to the department a list of items eligible for the exemption
252 provided in this paragraph.

253 4.a. The exemption provided in this paragraph shall be
254 available to a purchaser only through a refund of previously paid
255 taxes. Only one purchase of an eligible item is subject to
256 refund. A purchaser who has received a refund on an eligible item
257 shall notify any subsequent purchaser of the item that such item
258 is no longer eligible for a refund of paid taxes. The purchaser

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259 shall provide the notice to the subsequent purchaser on the sales
260 invoice or other proof of purchase.

261 b. To be eligible to receive the exemption provided in this
262 paragraph, a purchaser shall file an application with the
263 Department of Environmental Protection. The application shall be
264 developed by the Department of Environmental Protection, in
265 consultation with the department, and shall require:

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

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

270 (III) The sales invoice or other proof of purchase showing
271 the amount of sales tax paid, the date of purchase, and the name
272 and address of the sales tax dealer from whom the property was
273 purchased.

274 (IV) A sworn statement that the information provided is
275 accurate and that the requirements of this paragraph have been
276 met.

277 c. Within 30 days after receipt of an application, the
278 Department of Environmental Protection shall review the
279 application and shall notify the applicant of any deficiencies.
280 Upon receipt of a completed application, the Department of
281 Environmental Protection shall evaluate the application for
282 exemption and issue a written certification that the applicant is
283 eligible for a refund or issue a written denial of such
284 certification within 60 days after receipt of the application.
285 The Department of Environmental Protection shall provide the
286 department with a copy of each certification issued upon approval
287 of an application.

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288 d. Each certified applicant shall be responsible for
289 forwarding a certified copy of the application and copies of all
290 required documentation to the department within 6 months after
291 certification by the Department of Environmental Protection.

292 e. The provisions of s. 212.095 do not apply to any refund
293 application made pursuant to this paragraph. A refund approved
294 pursuant to this paragraph shall be made within 30 days after
295 formal approval by the department.

296 f. The department may adopt all rules pursuant to ss.
297 120.536(1) and 120.54 to administer this paragraph, including
298 rules establishing forms and procedures for claiming this
299 exemption.

300 g. The Department of Environmental Protection shall be
301 responsible for ensuring that the total amounts of the exemptions
302 authorized do not exceed the limits as specified in subparagraph
303 2.

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

307 6. This paragraph expires July 1, 2010.

308 Section 4. Subsections (1), (6), and (7) of section
309 220.192, Florida Statutes, are amended, present subsections (6)
310 and (7) of that section are redesignated as subsections (7) and
311 (8), respectively, and a new subsection (6) is added to that
312 section, to read:

313 220.192 Renewable energy technologies investment tax
314 credit.--

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

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316 (a) "Biodiesel" means biodiesel as defined in s.
317 212.08(7)(ccc).

318 (b) "Corporation" means a general partnership, limited
319 partnership, limited liability company, unincorporated business,
320 or other business entity in which a taxpayer owns an interest
321 which is taxed as a partnership or is disregarded as a separate
322 entity from the taxpayer for tax purposes.

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

324 1. Seventy-five percent of all capital costs, operation and
325 maintenance costs, and research and development costs incurred
326 between July 1, 2006, and June 30, 2010, up to a limit of \$3
327 million per state fiscal year for all taxpayers, in connection
328 with an investment in hydrogen-powered vehicles and hydrogen
329 vehicle fueling stations in the state, including, but not limited
330 to, the costs of constructing, installing, and equipping such
331 technologies in the state.

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

340 3. Seventy-five percent of all capital costs, operation and
341 maintenance costs, and research and development costs incurred
342 between July 1, 2006, and June 30, 2010, up to a limit of \$6.5
343 million per state fiscal year for all taxpayers, in connection
344 with an investment in the production, storage, and distribution

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345 of biodiesel (B10-B100), renewable fuels, and ethanol (E10-E100)
346 in the state, including the costs of constructing, installing,
347 and equipping such technologies in the state. Gasoline fueling
348 station pump retrofits for ethanol (E10-E100) distribution
349 qualify as an eligible cost under this subparagraph.

350 (d)~~(e)~~ "Ethanol" means ethanol as defined in s.
351 212.08(7)(ccc).

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

354 (f) "Renewable fuel" means renewable fuel as defined in s.
355 212.08(7)(ccc).

356 (6) TRANSFERABILITY OF CREDIT.--

357 (a) Any corporation and any subsequent transferee who
358 receives the tax credit may transfer such tax credit, in whole or
359 in part, to any taxpayer by written agreement without
360 transferring any ownership interest in the property generating
361 the tax credit or any interest in the entity that owns the
362 property. Transferees are entitled to apply the credit against
363 the tax, which has the same effect as if the transferee had
364 incurred the eligible costs.

365 (b) To complete the transfer, the transferor shall send a
366 written statement to the Department of Revenue as notice of the
367 assignor's intent to transfer the tax credit to the assignee. The
368 written statement must include the date the transfer is
369 effective; the assignee's name, address, federal taxpayer
370 identification number, and tax period; and the amount of tax
371 credit to be transferred. The Department of Revenue shall issue,
372 upon receipt of such statement, a certificate to the assignee
373 reflecting the tax credit amounts transferred. The assignee shall

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374 attach a copy of the certificate to each tax return in which the
375 tax credit is used.

376 (c) If a tax credit is derived from an entity that is a
377 corporation as defined in subsection (1) but is not transferred
378 by such entity to a taxpayer pursuant to this subsection, the tax
379 credit must be passed through to a taxpayer designated as a
380 partner, member, or owner, respectively, in a manner agreed to by
381 such person, regardless of whether any portion of the federal
382 energy tax credit relating to eligible costs is allocated to such
383 person.

384 (7)-(6) RULES.--The Department of Revenue shall have the
385 authority to adopt rules relating to:

386 (a) The forms required to claim a tax credit under this
387 section, the requirements and basis for establishing an
388 entitlement to a credit, and the examination and audit procedures
389 required to administer this section.

390 (b) The implementation and administration of a transfer of
391 a tax credit, including the forms, reporting requirements, and
392 the specific procedures, guidelines, and requirements necessary
393 to transfer the tax credit.

394 (c) The implementation and administration of a pass through
395 of a tax credit to an owner, member, or partner, including the
396 forms, reporting requirements, and the specific procedures,
397 guidelines, and requirements necessary for the pass through of
398 credit.

399 (8)-(7) PUBLICATION.--The Department of Environmental
400 Protection shall determine and publish on a regular basis the
401 amount of available tax credits remaining in each fiscal year.

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

405 220.193 Florida renewable energy production credit.--

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

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

410 (3) An annual credit against the tax imposed by this
411 section shall be allowed to a taxpayer, based on the taxpayer's
412 production and sale of electricity from a new or expanded Florida
413 renewable energy facility. For a new facility, the credit shall
414 be based on the taxpayer's sale of the facility's entire
415 electrical production. For an expanded facility, the credit shall
416 be based on the increases in the facility's electrical production
417 that are achieved after May 1, 2006.

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

421 Section 6. Section 52 of chapter 2007-73, Laws of Florida,
422 is repealed.

423 Section 7. Paragraph (c) is added to subsection (2) of
424 section 377.806, Florida Statutes, paragraph (b) of subsection
425 (3) and subsection (7) of that section are amended, present
426 subsections (6) and (7) of that section are redesignated as
427 subsections (7) and (8), respectively, and a new subsection (6)
428 is added to that section, to read:

429 377.806 Solar Energy System Incentives Program.--

430 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

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431 (c) Application.--To be eligible to receive a rebate,
432 applicants shall file a preapplication form with the department
433 which demonstrates that the planned system will meet the
434 applicable requirements of this section. The department shall
435 review the preapplication to determine if it complies with the
436 requirements of this section, notify the applicant within 30 days
437 after receipt of the preapplication that it has been received and
438 meets such requirements, and reserve funding for the
439 preapplication for up to 90 days after the date on which the
440 notice is issued to the applicant. Within 90 days after the
441 purchase of the solar photovoltaic system, the applicant shall
442 submit a separate application for a rebate payment to the
443 department.

444 (3) SOLAR THERMAL SYSTEM INCENTIVE.--

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

447 1. Five hundred dollars for a residence.

448 2. Fifteen dollars per 1,000 Btu up to a maximum of \$5,000
449 for a place of business, a publicly owned or operated facility,
450 or a facility owned or operated by a private, not-for-profit
451 organization, including condominiums or apartment buildings. ~~Btu~~
452 ~~must be verified by approved metering equipment.~~

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

455 (7) ~~(6)~~ REBATE AVAILABILITY.--The department shall determine
456 and publish on a regular basis the amount of rebate funds
457 remaining in each fiscal year. The total dollar amount of all
458 rebates issued by the department is subject to the total amount
459 of appropriations in any fiscal year for this program. If funds

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460 are insufficient during the current fiscal year, any requests for
461 rebates received during that fiscal year may be processed during
462 the following fiscal year. Requests for rebates received in a
463 fiscal year that are processed during the following fiscal year
464 shall be given priority over requests for rebates received during
465 the following fiscal year.

466 (8)~~(7)~~ RULES.--The department shall adopt rules pursuant to
467 ss. 120.536(1) and 120.54 to develop applications for rebate
468 reservations and rebate payments ~~rebate applications~~ and
469 administer the issuance of rebates.

470 Section 8. Subsection (3) of section 570.957, Florida
471 Statutes, is amended to read:

472 570.957 Farm-to-Fuel Grants Program.--

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

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