

By Senator Constantine

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1 A bill to be entitled
2 An act relating to energy conservation; amending s.
3 163.04, F.S.; revising provisions authorizing the use of
4 solar collectors and other energy devices; providing for
5 the installation of solar collectors on a condominium
6 roof; amending s. 196.175, F.S.; deleting certain
7 limitations on the amount of the renewable energy source
8 property tax exemption; revising the effective date of the
9 exemption; amending s. 212.08, F.S.; revising provisions
10 relating to the sales tax exemption for equipment,
11 machinery, and other materials for renewable energy
12 technologies; revising the definition of "ethanol";
13 increasing the cap on the exemption for materials used in
14 the distribution of biodiesel and ethanol fuels; limiting
15 the exemption to the end user and to one refund; requiring
16 a purchaser who receives a refund to notify a subsequent
17 purchaser of the eligible item that the refund is no
18 longer available; creating s. 212.0802, F.S.; providing a
19 sales tax exemption for certain energy-efficient products;
20 authorizing the Department of Revenue to adopt rules to
21 implement the exemption; designating certain weeks in 2008
22 and 2009 as "Energy Efficiency and Conservation Weeks";
23 creating s. 212.086, F.S.; providing a sales tax refund
24 for any person who purchases an energy-efficient
25 alternative motor vehicle; requiring that the vehicle be
26 certified for the alternative motor vehicle income tax
27 credit under the Internal Revenue Code; placing a cap on
28 the amount of the refund; requiring that an application
29 for refund be filed with the Department of Revenue;

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30 limiting the total dollar amount of refunds issued in a
31 fiscal year to the total amount of funds appropriated;
32 authorizing a request for a refund to be processed for
33 payment in the following fiscal year under certain
34 circumstances; authorizing the department to adopt rules;
35 excluding persons claiming a tax refund for renewable
36 energy technologies from also claiming a tax refund under
37 this section; providing for future repeal of the program;
38 amending s. 220.192, F.S.; providing definitions;
39 providing for the transferability and pass through of the
40 renewable energy technologies investment tax credit;
41 authorizing the Department of Revenue to adopt related
42 forms and rules; amending s. 220.193, F.S.; providing a
43 definition of "sale" or "sold"; providing that a
44 taxpayer's use of the renewable energy production tax
45 credit does not prohibit the use of other authorized
46 credits; amending s. 255.251, F.S.; revising a short
47 title; amending s. 255.252, F.S.; revising legislative
48 intent relating to energy conservation in state-owned
49 buildings; requiring that buildings constructed and
50 financed by the state meet a green building rating system;
51 requiring state agencies to identify state-owned buildings
52 that are suitable for the guaranteed energy program and
53 for the department to develop a project schedule; amending
54 s. 255.253, F.S.; defining the terms "sustainable
55 building" and "sustainable building rating"; amending s.
56 255.254, F.S.; revising provisions relating to the
57 analysis of the life-cycle costs of state facilities;
58 requiring an energy performance analysis of leased

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59 facilities; amending s. 255.255, F.S.; revising energy
60 conservation performance guidelines to be used in life-
61 cycle costs analyses; amending s. 287.064, F.S.; revising
62 requirements relating to guaranteed energy performance
63 savings contracts; providing that the expense
64 appropriation category may be used by a state agency to
65 fund such contracts; amending s. 287.16, F.S.; requiring
66 the Department of Management Services to conduct an
67 inventory of state vehicles that are flexible fuel motor
68 vehicles or hybrid motor vehicles; requiring that a
69 specified percentage of such vehicles be part of the
70 state's inventory within a specified time; repealing s.
71 377.803(2), F.S., relating to the definition of "approved
72 metering equipment"; repealing s. 377.804(6), F.S.,
73 relating to bioenergy projects under the Renewable Energy
74 Technologies Grants Program; amending s. 377.806, F.S.;
75 revising requirements for the Solar Energy System
76 Incentive Program; providing that payment may be made only
77 to the final purchaser of an eligible system; limiting the
78 number of rebates that may be made; creating s. 403.0874,
79 F.S.; requiring the Department of Environmental Protection
80 to establish greenhouse gas inventories; requiring a
81 report; amending s. 489.145, F.S.; revising provisions
82 relating to guaranteed energy performance savings
83 contracting by state agencies to address energy-related
84 operational savings; revising definitions; revising
85 criteria for proposed contracts; specifying documentation
86 that must be submitted for contract review by the Chief
87 Financial Officer; creating s. 570.956, F.S.; establishing

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88 | the Farm-to-Fuel Advisory Council within the Department of
89 | Agriculture and Consumer Services; providing membership
90 | requirements; providing for council duties; repealing s.
91 | 570.957(1)(b) and (3), F.S., relating to provisions
92 | defining the term "department" and limiting the
93 | establishment of the Farm-to-Fuel Grants Program within
94 | the Department of Agriculture and Consumer Services to 1
95 | year; creating s. 570.958, F.S.; establishing the Biofuel
96 | Retail Sales Incentives Program in the Department of
97 | Agriculture and Consumer Services; providing petroleum
98 | consumption replacement goals; providing definitions;
99 | providing for incentive payments to qualified retail
100 | dealers for increases in the amount of biofuels offered
101 | for sale; providing requirements and procedures;
102 | authorizing the department to adopt rules; creating s.
103 | 570.959, F.S.; establishing the Biofuel Production
104 | Incentives Program in the Department of Agriculture and
105 | Consumer Services; providing definitions; providing
106 | incentive payments to producers of certain biofuels;
107 | providing requirements and procedures; authorizing the
108 | department to adopt rules; creating s. 683.326, F.S.;
109 | designating October as Energy Efficiency and Conservation
110 | Month; requiring all county, municipal, and public
111 | community college buildings to meet certain energy
112 | efficiency standards for construction; providing
113 | applicability; establishing standards for the use of
114 | biodiesel fuels by school district transportation
115 | services; providing legislative intent relating to the
116 | leverage of state funds for certain research and

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117 production; creating the Florida Energy, Aerospace, and
118 Technology Fund to encourage business and investment
119 opportunities and identify performance goals for
120 investments in the areas of alternative energy development
121 and production infrastructure; requiring a report;
122 providing an effective date.

123

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

125

126 Section 1. Subsection (2) of section 163.04, Florida
127 Statutes, is amended to read:

128 163.04 Energy devices based on renewable resources.--

129 (2) A deed restriction, covenant, declaration, or similar
130 binding agreement ~~No deed restrictions, covenants, or similar~~
131 ~~binding agreements~~ running with the land may not shall prohibit
132 or have the effect of prohibiting solar collectors, clotheslines,
133 or other energy devices based on renewable resources from being
134 installed on buildings erected on the lots or parcels covered by
135 the deed restriction, covenant, declaration, or binding agreement
136 ~~restrictions, covenants, or binding agreements~~. A property owner
137 may not be denied permission to install solar collectors or other
138 energy devices ~~based on renewable resources~~ by any entity granted
139 the power or right in any deed restriction, covenant,
140 declaration, or similar binding agreement to approve, forbid,
141 control, or direct alteration of property with respect to
142 residential dwellings including condominiums ~~not exceeding three~~
143 ~~stories in height~~. ~~For purposes of this subsection,~~ Such entity
144 may determine the specific location where solar collectors may be
145 installed on the roof within an orientation to the south or

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146 within 45° east or west of due south ~~if provided that~~ such
147 determination does not impair the effective operation of the
148 solar collectors. Solar collectors may be installed on a
149 condominium roof that is considered a common element of the
150 condominium association.

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

153 196.175 Renewable energy source exemption.--

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

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

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

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

166 (2) The exempt amount authorized under subsection (1)
167 applies ~~shall apply~~ in full if the device was installed and
168 operative throughout the 12-month period preceding January 1 of
169 the year of application for this exemption. If the device was
170 operative for a portion of that period, the exempt amount
171 ~~authorized under this section~~ shall be reduced proportionally.
172 However, an exemption may not be granted for more than 10 years.

173 (3) It is ~~shall be~~ the responsibility of the applicant for
174 the ~~an~~ exemption ~~pursuant to this section~~ to demonstrate

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175 affirmatively to the satisfaction of the property appraiser that
176 he or she meets the requirements for the exemption under this
177 section and that the original cost ~~pursuant to paragraph (1)(b)~~
178 and the period for which the device was operative, as indicated
179 on the exemption application, are correct.

180 (4) ~~No exemption authorized pursuant to this section shall~~
181 ~~be granted for a period of more than 10 years. An~~ No exemption
182 may not shall be granted for with respect to renewable energy
183 source devices installed before July 1, 2008 ~~January 1, 1980, or~~
184 ~~after December 31, 1990.~~

185 Section 3. Paragraph (ccc) of subsection (7) of section
186 212.08, Florida Statutes, is amended to read:

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

192 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
193 entity by this chapter do not inure to any transaction that is
194 otherwise taxable under this chapter when payment is made by a
195 representative or employee of the entity by any means, including,
196 but not limited to, cash, check, or credit card, even when that
197 representative or employee is subsequently reimbursed by the
198 entity. In addition, exemptions provided to any entity by this
199 subsection do not inure to any transaction that is otherwise
200 taxable under this chapter unless the entity has obtained a sales
201 tax exemption certificate from the department or the entity
202 obtains or provides other documentation as required by the
203 department. Eligible purchases or leases made with such a

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204 certificate must be in strict compliance with this subsection and
205 departmental rules, and any person who makes an exempt purchase
206 with a certificate that is not in strict compliance with this
207 subsection and the rules is liable for and shall pay the tax. The
208 department may adopt rules to administer this subsection.

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

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

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

219 b. "Ethanol" means an ~~nominally~~ anhydrous denatured alcohol
220 produced by the conversion of carbohydrates ~~fermentation of plant~~
221 ~~sugars~~ meeting the specifications for fuel ethanol and fuel
222 ethanol blends with petroleum products ~~as~~ adopted by the
223 Department of Agriculture and Consumer Services. Ethanol may
224 refer to fuel ethanol blends designated EXX, where XX represents
225 the volume percentage of fuel ethanol in the blend.

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

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

231 a. Hydrogen-powered vehicles, materials incorporated into
232 hydrogen-powered vehicles, and hydrogen-fueling stations, up to a

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233 | limit of \$2 million in tax each state fiscal year for all
234 | taxpayers.

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

237 | c. Materials used in the distribution of biodiesel (B10-
238 | B100) and ethanol (E10-E100), including fueling infrastructure,
239 | transportation, and storage, up to a limit of \$2 ~~\$1~~ million in
240 | tax each state fiscal year for all taxpayers. Gasoline fueling
241 | station pump retrofits for ethanol (E10-E100) distribution
242 | qualify for the exemption ~~provided in this sub-subparagraph~~.

243 | 3. The Department of Environmental Protection shall provide
244 | to the department a list of items eligible for the exemption
245 | ~~provided in this paragraph~~.

246 | 4. The exemption is available only to the end user of the
247 | equipment, machinery, or other materials.

248 | 5.4.a. The exemption is ~~provided in this paragraph~~ shall be
249 | available to a purchaser only through a refund of previously paid
250 | taxes and only one purchase of an eligible item is subject to a
251 | refund. A purchaser who has received a refund on an eligible item
252 | must notify any subsequent purchaser that the item is no longer
253 | eligible for a refund of taxes paid. The notification must be
254 | provided on the sales invoice or other proof of purchase.

255 | 6.b. To be eligible to receive the exemption ~~provided in~~
256 | ~~this paragraph~~, a purchaser must ~~shall~~ file an application with
257 | the Department of Environmental Protection.

258 | a. The application shall be developed by the Department of
259 | Environmental Protection, in consultation with the department,
260 | and must ~~shall~~ require:

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

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

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

269 (IV) A sworn statement that the information provided is
270 accurate and that the requirements of this paragraph have been
271 met.

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

283 ~~c.d.~~ The ~~Each~~ certified applicant is ~~shall be~~ responsible
284 for forwarding a certified copy of the application and copies of
285 all required documentation to the department within 6 months
286 after certification by the Department of Environmental
287 Protection.

288 ~~d.e.~~ The provisions of s. 212.095 do not apply to any
289 refund application made pursuant to this paragraph. A refund must
290 ~~approved pursuant to this paragraph shall~~ be made within 30 days

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291 after formal approval by the department.

292 ~~7.f.~~ The department may adopt ~~all~~ rules pursuant to ss.
293 120.536(1) and 120.54 to administer this paragraph, including
294 rules establishing forms and procedures for claiming this
295 exemption.

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

300 ~~9.5.~~ The Department of Environmental Protection shall
301 determine and publish on a regular basis the amount of sales tax
302 funds remaining in each fiscal year.

303 ~~10.6.~~ This paragraph expires July 1, 2010.

304 Section 4. Section 212.0802, Florida Statutes, is created
305 to read:

306 212.0802 Exemption for energy-efficient products.--

307 (1) The sales tax levied under this chapter shall not be
308 collected from 12:01 a.m., October 6, 2008, through midnight,
309 October 12, 2008, and from 12:01 a.m., March 2, 2009, through
310 midnight, March 8, 2009, on the sale of a new energy-efficient
311 product having a selling price of \$1,500 or less per product.
312 This exemption applies only to energy-efficient products
313 purchased for noncommercial home or personal use and does not
314 apply to products purchased for trade, business, or resale. As
315 used in this section, the term "energy-efficient product" means a
316 dishwasher, clothes washer, air conditioner, ceiling fan, compact
317 fluorescent light bulb, dehumidifier, programmable thermostat, or
318 refrigerator that has been designated by the United States
319 Environmental Protection Agency or by the United States

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320 Department of Energy as meeting or exceeding the requirements
321 under the Energy Star Program of either agency. Purchases made
322 under this section may not be made using a business or company
323 credit or debit card or check. Any construction company, building
324 contractor, or commercial business or entity that purchases or
325 attempts to purchase the energy-efficient products subject to
326 this exemption is liable for a civil penalty under s. 501.2075
327 for a violation of s. 501.204.

328 (2) The weeks beginning October 6, 2008, and March 2, 2009,
329 shall each be designated as "Energy Efficiency and Conservation
330 Weeks."

331 (3) The Department of Revenue may adopt rules under ss.
332 120.536(1) and 120.54 to administer this section.

333 Section 5. Section 212.086, Florida Statutes, is created to
334 read:

335 212.086 Energy-efficient motor vehicle sales tax refund.--

336 (1) The energy-efficient motor vehicle sales tax refund is
337 established to provide financial incentives for the purchase of
338 energy-efficient alternative motor vehicles.

339 (2) Any person who purchases an alternative motor vehicle
340 certified as a new qualified hybrid motor vehicle, new qualified
341 alternative fuel motor vehicle, new qualified fuel cell motor
342 vehicle, or new advanced lean-burn technology motor vehicle by
343 the Internal Revenue Service for the income tax credit for
344 alternative motor vehicles under s. 30B of the Internal Revenue
345 Code of 1986, as amended, is eligible for a refund of the tax
346 imposed under this chapter.

347 (3) The tax that is eligible for refund is the tax computed
348 on the sales price of the vehicle or \$15,000, whichever is less.

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

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

354 (b) A specific description of the alternative motor vehicle
355 for which a refund is sought, including the vehicle
356 identification number.

357 (c) The sales invoice or other proof of purchase showing
358 the amount of sales tax paid, the date of purchase, and the name
359 and address of the sales tax dealer from whom the alternative
360 motor vehicle was purchased.

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

363 (5) The total dollar amount of all refunds approved and
364 issued by the department in a fiscal year may not exceed the
365 total amount of funds annually appropriated for this purpose. The
366 department shall process applications and approve refunds based
367 on the date the application for the refund is received until
368 funds appropriated for the refund are exhausted. If funds are
369 insufficient during a given fiscal year, a request for refund
370 received during that fiscal year shall be processed the following
371 fiscal year and have priority over new refund applications
372 submitted in the following fiscal year. The provisions of s.
373 213.255 do not apply to a request for refund which is held for
374 payment in the following fiscal year.

375 (6) The department may adopt rules pursuant to ss.
376 120.536(1) and 120.54 to administer this section, including rules
377 establishing forms and procedures for claiming this refund.

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378 (7) A person who receives a refund under s. 212.08(7)(ccc)
379 is not eligible to receive a refund under this section.

380 (8) This section expires July 1, 2010.

381 Section 6. Subsections (1) and (6) of section 220.192,
382 Florida Statutes, are amended, present subsections (6) and (7) of
383 that section are renumbered as subsections (7) and (8),
384 respectively, and a new subsection (6) is added to that section,
385 to read:

386 220.192 Renewable energy technologies investment tax
387 credit.--

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

389 (a) "Biodiesel" has the same meaning ~~means biodiesel~~ as
390 ~~defined~~ in s. 212.08(7)(ccc).

391 (b) "Corporation" has the same meaning as in s. 220.03,
392 except that the term also includes any general partnership,
393 limited partnership, limited liability company, unincorporated
394 business, or other business entity in which an individual owns an
395 interest and which is taxed as a partnership or is disregarded as
396 a separate entity from the individual for tax purposes.

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

398 1. Seventy-five percent of all capital costs, operation and
399 maintenance costs, and research and development costs incurred
400 between July 1, 2006, and June 30, 2010, up to a limit of \$3
401 million per state fiscal year for all taxpayers, in connection
402 with an investment in hydrogen-powered vehicles and hydrogen
403 vehicle fueling stations in the state, including, but not limited
404 to, the costs of constructing, installing, and equipping such
405 technologies in the state.

406 2. Seventy-five percent of all capital costs, operation and

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407 maintenance costs, and research and development costs incurred
408 between July 1, 2006, and June 30, 2010, up to a limit of \$1.5
409 million per state fiscal year for all taxpayers, and limited to a
410 maximum of \$12,000 per fuel cell, in connection with an
411 investment in commercial stationary hydrogen fuel cells in the
412 state, including, but not limited to, the costs of constructing,
413 installing, and equipping such technologies in the state.

414 3. Seventy-five percent of all capital costs, operation and
415 maintenance costs, and research and development costs incurred
416 between July 1, 2006, and June 30, 2010, up to a limit of \$6.5
417 million per state fiscal year for all taxpayers, in connection
418 with an investment in the production, storage, and distribution
419 of biodiesel ~~(B10-B100)~~ and ethanol ~~(E10-E100)~~ in the state,
420 including the costs of constructing, installing, and equipping
421 such technologies in the state. Gasoline fueling station pump
422 retrofits for ethanol ~~(E10-E100)~~ distribution qualify as an
423 eligible cost under this subparagraph.

424 (d)~~(e)~~ "Ethanol" has the same meaning ~~means ethanol~~ as
425 defined in s. 212.08(7)(ccc).

426 (e)~~(d)~~ "Hydrogen fuel cell" has the same meaning ~~means~~
427 ~~hydrogen fuel cell~~ as defined in s. 212.08(7)(ccc).

428 (f) "Taxpayer" has the same meaning as in s. 220.03, except
429 that it also includes any general partnership, limited
430 partnership, limited liability company, unincorporated business,
431 or other business entity in which an individual owns an interest
432 and which is taxed as a partnership or is disregarded as a
433 separate entity from the individual for tax purposes.

434 (6) TRANSFERABILITY OF CREDIT.--

435 (a) A corporation and a subsequent transferee allowed the

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436 tax credit may transfer the tax credit, in whole or in part, to
437 another taxpayer by written agreement without transferring any
438 ownership interest in the property generating the tax credit or
439 any interest in the entity that owns the property. A transferee
440 may apply the credit against the tax with the same effect as if
441 the transferee had incurred the eligible costs.

442 (b) To perfect a transfer, the transferor shall provide a
443 written transfer statement providing notice to the department of
444 the assignor's intent to transfer the tax credits to the
445 assignee; the date the transfer is effective; the assignee's
446 name, address, federal taxpayer identification number, and tax
447 period; and the amount of tax credits to be transferred. Upon
448 receipt of a transfer statement conforming to the requirements of
449 this section, the department shall issue a certificate to the
450 assignee reflecting the tax credit amounts transferred, a copy of
451 which shall be attached by the assignee to each tax return in
452 which the tax credits are used.

453 (c) Tax credits obtained by a general partnership, limited
454 partnership, limited liability company, unincorporated business,
455 or other business entity in which an individual owns an interest
456 and which is taxed as a partnership or is disregarded as an
457 entity separate from the individual for tax purposes, which are
458 not transferred shall be passed through to persons designated as
459 partners, members, or owners, respectively, in any manner agreed
460 to by such persons, whether or not such partners, members, or
461 owners are allocated or allowed any portion of the federal tax
462 credit with respect to the eligible costs.

463 (7)(6) RULES.--The department may of Revenue shall have the
464 authority to adopt rules relating to the forms required to claim

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465 a tax credit under this section;~~7~~ the requirements and basis for
466 establishing an entitlement to a credit; the forms, reporting
467 requirements, guidelines, and procedures for transferring or
468 allowing a pass through of tax credits;~~7~~ and the examination and
469 audit procedures required to administer this section.

470 Section 7. Paragraph (f) is added to subsection (2) and
471 paragraph (j) is added to subsection (3) of section 220.193,
472 Florida Statutes, to read:

473 220.193 Florida renewable energy production credit.--

474 (1) The purpose of this section is to encourage the
475 development and expansion of facilities that produce renewable
476 energy in Florida.

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

478 (f) "Sale" or "sold" includes the use of electricity by the
479 producer of the electricity when such use decreases the amount of
480 electricity that would otherwise be purchased by the producer.

481 (3) An annual credit against the tax imposed by this
482 section shall be allowed to a taxpayer, based on the taxpayer's
483 production and sale of electricity from a new or expanded Florida
484 renewable energy facility. For a new facility, the credit shall
485 be based on the taxpayer's sale of the facility's entire
486 electrical production. For an expanded facility, the credit shall
487 be based on the increases in the facility's electrical production
488 that are achieved after May 1, 2006.

489 (j) A taxpayer's use of the credit does not reduce the
490 amount of the credit allowed under s. 220.186 which would
491 otherwise be available to the taxpayer.

492 Section 8. Section 255.251, Florida Statutes, is amended to
493 read:

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494 255.251 ~~Energy Conservation in Buildings Act~~; Short
495 title.--Sections 255.251-255.257 may ~~This act shall~~ be cited as
496 the "Florida Energy Conservation and Sustainable in Buildings Act
497 ~~of 1974.~~"

498 Section 9. Section 255.252, Florida Statutes, is amended to
499 read:

500 255.252 Findings and intent.--

501 (1) Operating and maintenance expenditures associated with
502 energy equipment and ~~with~~ energy consumed in state-owned ~~state-~~
503 ~~financed~~ and leased buildings represent a significant cost over
504 the life of a building. Energy conserved by appropriate building
505 design not only reduces the demand for energy but also reduces
506 costs for building operation. ~~For example, commercial buildings~~
507 ~~are estimated to use from 20 to 80 percent more energy than would~~
508 ~~be required if energy-conserving designs were used.~~ The size,
509 design, orientation, and operability of windows, the ratio of
510 ventilating air to ~~air~~ heated or cooled air, the level of
511 lighting consonant with space-use requirements, the handling of
512 occupancy loads, and the ability to zone off areas not requiring
513 equivalent levels of heating or cooling are ~~but~~ a few of the
514 factors ~~considerations necessary to~~ consider when conserving
515 energy.

516 (2) Significant efforts are needed to build energy-
517 efficient state-owned buildings that meet environmental standards
518 ~~underway by the General Services Administration, the National~~
519 ~~Institute of Standards and Technology, and others to detail the~~
520 ~~considerations and practices for energy conservation in~~
521 ~~buildings.~~ Most important is the development of ~~that~~ energy-
522 efficient designs that provide energy savings over the life of

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523 the building structure. ~~Conversely, energy inefficient designs~~
524 ~~cause excess and wasteful energy use and high costs over that~~
525 ~~life.~~ With buildings lasting many decades and with energy costs
526 escalating rapidly, it is essential that ~~the costs of~~ operation
527 and maintenance costs for energy-using equipment and sustainable
528 materials be included in all design proposals for state-owned
529 state buildings.

530 (3) In order for that such energy-efficiency considerations
531 and the use of sustainable materials to become a function of
532 building design, ~~and also~~ a model for future application in the
533 private sector, it is ~~shall be~~ the policy of the state that
534 buildings be constructed to meet a nationally recognized
535 sustainable building rating system ~~and financed by the state be~~
536 ~~designed and constructed in a manner which will minimize the~~
537 ~~consumption of energy used in the operation and maintenance of~~
538 ~~such buildings.~~ It is further the policy of the state, if when
539 economically feasible, to retrofit existing state-owned buildings
540 in a manner that minimizes ~~which will minimize~~ the consumption of
541 energy used in the operation and maintenance of such buildings.

542 (4) In addition to designing and constructing new buildings
543 that are energy efficient ~~to be energy efficient,~~ it is ~~shall be~~
544 the policy of the state to operate, maintain, and renovate
545 existing state-owned ~~state~~ facilities, or provide for their
546 renovation, in a manner that ~~which~~ will minimize energy
547 consumption, increase the facilities' sustainability, and ensure
548 that facilities leased by the state are operated so as to
549 minimize energy use. Agencies are encouraged to consider using
550 shared savings to finance ~~financing of~~ such projects, using
551 contracts that ~~which~~ split the resulting savings for a specified

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552 | period of time between the agency and the private firm or
553 | cogeneration contracts that ~~which~~ otherwise permit the state to
554 | lower its energy costs. Such contracts may be funded from the
555 | operating budget.

556 | (5) In furtherance of this intent, each state agency shall
557 | identify and compile a list of all state-owned buildings within
558 | its inventory which would be suitable for a guaranteed energy
559 | performance savings contract pursuant to s. 489.145. Such list
560 | shall be submitted to the Department of Management Services by
561 | December 31, 2008, and must include all facilities over 5,000
562 | square feet in area and for which the agency is responsible for
563 | paying utilities and other operating expenses that relate to
564 | energy use. In consultation with each agency secretary or
565 | director, by March 1, 2009, the department shall evaluate each
566 | agency's facilities that are suitable for energy conservation
567 | projects and develop an energy-efficiency project schedule based
568 | on factors such as project magnitude, efficiency and
569 | effectiveness of energy conservation measures to be implemented,
570 | and such other factors that may prove to be advantageous. The
571 | schedule must provide the deadline for implementing improvements
572 | to state-owned buildings under a guaranteed energy performance
573 | savings contract.

574 | Section 10. Subsections (6) and (7) are added to section
575 | 255.253, Florida Statutes, to read:

576 | 255.253 Definitions; ss. 255.251-255.258.--

577 | (6) "Sustainable building" means a building that is healthy
578 | and comfortable for its occupants; is economical to operate;
579 | conserves resources including energy, water, raw materials, and
580 | land; and minimizes the generation of toxic materials and waste

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581 in its design, construction, landscaping, and operation.

582 (7) "Sustainable building rating" means a rating
583 established by the United States Green Building Council (USGBC)
584 Leadership in Energy and Environmental Design (LEED) rating
585 system, Green Building Initiative's Green Globes rating system,
586 or a nationally recognized, high-performance green building
587 rating system approved by the department.

588 Section 11. Section 255.254, Florida Statutes, is amended
589 to read:

590 255.254 Facility ~~constructed or leased without~~ life-cycle
591 costs analysis.--

592 (1) A state agency may not ~~shall lease,~~ construct, or have
593 ~~constructed, within limits prescribed herein,~~ a facility without
594 having first secured from the department an analysis ~~a proper~~
595 ~~evaluation~~ of the proposed facility's life-cycle costs as
596 determined pursuant to s. 255.255, ~~as computed by an architect or~~
597 ~~engineer.~~ Furthermore, building construction may ~~shall~~ proceed
598 only upon disclosing, ~~for the facility chosen,~~ the facility's
599 life-cycle costs, its sustainable building rating goal, ~~as~~
600 ~~determined in s. 255.255~~ and the capitalization of the initial
601 construction costs of the building. In addition to its
602 sustainable building rating goal, the life-cycle costs shall be a
603 primary consideration in the selection of a building design. ~~Such~~
604 ~~analysis shall be required only for construction of buildings~~
605 ~~with an area of 5,000 square feet or greater.~~ For leased
606 buildings of 5,000 ~~areas of 20,000~~ square feet or greater within
607 a given building boundary, an energy performance ~~a life-cycle~~
608 analysis shall be performed, and a lease may ~~shall~~ only be made
609 only if ~~where~~ there is a showing that the energy ~~life-cycle~~ costs

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610 incurred by the state are minimal compared to those of available
611 like facilities.

612 (2) ~~A On and after January 1, 1979, no state agency may not~~
613 ~~shall~~ initiate construction or have construction initiated, ~~prior~~
614 ~~to approval thereof by the department,~~ on a facility or self-
615 contained unit of any facility, ~~the~~ design and construction of
616 which incorporates or contemplates the use of an energy system
617 other than a solar energy system if ~~when~~ the life-cycle costs
618 analysis prepared by the department has determined that a solar
619 energy system is the most cost-efficient energy system for the
620 facility or unit.

621 (3) If ~~After September 30, 1985, when any~~ state agency
622 must replace or supplement major items of energy-consuming
623 equipment in an existing state-owned facility ~~or leased~~
624 ~~facilities~~ or any self-contained unit of a ~~any~~ facility with
625 other major items of energy-consuming equipment, the selection of
626 such items shall be made on the basis of a life-cycle cost
627 analysis of alternatives in accordance with rules adopted
628 ~~promulgated~~ by the department under s. 255.255.

629 Section 12. Section 255.255, Florida Statutes, is amended
630 to read:

631 255.255 Life-cycle costs guidelines.--

632 (1) The department shall adopt ~~promulgate~~ rules and
633 procedures, including energy conservation performance guidelines
634 based on sustainable building ratings, for conducting a life-
635 cycle costs ~~cost~~ analysis of alternative architectural and
636 engineering designs and alternative major items of energy-
637 consuming equipment to be retrofitted in existing state-owned or
638 leased facilities and for developing energy performance indices

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639 | to evaluate the efficiency of energy utilization for competing
640 | designs in the construction of state-owned ~~state-financed~~ and
641 | leased facilities.

642 | (2) ~~Such~~ Life-cycle costs shall be the sum of:

643 | (a) The reasonably expected fuel costs over the life of the
644 | building, as determined by the department, that are required to
645 | maintain illumination, power, temperature, humidity, and
646 | ventilation and all other energy-consuming equipment in a
647 | facility, and

648 | (b) The reasonable costs of probable maintenance, including
649 | labor and materials, and operation of the building.

650 | (3) To determine the ~~life-cycle~~ costs ~~as defined~~ in
651 | paragraph (2)(b), the department shall adopt ~~promulgate~~ rules
652 | that ~~shall~~ include, but are not ~~be~~ limited to:

653 | (a) The orientation and integration of the facility with
654 | respect to its physical site.

655 | (b) The amount and type of glass employed in the facility
656 | and the directions of exposure.

657 | (c) The effect of insulation incorporated into the facility
658 | design and the effect on solar utilization of the properties of
659 | external surfaces.

660 | (d) The variable occupancy and operating conditions of the
661 | facility and subportions of the facility.

662 | (e) An energy consumption analysis of the major equipment
663 | of the facility's heating, ventilating, and cooling system,
664 | lighting system, hot water system, and all other major energy-
665 | consuming equipment and systems as appropriate. This analysis
666 | must ~~shall~~ include:

667 | 1. The comparison of alternative systems.

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668 2. A projection of the annual energy consumption of major
669 energy-consuming equipment and systems for a range of facility
670 operations ~~operation of the facility~~ over the life of the
671 facility.

672 3. The evaluation of the energy consumption of component
673 equipment in each system, considering the operation of such
674 components at other than full or rated outputs.

675 (4) The ~~Such~~ rules must ~~shall~~ be based on the best
676 currently available methods of analysis, including ~~such as~~ those
677 of the National Institute of Standards and Technology, the
678 Department of Housing and Urban Development, and other federal
679 agencies and professional societies and materials developed by
680 the department. Provisions shall be made for an annual updating
681 of rules and guidelines ~~standards~~ as required.

682 Section 13. Subsections (10) and (11) of section 287.064,
683 Florida Statutes, are amended to read:

684 287.064 Consolidated financing of deferred-payment
685 purchases.--

686 (10) Costs incurred pursuant to a guaranteed energy
687 performance savings contract under s. 489.145, including the cost
688 of energy conservation measures, ~~each as defined in s. 489.145~~,
689 may be financed pursuant to a master equipment financing
690 agreement; however, the costs of training, operation, and
691 maintenance may not be financed. The period of time for repayment
692 of the funds ~~drawn pursuant to the master equipment financing~~
693 ~~agreement under this subsection~~ may exceed 5 years but may not
694 exceed 20 ~~10~~ years. The contractor shall provide for the
695 replacement or the extension of the useful life of the equipment
696 during the term of the contract.

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697 (11) For purposes of consolidated financing of deferred
698 payment commodity contracts ~~under this section~~ by a state agency,
699 the annualized amount of any such contract must be supported from
700 available recurring funds appropriated to the agency in an
701 appropriation category, ~~other than the expense appropriation~~
702 ~~category~~ as defined in chapter 216, which ~~that~~ the Chief
703 Financial Officer has determined is appropriate or which ~~that~~ the
704 Legislature has designated for payment of the obligation incurred
705 under this section.

706 Section 14. Subsection (12) is added to section 287.16,
707 Florida Statutes, to read:

708 287.16 Powers and duties of department.--The Department of
709 Management Services shall have the following powers, duties, and
710 responsibilities:

711 (12) To conduct an inventory and determine the percentage
712 of motor vehicles in current use and purchased with state funds
713 which are flexible motor fuel vehicles or hybrid motor vehicles.
714 Notwithstanding s. 287.151, the department shall purchase a
715 sufficient number of flexible motor fuel vehicles or hybrid motor
716 vehicles over the next 3 years to increase the percentage of such
717 vehicles in the state's inventory to 50 percent.

718 Section 15. Subsection (2) of section 377.803, and
719 subsection (6) of section 377.804, Florida Statutes, as revised
720 by section 52 of chapter 2007-73, Laws of Florida, are repealed.

721 Section 16. Section 377.806, Florida Statutes, is amended
722 to read:

723 377.806 Solar Energy System Incentives Program.--

724 (1) PURPOSE.--The Solar Energy System Incentives Program is
725 established within the department to provide financial incentives

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726 for the purchase and installation of solar energy systems.

727 (2) ELIGIBILITY.--

728 (a) A ~~Any~~ resident of the state who purchases and installs
729 a new solar energy system of 2 kilowatts or larger for a solar
730 photovoltaic system, a solar energy system that provides at least
731 50 percent of a building's hot water consumption for a solar
732 thermal system, or a solar thermal pool heater, from July 1,
733 2006, through June 30, 2010, is eligible for a rebate on a
734 portion of the purchase price of that solar energy system.

735 (b) Payment of a rebate may be made only to the final
736 purchaser of the eligible system.

737 (3) ~~(2)~~ SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

738 (a) System Eligibility requirements.--A solar photovoltaic
739 system qualifies for a rebate if:

740 1. The system is installed by a state-licensed master
741 electrician, electrical contractor, or solar contractor.

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

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

746 (b) Rebate amounts.--The rebate amount shall be set at \$4
747 per watt based on the total wattage rating of the system. The
748 maximum allowable rebate per solar photovoltaic system
749 installation shall be ~~as follows~~:

750 1. Twenty thousand dollars for a residence.

751 2. One hundred thousand dollars for a place of business, a
752 publicly owned or operated facility, or a facility owned or
753 operated by a private, not-for-profit organization, including
754 condominiums or apartment buildings.

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755 (4)~~(3)~~ SOLAR THERMAL SYSTEM INCENTIVE.--

756 (a) System Eligibility requirements.--A solar thermal
757 system qualifies for a rebate if:

758 1. The system is installed by a state-licensed solar or
759 plumbing contractor.

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

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

764 1. Five hundred dollars for a residence.

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

770 (5)~~(4)~~ SOLAR THERMAL POOL HEATER INCENTIVE.--

771 (a) System Eligibility requirements.--A solar thermal pool
772 heater qualifies for a rebate if the system is installed by a
773 state-licensed solar or plumbing contractor and the system
774 complies with all applicable building codes as defined by the
775 local jurisdictional authority.

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

778 (6)~~(5)~~ APPLICATION.--Application for a rebate must be made
779 within 90 days after the purchase of the solar energy equipment.

780 (7) LIMITS.--Rebates are limited to one per type of system
781 described in subsection (2) per resident per state fiscal year.

782 (8)~~(6)~~ REBATE AVAILABILITY.--The department shall determine
783 and publish on a regular basis the amount of rebate funds

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784 remaining in each fiscal year. The total dollar amount of all
785 rebates issued by the department is subject to the total amount
786 of appropriations in any fiscal year for this program. If funds
787 are insufficient during the current fiscal year, any requests for
788 rebates received during that fiscal year may be processed during
789 the following fiscal year. Requests for rebates received in a
790 fiscal year that are processed during the following fiscal year
791 shall be given priority over requests for rebates received during
792 the following fiscal year.

793 (9)~~(7)~~ RULES.--The department shall adopt rules pursuant to
794 ss. 120.536(1) and 120.54 to develop rebate applications and
795 administer the issuance of rebates.

796 Section 17. Section 403.0874, Florida Statutes, is created
797 to read:

798 403.0874 Greenhouse gas inventories.--

799 (1) The department shall establish state gas inventories of
800 all major greenhouse gases to account for annual greenhouse gases
801 emitted to and removed from the atmosphere in this state, and
802 shall also forecast gases emitted and removed, for time periods
803 determined sufficient by the department to provide for adequate
804 analysis and planning.

805 (2) By rule, the department shall establish which
806 greenhouse gases are to be included in each inventory, the
807 criteria for identifying major emitters in this state, which
808 emitters must report emissions, and what methodologies shall be
809 used to estimate gases emitted and removed from those not
810 required to report.

811 (3) The department may require all major emitters of
812 defined greenhouse gases to report emissions according to

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813 methodologies and reporting systems developed by the department
814 and established by rule, which may include the use of quality-
815 assured data from continuous emissions monitoring systems.

816 (4) The department shall provide a summary report of state
817 greenhouse gas inventories at least once a year to the Florida
818 Energy Commission for its use in its long-term evaluations and
819 for preparing the report required by s. 377.901(6).

820 Section 18. Section 489.145, Florida Statutes, is amended
821 to read:

822 489.145 Guaranteed energy performance savings
823 contracting.--

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

826 (2) LEGISLATIVE FINDINGS.--The Legislature finds that
827 investment in energy conservation measures in agency facilities
828 can reduce the amount of energy consumed and produce immediate
829 and long-term savings. It is therefore the policy of this state
830 to encourage agencies to invest in energy conservation measures
831 in order that reduce energy consumption, produce a cost savings
832 for the agency, and improve the quality of indoor air in public
833 facilities and to operate, maintain, and, when economically
834 feasible, build or renovate existing agency facilities in such a
835 manner as to minimize energy consumption and maximize energy
836 savings. It is further the policy of this state to encourage
837 agencies to reinvest any energy savings resulting from energy
838 conservation measures in additional energy conservation efforts.

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

840 (a) "Agency" means the state, a municipality, or a
841 political subdivision.

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- 842 (b) "Energy conservation measure" means a ~~training program,~~
843 facility alteration, or an equipment purchase to be used in new
844 construction, including an addition to an existing facility,
845 which reduces energy or energy-related operating costs and
846 includes, but is not limited to:
- 847 1. Insulation of the facility structure and systems within
848 the facility.
 - 849 2. Storm windows and doors, caulking or weatherstripping,
850 multiglazed windows and doors, heat-absorbing, or heat-
851 reflective, glazed and coated window and door systems, additional
852 glazing, reductions in glass area, and other window and door
853 system modifications that reduce energy consumption.
 - 854 3. Automatic energy control systems.
 - 855 4. Heating, ventilating, or air-conditioning system
856 modifications or replacements.
 - 857 5. Replacement or modifications of lighting fixtures to
858 increase the energy efficiency of the lighting system, which, at
859 a minimum, conforms ~~must conform~~ to the applicable state or local
860 building code.
 - 861 6. Energy recovery systems.
 - 862 7. Cogeneration systems that produce steam or forms of
863 energy such as heat, as well as electricity, for use primarily
864 within a facility or complex of facilities.
 - 865 8. Energy conservation measures that reduce Btu, kW, or kWh
866 consumed or provide long-term operating cost reductions ~~or~~
867 ~~significantly reduce Btu consumed.~~
 - 868 9. Renewable energy systems, such as solar, biomass, or
869 wind systems.
 - 870 10. Devices that reduce water consumption or sewer charges.

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871 11. Storage systems, such as fuel cells and thermal
872 storage.

873 12. Generating technologies, such as microturbines.

874 13. Any other repair, replacement, or upgrade of existing
875 equipment.

876 (c) "Energy cost savings" means a measured reduction in the
877 cost of fuel, energy consumption, and stipulated operation and
878 maintenance created from the implementation of one or more energy
879 conservation measures when compared with an established baseline
880 for the previous cost of fuel, energy consumption, and stipulated
881 operation and maintenance.

882 (d) "Guaranteed energy performance savings contract" means
883 a contract for the evaluation, recommendation, and implementation
884 of energy conservation measures or energy-related operational
885 savings measures, which, at a minimum, ~~shall~~ include:

886 1. The design and installation of equipment to implement
887 one or more of such measures and, if applicable, operation and
888 maintenance of such measures.

889 2. The amount of any actual annual savings that meet or
890 exceed total annual contract payments made by the agency for the
891 contract and may include allowable cost avoidance. As used in
892 this section, allowable cost-avoidance calculations include
893 avoided provable budgeted costs contained in a capital
894 replacement plan less the current undepreciated value of replaced
895 equipment and the replacement cost of the new equipment.

896 3. The finance charges incurred by the agency over the life
897 of the contract.

898 (e) "Guaranteed energy performance savings contractor"
899 means a person or business that is licensed under chapter 471,

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900 | chapter 481, or this chapter, and is experienced in the analysis,
901 | design, implementation, or installation of energy conservation
902 | measures through energy performance contracts.

903 | (4) PROCEDURES.--

904 | (a) An agency may enter into a guaranteed energy
905 | performance savings contract with a guaranteed energy performance
906 | savings contractor to ~~significantly~~ reduce energy consumption or
907 | energy-related operating costs of an agency facility through one
908 | or more energy conservation measures.

909 | (b) Before design and installation of energy conservation
910 | measures, the agency must obtain from a guaranteed energy
911 | performance savings contractor a report that summarizes the costs
912 | associated with ~~the~~ energy conservation or energy-related
913 | operational-cost-savings measures and provides an estimate of the
914 | amount of the ~~energy~~ cost savings. The agency and the guaranteed
915 | energy performance savings contractor may enter into a separate
916 | agreement to pay for costs associated with the preparation and
917 | delivery of the report; however, payment to the contractor shall
918 | be contingent upon the report's projection of energy or
919 | operational cost savings being equal to or greater than the total
920 | projected costs of the design and installation of the report's
921 | energy conservation measures.

922 | (c) The agency may enter into a guaranteed energy
923 | performance savings contract with a guaranteed energy performance
924 | savings contractor if the agency finds that the amount the agency
925 | would spend on the energy conservation or energy-related cost-
926 | savings measures will not likely exceed the amount of the energy
927 | or energy-related cost savings for up to 20 years from the date
928 | of installation, based on the life-cycle costs ~~life-cycle cost~~

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929 calculations provided in s. 255.255, if the recommendations in
930 the report were followed and if the qualified provider or
931 providers give a written guarantee that the energy or energy-
932 related cost savings will meet or exceed the costs of the system.
933 However, actual computed cost savings must meet or exceed the
934 estimated cost savings provided during program approval. Baseline
935 adjustments used in the calculations must be specified in the
936 contract. The contract may provide for installment payments for a
937 period not to exceed 20 years.

938 (d) A guaranteed energy performance savings contractor must
939 be selected in compliance with s. 287.055; except that if fewer
940 than three firms are qualified to perform the required services,
941 the requirement for agency selection of three firms, ~~as provided~~
942 in s. 287.055(4)(b), and the bid requirements of s. 287.057 do
943 not apply.

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

948 (f) A guaranteed energy performance savings contract may
949 provide for financing, including tax-exempt financing, by a third
950 party. The contract for third party financing may be separate
951 from the energy performance contract. A separate contract for
952 third party financing must include a provision that the third
953 party financier may ~~must~~ not be granted rights or privileges that
954 exceed the rights and privileges available to the guaranteed
955 energy performance savings contractor.

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

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958 (h) The Chief Financial Officer shall review proposals to
959 ensure that the most effective financing is being used.

960 (i) ~~(g)~~ In determining the amount the agency will finance to
961 acquire the energy conservation measures, the agency may reduce
962 such amount by the application of any grant moneys, rebates, or
963 capital funding available to the agency for the purpose of buying
964 down the cost of the guaranteed energy performance savings
965 contract. However, in calculating the life-cycle costs ~~life cycle~~
966 ~~cost~~ as required in paragraph (c), the agency may ~~shall~~ not apply
967 any grants, rebates, or capital funding.

968 (5) CONTRACT PROVISIONS.--

969 (a) A guaranteed energy performance savings contract must
970 include a written guarantee that may include, but is not limited
971 to ~~the form of~~, a letter of credit, insurance policy, or
972 corporate guarantee by the guaranteed energy performance savings
973 contractor that annual energy cost savings will meet or exceed
974 the amortized cost of energy conservation measures.

975 (b) The guaranteed energy performance savings contract must
976 provide that all payments, except obligations on termination of
977 the contract before its expiration, may be made over time, but
978 not to exceed 20 years from the date of complete installation and
979 acceptance by the agency, and that the annual savings are
980 guaranteed to the extent necessary to make annual payments to
981 satisfy the guaranteed energy performance savings contract.

982 (c) The guaranteed energy performance savings contract must
983 require that the ~~guaranteed energy performance savings~~ contractor
984 to whom the contract is awarded provide a 100-percent public
985 construction bond to the agency for its faithful performance, as
986 required by s. 255.05.

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987 (d) The guaranteed energy performance savings contract may
988 contain a provision allocating to the parties to the contract any
989 annual energy cost savings that exceed the amount of the energy
990 cost savings guaranteed in the contract.

991 (e) The guaranteed energy performance savings contract must
992 ~~shall~~ require the ~~guaranteed energy performance savings~~
993 contractor to provide to the agency an annual reconciliation of
994 the guaranteed energy or energy-related cost savings. If the
995 reconciliation reveals a shortfall in annual energy cost savings,
996 the guaranteed energy performance savings contractor is liable
997 for such shortfall. If the reconciliation reveals an excess in
998 annual ~~energy~~ cost savings, the excess savings may be allocated
999 under paragraph (d) but may not be used to cover potential energy
1000 or energy-related cost savings shortages in subsequent contract
1001 years.

1002 (f) The guaranteed energy performance savings contract must
1003 provide for payments of not less than one-twentieth of the price
1004 to be paid within 2 years from the date of the complete
1005 installation and acceptance by the agency using straight-line
1006 amortization for the term of the loan, and the remaining costs to
1007 be paid at least quarterly, not to exceed a 20-year term, based
1008 on life-cycle costs ~~life cycle cost~~ calculations.

1009 (g) The guaranteed energy performance savings contract may
1010 extend beyond the fiscal year in which it becomes effective;
1011 however, the term of any contract expires at the end of each
1012 fiscal year and may be automatically renewed annually for up to
1013 20 years, subject to the agency making sufficient annual
1014 appropriations based upon continued realized energy savings.

1015 (h) The guaranteed energy performance savings contract must

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1016 stipulate that it does not constitute a debt, liability, or
1017 obligation of the state.

1018 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
1019 Department of Management Services, with the assistance of the
1020 ~~Office of the Chief Financial Officer, shall~~ may, within
1021 available resources, provide technical content assistance to
1022 state agencies contracting for energy conservation measures and
1023 engage in other activities considered appropriate by the
1024 department for promoting and facilitating guaranteed energy
1025 performance contracting by state agencies. The ~~Office of the~~
1026 Chief Financial Officer, with the assistance of the Department of
1027 Management Services, ~~shall may, within available resources,~~
1028 develop model contractual and related documents for use by state
1029 agencies. Prior to entering into a guaranteed energy performance
1030 savings contract, any proposed contract or lease for third-party
1031 financing, or any combination of such contracts must be submitted
1032 by the agency, ~~a state agency shall submit such proposed contract~~
1033 ~~or lease~~ to the ~~Office of the Chief Financial Officer~~ for review
1034 and approval. The proposed contract or lease submitted must
1035 include:

1036 (a) The supporting information required by s.
1037 216.023(4)(a)9.

1038 (b) Documentation demonstrating the availability of
1039 recurring funds as required by ss. 287.063(5) and 287.064(11).

1040 (c) Approval by the agency head or his or her designee.

1041 (d) An agency measurement and verification plan to monitor
1042 cost savings.

1043
1044 The Chief Financial Officer may not approve a contract submitted

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1045 under this section which does not meet the requirements of this
1046 section.

1047 Section 19. Section 570.956, Florida Statutes, is created
1048 to read:

1049 570.956 Farm-to-Fuel Advisory Council.--

1050 (1) The Farm-to-Fuel Advisory Council is created within the
1051 department to provide advice and counsel to the commissioner
1052 concerning the production of renewable energy in this state. The
1053 advisory council shall consist of 15 members, 14 of whom shall be
1054 appointed by the commissioner and one of whom shall be appointed
1055 by the Governor for 4-year terms or until a successor is duly
1056 qualified and appointed. Members shall include:

1057 (a) One citizen-at-large member who represents the views of
1058 the public toward renewable energy.

1059 (b) Six members, each of whom is a producer or grower
1060 actively engaged in the agricultural area of one of the following
1061 industries:

1062 1. Sugarcane.

1063 2. Citrus.

1064 3. Field crops.

1065 4. Dairy.

1066 5. Livestock or poultry.

1067 6. Forestry.

1068 (c) One member who represents the petroleum industry or who
1069 is actively engaged in the trade of petroleum products.

1070 (d) One member who represents public utilities or the
1071 electric power industry.

1072 (e) Two members who represent colleges and universities in
1073 this state and who are engaged in research involving alternative

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1074 fuels or renewable energy.

1075 (f) One member who represents the environmental community
1076 or an environmental organization.

1077 (g) One member who represents the ethanol industry or who
1078 has expertise in the production of ethanol.

1079 (h) One member who represents the biodiesel industry or who
1080 has expertise in the production of biodiesel.

1081 (i) One member appointed by the Governor.

1082 (2) The council is an advisory committee the operation of
1083 which is governed by s. 570.0705.

1084 Section 20. Paragraph (b) of subsection (1) and subsection
1085 (3) of section 570.957, Florida Statutes, are repealed.

1086 Section 21. Section 570.958, Florida Statutes, is created
1087 to read:

1088 570.958 Biofuel Retail Sales Incentives Program.--

1089 (1) The Biofuel Retail Sales Incentives Program is
1090 established in the department to encourage the retail sale of
1091 biofuels and replace petroleum consumption in the state by the
1092 following percentages over the specified periods:

1093 (a) Three percent from January 1, 2009, through December
1094 31, 2009.

1095 (b) Five percent from January 1, 2010, through December 31,
1096 2010.

1097 (c) Seven percent from January 1, 2011, through December
1098 31, 2011.

1099 (d) Ten percent from January 1, 2012, through December 31,
1100 2012.

1101 (2) As used in this section, the term:

1102 (a) "Biodiesel" means the mono-alkyl esters of long-chain

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1103 fatty acids derived from plant or animal matter for use as a
1104 source of energy and meeting the specifications for biodiesel and
1105 biodiesel blended with petroleum products as adopted by the
1106 department.

1107 (b) "Biodiesel blended fuel" means a fuel mixture
1108 containing 10 percent or more biodiesel with the balance
1109 comprised of diesel fuel and meeting the specifications for
1110 biodiesel blends as adopted by the department.

1111 (c) "Biofuel" means E85 fuel ethanol, E10 motor fuel,
1112 biodiesel, and biodiesel blended fuel.

1113 (d) "E85 fuel ethanol" means ethanol blended with gasoline
1114 and formulated with a nominal percentage of 85 percent ethanol by
1115 volume and meeting the applicable fuel quality specifications as
1116 adopted by the department.

1117 (e) "E10 motor fuel" means a motor fuel blend consisting of
1118 nominal percentages of 90 percent gasoline by volume and 10
1119 percent ethanol by volume and meeting the fuel quality
1120 specifications for gasoline as adopted by the department.

1121 (f) "Ethanol or fuel ethanol" means an anhydrous denatured
1122 alcohol produced by the conversion of carbohydrates and meeting
1123 the specifications for fuel ethanol as adopted by the department.

1124 (g) "Fuel dispenser" means a pump, meter, or similar device
1125 used to measure and deliver motor fuel or diesel fuel on a retail
1126 basis.

1127 (h) "Retail dealer" means any person who is engaged in the
1128 business of selling fuel at retail at posted retail prices.

1129 (i) "Retail motor fuel site" means a geographic location in
1130 this state where a retail dealer sells or offers for sale motor
1131 fuel, diesel fuel, or biofuel to the general public.

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1132 (3) Subject to specific appropriation, a retail dealer who
1133 sells biofuel through fuel dispensers at retail motor fuel sites
1134 is entitled to an incentive payment, which shall be computed as
1135 follows:

1136 (a) An incentive of 1 cent for each gallon of E10 motor
1137 fuel sold through a fuel dispenser.

1138 (b) An incentive of 3 cents for each gallon of E85 fuel
1139 ethanol sold through a fuel dispenser.

1140 (c) An incentive of 1 cent for each gallon of biodiesel
1141 blended fuel sold through a fuel dispenser.

1142 (d) An incentive of 3 cents for each gallon of biodiesel
1143 sold through a fuel dispenser.

1144 (4) An incentive payment may be claimed for biofuel sold on
1145 or after January 1, 2009.

1146 (a) Beginning in 2010, each applicant claiming an incentive
1147 must apply to the department by February 1 of each year for an
1148 allocation of the available incentive for the preceding calendar
1149 year.

1150 (b) The department shall develop an application form that,
1151 at a minimum, requires a sworn affidavit from each retail dealer
1152 certifying the following:

1153 1. The name and principal address of the retail dealer.

1154 2. The address of the retail dealer's retail motor fuel
1155 sites from which biofuels were sold during the preceding calendar
1156 year.

1157 3. The total gallons of E10 ethanol sold through fuel
1158 dispensers.

1159 4. The total gallons of E85 ethanol sold through fuel
1160 dispensers.

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1161 5. The total gallons of biodiesel blended fuel sold through
1162 fuel dispensers.

1163 6. The total gallons of biodiesel sold through fuel
1164 dispensers.

1165 7. Any other information deemed necessary by the department
1166 to adequately ensure that incentive payments are made only to
1167 qualified Florida retail dealers.

1168 (c) The department shall determine the amount of incentive
1169 payments allowed under this section.

1170 (5) If the amount of incentives applied for each year
1171 exceeds the amount appropriated, the department shall pay to each
1172 applicant a prorated amount based on each applicant's gallonage
1173 of qualified biofuel sold and dispensed.

1174 (6) The department may adopt rules pursuant to ss.
1175 120.536(1) and 120.54 to administer this section, including rules
1176 prescribing forms, the documentation needed to substantiate a
1177 claim for an incentive, and the specific procedures and
1178 guidelines for claiming the incentive.

1179 Section 22. Section 570.959, Florida Statutes, is created
1180 to read:

1181 570.959 Biofuel Production Incentives Program.--

1182 (1) The Biofuel Production Incentives Program is
1183 established in the department for the purpose of encouraging the
1184 development and expansion of facilities that produce biofuels
1185 from crops, agricultural waste and residues, and other biomass
1186 produced in this state by providing economic incentives.

1187 (2) As used in this section, the term:

1188 (a) "Biodiesel" means the mono-alkyl esters of long-chain
1189 fatty acids derived from plant or animal matter for use as a

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1190 source of energy and meeting the specifications for biodiesel and
1191 biodiesel blended with petroleum products as adopted by the
1192 department.

1193 (b) "Biofuel" means ethanol or biodiesel.

1194 (c) "Ethanol" or "fuel ethanol" means an anhydrous
1195 denatured alcohol produced by the conversion of carbohydrates and
1196 meeting the specifications for fuel ethanol adopted by the
1197 department.

1198 (d) "Biofuel production" means the production of biofuel
1199 from crops, agricultural waste and residues, and other biomass
1200 produced in this state.

1201 (3) In order to be eligible for an incentive under this
1202 section, a producer must have registered and have met the
1203 requirements specified in chapter 206.

1204 (4) An incentive, subject to appropriation, shall be paid
1205 to a producer based on state biofuel production as follows:

1206 (a) The incentive shall be 5 cents for each gallon of
1207 unblended biofuel produced, exclusive of denaturant, during a
1208 given calendar year and sold to an unrelated blender of biofuel.

1209 (b) The incentive may be earned for production on or after
1210 January 1, 2009. Beginning in 2010, each producer claiming an
1211 incentive must first apply to the department by February 1 of
1212 each year for an allocation of available incentives. The
1213 department shall develop an application form that shall, at a
1214 minimum, require a sworn affidavit from each producer certifying
1215 the production that forms the basis of the application and
1216 certifying that all information contained in the application is
1217 true and correct.

1218 (c) The department shall determine whether or not such

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1219 production is eligible for the incentive under this section.

1220 (d) If the amount of incentives applied for each year
1221 exceeds the amount appropriated, the department shall pay to each
1222 applicant a prorated amount based on the percentage of biofuel
1223 produced that is eligible for the incentive.

1224 (5) The department may adopt rules pursuant to ss.
1225 120.536(1) and 120.54 to administer this section, including rules
1226 prescribing forms, the documentation needed to substantiate a
1227 claim for the incentive, and the specific procedures and
1228 guidelines for claiming the incentive.

1229 Section 23. Section 683.326, Florida Statutes, is created
1230 to read:

1231 683.326 Energy Efficiency and Conservation Month.--

1232 (1) The month of October of each year is designated as
1233 "Energy Efficiency and Conservation Month."

1234 (2) The Governor may issue a proclamation annually
1235 designating the month of October as "Energy Efficiency and
1236 Conservation Month" and calling upon the residents of the state
1237 to observe the occasion in order to promote energy efficiency and
1238 conservation of the state's resources.

1239 Section 24. (1) The Legislature declares that there is an
1240 important state interest in promoting the construction of energy-
1241 efficient and sustainable buildings. Government leadership is
1242 vital to demonstrate the state's commitment to energy
1243 conservation, saving taxpayers money, and raising public
1244 awareness of energy-rating systems.

1245 (2) All county, municipal, and public community college
1246 buildings shall be constructed to meet the United States Green
1247 Building Council (USGBC) Leadership in Energy and Environmental

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1248 Design (LEED) rating system, Green Building Initiative's Green
1249 Globes rating system, or a nationally recognized, high-
1250 performance green building rating system as approved by the
1251 Department of Management Services. This section applies to all
1252 county, municipal, and public community college buildings the
1253 architectural plans for which are started on or after July 1,
1254 2009.

1255 Section 25. School district biodiesel usage.--

1256 (1) By January 1, 2009, a minimum of 20 percent of total
1257 diesel fuel purchases for use by school districts shall be
1258 biodiesel, subject to availability.

1259 (2) If a school district contracts with another government
1260 entity or private entity to provide transportation services for
1261 any of its pupils, the biodiesel blend fuel requirement
1262 established pursuant to subsection (1) shall be part of that
1263 contract. However, this requirement applies only to contracts
1264 entered into on or after July 1, 2008.

1265 Section 26. (1) The Legislature recognizes the need for
1266 expanded collaboration between the public and private sectors and
1267 increased public-private joint ventures in the areas of energy
1268 research, alternative fuel production, space exploration, and
1269 technological advances in the energy and aerospace industries.

1270 (2) Subject to appropriation, there is created within the
1271 Executive Office of the Governor the Florida Energy, Aerospace,
1272 and Technology Fund (F.E.A.T.) to encourage a state partnership
1273 with the Federal Government and the private sector in order to
1274 identify business and investment opportunities and identify
1275 performance goals for those investments in the areas of
1276 alternative energy development and production infrastructure;

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1277 biofuel, wind power, and solar energy technology development and
1278 applications; ethanol production and systems for conversion and
1279 use of ethanol fuels; cryogenics and hydrogen-based technology
1280 applications, storage, and conversion systems; hybrid engine
1281 power systems conversion technologies and production facilities;
1282 aerospace industry expansion or development opportunities;
1283 aerospace facility modifications and upgrades; build outs; new
1284 spaceport, range, and ground support infrastructure; new
1285 aerospace facilities and laboratories; new simulation,
1286 communications, and command and control systems; and other
1287 aerospace manufacturing and maintenance support infrastructure.

1288 (3) A complete and detailed report shall be provided by the
1289 fund to the Governor, the President of the Senate, and the
1290 Speaker of the House of Representatives, setting forth the
1291 following:

1292 (a) An accounting of all state funds committed and invested
1293 by the fund;

1294 (b) A qualitative and quantitative assessment of each fund
1295 investment against the investment performance goals established
1296 for investment, as well as an assessment of overall fund
1297 performance against investment objectives established for the
1298 fund overall; and

1299 (c) An evaluation of all activities of the fund and
1300 recommendations for changes.

1301 Section 27. This act shall take effect July 1, 2008.