

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1486

6 By: Morrissette

7 COMMITTEE SUBSTITUTE

8 An Act relating to woody biomass; creating the  
9 Oklahoma Woody Biomass Energy Initiative Act of 2011;  
10 making legislative findings; defining certain term;  
11 creating the Woody Biomass Energy Initiative Council;  
12 establishing termination date; providing for  
13 membership; requiring appointments by a certain date;  
14 providing for meetings, a quorum, vacancies and  
15 staffing; providing for travel reimbursement; making  
16 reimbursement and staffing contingent upon funding;  
17 requiring the Council to comply with certain Acts;  
18 specifying duties; authorizing the Council to apply  
19 for and use certain funds; providing for  
20 codification; and declaring an emergency.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 18-409 of Title 2, unless there  
24 is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Woody  
Biomass Energy Initiative Act of 2011".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 18-410 of Title 2, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The Legislature makes the following findings:

5 1. That Oklahoma has an abundance of biomass which is defined  
6 as organic material that is available on a renewable or recurring  
7 basis including:

8 a. materials, precommercial thinnings, or invasive  
9 species from National Forest System land, Department  
10 of Defense lands or public lands, as defined by  
11 law, that:

12 (1) are byproducts of preventive treatments or are  
13 removed to reduce hazardous fuels, to reduce or  
14 contain disease or insect infestation or to  
15 restore ecosystem health,

16 (2) would not otherwise be used for higher-value  
17 products, and

18 (3) are harvested in accordance with applicable law  
19 and a state or federally approved sustainable  
20 forest management plan,

21 b. plant material from nonfederal land or land belonging  
22 to a Native American or Native Tribe that is held in  
23 trust by the United States or subject to a restriction  
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1 against alienation imposed by the United States,  
2 including:

- 3 (1) feed grains,
- 4 (2) other agricultural commodities,
- 5 (3) other plants and trees harvested in accordance  
6 with applicable law and a state or federally  
7 approved sustainable forest management plan, and
- 8 (4) algae, and

9 c. residual material from nonfederal land or land  
10 belonging to a Native American or Native Tribe that  
11 is held in trust by the United States or subject to a  
12 restriction against alienation imposed by the United  
13 States, including:

- 14 (1) crop residue,
- 15 (2) other vegetative material including wood waste  
16 and wood residues,
- 17 (3) animal waste and byproducts including fats, oils,  
18 greases, and manure,
- 19 (4) gas derived from the biodegradation of solid  
20 waste, and
- 21 (5) the organic portion of municipal solid materials  
22 including all cellulosic residuals segregated  
23 from waste material, food waste, wastewater  
24 treatment plants and yard waste;

1           2. That for purposes of the Oklahoma Woody Biomass Energy  
2 Initiative Act of 2011, "woody biomass" means a material derived  
3 from trees, shrubs, bushes, grasses including switch grass or  
4 products made from woody plants;

5           3. That the Eastern Red Cedar tree is a native tree which, due  
6 to conditions, is encroaching upon ecosystems outside of its  
7 historic habitat, costing the state an average of Four Hundred  
8 Twelve Million Dollars (\$412,000,000.00) annually in loss of water,  
9 grazing lands and wildlife habitat, fire loss and allergic illness;

10          4. The objectives of the provisions of the Eastern Red Cedar  
11 Registry Board Act are to assist state and private land owners with  
12 the control of the Eastern Red Cedar tree and to use the removed  
13 trees as fuel for said project;

14          5. That woody biomass is a renewable energy source which can be  
15 used to diversify the energy portfolio of the state when converted  
16 to fuel known as biofuel;

17          6. Based on a per million British Thermal Unit (BTU) by fuel  
18 type, the rates for biofuel from woody biomass averaged in 2010 Two  
19 Dollars and fifty cents (\$2.50) for wood chips with forty percent  
20 (40%) moisture as compared with electricity which averaged Sixteen  
21 Dollars and fifty cents (\$16.50);

22          7. In order for biofuel projects to be successful, there must  
23 be a sustainable supply of woody biomass;

1 8. That harvested woody biomass can be produced for use as  
2 chips, pellets and other forms which have energy values higher than  
3 all traditional fuel sources, with Eastern Red Cedar having a  
4 considerable higher BTU value;

5 9. That nearly every state in the United States now has some  
6 type of public woody biomass project operating in either pilot  
7 project or full functioning form, with most focusing on the use of  
8 woody biomass as an economical energy resource or as a means to  
9 reduce energy costs for public facilities and state agencies; and

10 10. That in Oklahoma woody biomass could be used to reduce  
11 energy costs for public facilities such as the state correctional  
12 facilities, where in FY-09 the cost to provide energy to power the  
13 seventeen facilities in the prison system using natural gas and  
14 electricity cost the taxpayers Eight Million Two Hundred Nineteen  
15 Thousand Seven Hundred Five Dollars (\$8,219,705.00). The Department  
16 of Corrections paid these high energy costs while at the same time  
17 employees at the correctional facilities were forced to undergo  
18 furloughs and staffing reductions.

19 B. There is hereby created to continue until July 1, 2014, the  
20 Woody Biomass Energy Initiative Council.

21 C. The Council shall be composed of members as follows:

22 1. A member of the House of Representatives, appointed by the  
23 Speaker of the House of Representatives;

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- 1        2. A member of the State Senate, appointed by the President Pro  
2 Tempore of the State Senate;
- 3        3. Three members of the Eastern Red Cedar Registry Board  
4 created in Section 18-403 of Title 2 of the Oklahoma Statutes,  
5 appointed by the Governor;
- 6        4. Three members of the auxiliary group appointed by the  
7 Eastern Red Cedar Registry Board pursuant to Section 18-403 of Title  
8 2 of the Oklahoma Statutes, appointed by the Governor;
- 9        5. Two members who are engaged in the business of manufacturing  
10 or selling biofuel furnaces, one member to be appointed by the  
11 Speaker of the House of Representatives and one member to be  
12 appointed by the President Pro Tempore of the State Senate;
- 13        6. The Executive Director of the Department of Environmental  
14 Quality, or designee;
- 15        7. An employee in the Forestry Services Division of the  
16 Oklahoma Department of Agriculture, Food, and Forestry appointed by  
17 the Commissioner of Agriculture;
- 18        8. The Director of the Department of Corrections, or designee;
- 19        9. The Director of the Oklahoma Department of Commerce, or  
20 designee;
- 21        10. A member of the Corporation Commission, or designee;
- 22        11. The Executive Director of the Oklahoma Conservation  
23 Commission, or designee;

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1        12. A member appointed by and representing the Natural  
2 Resources Conservation Service of the United States Department of  
3 Agriculture;

4        13. A member appointed by and representing the United States  
5 Environmental Protection Agency; and

6        14. A member appointed by and representing the United States  
7 Department of Energy.

8        D. Appointments to the Council shall be made by July 31, 2011.  
9 Meetings of the Council shall be held at least quarterly at the call  
10 of the chair. Members shall serve at the pleasure of their  
11 appointing authorities. A majority of the members of the Council  
12 shall constitute a quorum to transact business, but no vacancy shall  
13 impair the right of the remaining members to exercise all of the  
14 powers of the Council. A vacancy on the Council shall be filled by  
15 the original appointing authority. Contingent upon the availability  
16 of funding, the Oklahoma Department of Agriculture, Food, and  
17 Forestry shall provide staff, support and information as requested  
18 by the Council.

19        E. Members of the Council shall receive no compensation for  
20 serving on the Council, but contingent upon the availability of  
21 funding, shall receive travel reimbursement as follows:

22        1. State employees who are members of the Council shall be  
23 reimbursed for travel expenses incurred in the performance of their  
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1 duties by their respective agencies in accordance with the State  
2 Travel Reimbursement Act;

3 2. Legislative members shall be reimbursed in accordance with  
4 Section 456 of Title 74 of the Oklahoma Statutes; and

5 3. All other members of the Council shall be reimbursed by the  
6 Oklahoma Department of Agriculture, Food, and Forestry for travel  
7 expenses incurred in the performance of their duties in accordance  
8 with the State Travel Reimbursement Act.

9 F. The Council shall act in accordance with the provisions of  
10 the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

11 G. The Council shall:

12 1. Develop an Oklahoma Renewable Woody Biomass Energy Usage  
13 Plan which will:

14 a. include appropriate harvesting and fuel burning  
15 guidelines and techniques that are in compliance with  
16 any laws governing the use of biomass for energy  
17 production,

18 b. take into consideration all environmental quality and  
19 energy standards,

20 c. include a funding plan for utilization,

21 d. identify state lands suitable for use in the  
22 production of biomass, and

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1 e. identify available private resources to implement the  
2 plan, including resources for implementing the duties  
3 of the Eastern Red Cedar Registry Board;

4 2. Investigate the feasibility of constructing and installing  
5 woody biomass furnaces in correctional facilities operated by the  
6 Department of Corrections, public schools, and other state agencies,  
7 which furnaces can use woody biomass harvested exclusively within  
8 Oklahoma from state and private lands;

9 3. Investigate the feasibility of using woody biomass for the  
10 purpose of cogeneration or gasification methods, as well as other  
11 emerging applications; and

12 4. Make recommendation to the Legislature and the Governor on  
13 the findings of the Council.

14 H. The Council is hereby authorized to make application for,  
15 seek and utilize any funds received including, but not limited to,  
16 any state or federal funds, grants including renewable energy grants  
17 available through the United State Department of Energy and the  
18 United State Department of Agriculture, or private donations.

19 SECTION 3. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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