

1 ENGROSSED HOUSE
2 BILL NO. 1486

By: Morrisette of the House

3 and

4 Justice of the Senate
5
6

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

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

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

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

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

1 A. The Legislature makes the following findings:

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

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

9 (1) are byproducts of preventive treatments or are
10 removed to reduce hazardous fuels, to reduce or
11 contain disease or insect infestation or to
12 restore ecosystem health,

13 (2) would not otherwise be used for higher-value
14 products, and

15 (3) are harvested in accordance with applicable law
16 and a state or federally approved sustainable
17 forest management plan,

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

23 (1) feed grains,

24 (2) other agricultural commodities,

1 (3) other plants and trees harvested in accordance
2 with applicable law and a state or federally
3 approved sustainable forest management plan, and

4 (4) algae, and

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

10 (1) crop residue,

11 (2) other vegetative material including wood waste
12 and wood residues,

13 (3) animal waste and byproducts including fats, oils,
14 greases, and manure,

15 (4) gas derived from the biodegradation of solid
16 waste, and

17 (5) the organic portion of municipal solid materials
18 including all cellulosic residuals segregated
19 from waste material, food waste, wastewater
20 treatment plants and yard waste;

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

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

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

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

13 6. Based on a per million British Thermal Unit (BTU) by fuel
14 type, the rates for biofuel from woody biomass averaged in 2010 Two
15 Dollars and fifty cents (\$2.50) for wood chips with forty percent
16 (40%) moisture as compared with electricity which averaged Sixteen
17 Dollars and fifty cents (\$16.50);

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

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

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

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

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

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

18 1. A member of the House of Representatives, appointed by the
19 Speaker of the House of Representatives;

20 2. A member of the State Senate, appointed by the President Pro
21 Tempore of the State Senate;

22 3. Three members of the Eastern Red Cedar Registry Board
23 created in Section 18-403 of Title 2 of the Oklahoma Statutes,
24 appointed by the Governor;

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

24

1 14. A member appointed by and representing the United States
2 Department of Energy.

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

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

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

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

23 3. All other members of the Council shall be reimbursed by the
24 Oklahoma Department of Agriculture, Food, and Forestry for travel

1 expenses incurred in the performance of their duties in accordance
2 with the State Travel Reimbursement Act.

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

5 G. The Council shall:

6 1. Develop an Oklahoma Renewable Woody Biomass Energy Usage
7 Plan which will:

8 a. include appropriate harvesting and fuel burning
9 guidelines and techniques that are in compliance with
10 any laws governing the use of biomass for energy
11 production,

12 b. take into consideration all environmental quality and
13 energy standards,

14 c. include a funding plan for utilization,

15 d. identify state lands suitable for use in the
16 production of biomass, and

17 e. identify available private resources to implement the
18 plan, including resources for implementing the duties
19 of the Eastern Red Cedar Registry Board;

20 2. Investigate the feasibility of constructing and installing
21 woody biomass furnaces in correctional facilities operated by the
22 Department of Corrections, public schools, and other state agencies,
23 which furnaces can use woody biomass harvested exclusively within
24 Oklahoma from state and private lands;

