

An Act

ENROLLED HOUSE
BILL NO. 1486

By: Morrissette of the House

and

Justice of the Senate

An Act relating to woody biomass; creating the Oklahoma Woody Biomass Energy Initiative Act of 2011; making legislative findings; defining certain term; creating the Woody Biomass Energy Initiative Council; establishing termination date; providing for membership; requiring appointments by a certain date; providing for meetings, a quorum, vacancies and staffing; providing for travel reimbursement; making reimbursement and staffing contingent upon funding; requiring the Council to comply with certain Acts; specifying duties; authorizing the Council to apply for and use certain funds; and providing for codification.

SUBJECT: Oklahoma Woody Biomass Energy Initiative Act of 2011

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18-409 of Title 2, unless there 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".

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:

A. The Legislature makes the following findings:

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

- a. materials, precommercial thinnings, or invasive species from National Forest System land, Department of Defense lands or public lands, as defined by law, that:
 - (1) are byproducts of preventive treatments or are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation or to restore ecosystem health,
 - (2) would not otherwise be used for higher-value products, and
 - (3) are harvested in accordance with applicable law and a state or federally approved sustainable forest management plan,

- b. plant material from nonfederal land or land belonging to a Native American or Native Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:
 - (1) feed grains,
 - (2) other agricultural commodities,
 - (3) other plants and trees harvested in accordance with applicable law and a state or federally approved sustainable forest management plan, and
 - (4) algae, and

- c. residual material from nonfederal land or land belonging to a Native American or Native Tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including:
 - (1) crop residue,

- (2) other vegetative material including wood waste and wood residues,
- (3) animal waste and byproducts including fats, oils, greases, and manure,
- (4) gas derived from the biodegradation of solid waste, and
- (5) the organic portion of municipal solid materials including all cellulosic residuals segregated from waste material, food waste, wastewater treatment plants and yard waste;

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

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

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

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

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

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

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

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

10. That in Oklahoma woody biomass could be used to reduce energy costs for public facilities such as the state correctional facilities, and all other public facilities. The Department of Corrections paid these high energy costs while at the same time employees at the correctional facilities were forced to undergo furloughs and staffing reductions.

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

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

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

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

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

4. Three members of the auxiliary group appointed by the Eastern Red Cedar Registry Board pursuant to Section 18-403 of Title 2 of the Oklahoma Statutes, appointed by the Governor;

5. Two members who are engaged in the business of manufacturing or selling biofuel furnaces, one member to be appointed by the Speaker of the House of Representatives and one member to be appointed by the President Pro Tempore of the State Senate;

6. The Executive Director of the Department of Environmental Quality, or designee;

7. An employee in the Forestry Services Division of the Oklahoma Department of Agriculture, Food, and Forestry appointed by the Commissioner of Agriculture;

8. The Director of the Department of Corrections, or designee;

9. The Director of the Oklahoma Department of Commerce, or designee;

10. A member of the Corporation Commission, or designee;

11. The Executive Director of the Oklahoma Conservation Commission, or designee;

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

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

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

D. Appointments to the Council shall be made within thirty (30) days after the effective date of this act. Meetings of the Council shall be held at least quarterly at the call of the chair. Members shall serve at the pleasure of their appointing authorities. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council. A vacancy on the Council shall be filled by the original appointing authority. Contingent upon the availability of funding, the Oklahoma Department of Agriculture, Food, and Forestry shall provide staff, support and information as requested by the Council.

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

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

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

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

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

G. The Council shall:

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

- a. include appropriate harvesting and fuel burning guidelines and techniques that are in compliance with any laws governing the use of biomass for energy production,
- b. take into consideration all environmental quality and energy standards,
- c. include a funding plan for utilization,
- d. identify state lands suitable for use in the production of biomass, and
- e. identify available private resources to implement the plan, including resources for implementing the duties of the Eastern Red Cedar Registry Board;

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

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

4. Make recommendations to the Legislature and the Governor on the findings of the Council.

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

Passed the House of Representatives the 20th day of April, 2011.

Presiding Officer of the House of
Representatives

Passed the Senate the 20th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this _____
day of _____, 20____,
at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma the _____ day of
_____, 20____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
_____ day of _____, 20____,
at _____ o'clock _____ M.

By: _____