

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Swinford, McReynolds, Christian,  
Cook of Colorado

H.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the establishment of a program by the Department of  
3 Agriculture to make grants to encourage the construction of  
4 facilities that generate electric energy with certain types of  
5 agricultural residues, waste, debris, or crops.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Title 2, Agriculture Code, is amended by adding  
8 Chapter 22 to read as follows:

9 CHAPTER 22. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION

10 INCENTIVE PROGRAM

11 Sec. 22.001. POLICY AND PURPOSE. It is the policy of this  
12 state and the purpose of this chapter to reduce air pollution,  
13 improve air quality, protect public health, help this state  
14 diversify its energy supply, and divert waste from landfills  
15 through new price-support incentives to encourage the construction  
16 of facilities to generate electric energy with certain types of  
17 agricultural residues, forest wood waste, urban wood waste,  
18 storm-generated biomass debris, and energy-dedicated crops.

19 Sec. 22.002. DEFINITIONS. In this chapter:

20 (1) "Diverter":

21 (A) means:

22 (i) a person or facility that qualifies for  
23 an exemption under Section 361.111 or 363.006, Health and Safety  
24 Code;

1                    (ii) a handler of nonhazardous industrial  
2 waste that is registered or permitted under Chapter 361, Health and  
3 Safety Code; or

4                    (iii) a facility that separates recyclable  
5 materials from a municipal solid waste stream and that is  
6 registered or permitted under Chapter 363, Health and Safety Code,  
7 as a municipal solid waste management facility; and

8                    (B) does not include a facility that uses biomass  
9 to generate electric energy.

10                   (2) "Farmer" means the owner or operator of an  
11 agricultural facility that produces qualified agricultural  
12 biomass.

13                   (3) "Forest wood waste" includes residual tops and  
14 limbs of trees, unused cull trees, thinnings, and wood or debris  
15 from noncommercial tree species, slash, or brush.

16                   (4) "Logger" means a harvester of forest wood waste,  
17 regardless of whether the harvesting occurs as a part of the  
18 harvesting of merchantable timber.

19                   (5) "Qualified agricultural biomass" means:

20                   (A) agricultural residues that are of a type that  
21 historically have been disposed of in a landfill, relocated from  
22 their point of origin and stored in a manner not intended to enhance  
23 or restore the soil, burned in open fields in the area from which  
24 they are derived, or burned in fields and orchards that continue to  
25 be used for the production of agricultural goods, and includes:

26                   (i) field or seed crop residues, including  
27 straw from rice or wheat;

1                    (ii) fruit or nut crop residues, including  
2 orchard or vineyard prunings and removals;

3                    (iii) forest wood products or urban wood  
4 products; and

5                    (iv) agricultural            livestock            waste  
6 nutrients; and

7                    (B) a crop grown and used specifically for its  
8 energy generation value, including a crop consisting of a  
9 fast-growing tree species.

10                    (6) "Storm-generated            biomass            debris" means  
11 biomass-based residues that result from a natural weather event,  
12 including a hurricane, tornado, or flood, that would otherwise be  
13 disposed of in a landfill or burned in the open. The term includes:

14                    (A) trees, brush, and other vegetative matter  
15 that have been damaged or felled by severe weather but that would  
16 not otherwise qualify as forest wood waste; and

17                    (B) clean solid wood waste that has been damaged  
18 by severe weather but that would not otherwise qualify as urban wood  
19 waste.

20                    (7) "Urban wood waste" means:

21                    (A) solid wood waste material, other than  
22 pressure-treated, chemically treated, or painted wood waste, that  
23 is free of rubber, plastic, glass, nails, or other inorganic  
24 material; and

25                    (B) landscape or right-of-way trimmings.

26                    Sec. 22.003. GRANT PROGRAM. (a) The department shall  
27 develop and administer an agricultural biomass and landfill

1 diversion incentive program to make grants to farmers, loggers, and  
2 diverters who provide qualified agricultural biomass, forest wood  
3 waste, urban wood waste, or storm-generated biomass debris to  
4 facilities that use biomass to generate electric energy in order to  
5 provide an incentive for the construction of facilities for that  
6 purpose and to:

7 (1) promote economic development;

8 (2) encourage the use of renewable sources in the  
9 generation of electric energy;

10 (3) reduce air pollution caused by burning  
11 agricultural biomass, forest wood waste, urban wood waste, or  
12 storm-generated biomass debris in open fields; and

13 (4) divert waste from landfills.

14 (b) Subject to Section 22.005, a farmer, logger, or diverter  
15 is entitled to receive a grant in the amount of \$20 for each  
16 bone-dry ton of qualified agricultural biomass, forest wood waste,  
17 urban wood waste, or storm-generated biomass debris provided by the  
18 farmer, logger, or diverter in a form suitable for generating  
19 electric energy to a facility that:

20 (1) is located in this state;

21 (2) was placed in service after August 31, 2009;

22 (3) generates electric energy sold to a third party by  
23 using qualified agricultural biomass, forest wood waste, urban wood  
24 waste, or storm-generated biomass debris;

25 (4) uses the best available emissions control  
26 technology, considering the technical practicability and economic  
27 reasonableness of reducing or eliminating the air contaminant

1 emissions resulting from the facility;

2 (5) maintains its emissions control equipment in good  
3 working order; and

4 (6) is in compliance with its operating permit issued  
5 by the Texas Commission on Environmental Quality under Chapter 382,  
6 Health and Safety Code.

7 (c) The commissioner by rule may authorize a grant to be  
8 made for providing each bone-dry ton of a type or source of  
9 qualified agricultural biomass, forest wood waste, urban wood  
10 waste, or storm-generated biomass debris in an amount that is  
11 greater than the amount provided by Subsection (b) if the  
12 commissioner determines that a grant in a greater amount is  
13 necessary to provide an adequate incentive to use that type or  
14 source of qualified agricultural biomass, forest wood waste, urban  
15 wood waste, or storm-generated biomass debris to generate electric  
16 energy.

17 (d) The Public Utility Commission of Texas and the Texas  
18 Commission on Environmental Quality shall assist the department as  
19 necessary to enable the department to determine whether a facility  
20 meets the requirements of Subsection (b) for purposes of the  
21 eligibility of farmers, loggers, and diverters for grants under  
22 this chapter.

23 (e) To receive a grant under this chapter, a farmer, logger,  
24 or diverter must deliver qualified agricultural biomass, forest  
25 wood waste, urban wood waste, or storm-generated biomass debris to  
26 a facility described by Subsection (b). The operator of each  
27 facility described by that subsection shall:

1           (1) verify and document the amount of qualified  
2 agricultural biomass, forest wood waste, urban wood waste, or  
3 storm-generated biomass debris delivered to the facility for the  
4 generation of electric energy; and

5           (2) make a grant on behalf of the department in the  
6 appropriate amount to each farmer, logger, or diverter who delivers  
7 qualified agricultural biomass, forest wood waste, urban wood  
8 waste, or storm-generated biomass debris to the facility.

9           (f) The department quarterly shall reimburse each operator  
10 of a facility described by Subsection (b) for grants under this  
11 chapter made by the operator during the preceding quarter to  
12 eligible farmers, loggers, and diverters. To receive reimbursement  
13 for one or more grants, an operator of a facility described by that  
14 subsection must file an application with the department that  
15 verifies the amount of the grants made by the operator during the  
16 preceding quarter for which the operator seeks reimbursement.

17           (g) The department may contract with and provide for the  
18 compensation of private consultants, contractors, and other  
19 persons to assist the department in administering the agricultural  
20 biomass and landfill diversion incentive program.

21           Sec. 22.004. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION  
22 INCENTIVE PROGRAM ACCOUNT. (a) The agricultural biomass and  
23 landfill diversion incentive program account is an account in the  
24 general revenue fund. The account is composed of:

25           (1) legislative appropriations;  
26           (2) gifts, grants, donations, and matching funds  
27 received under Subsection (b); and

1           (3) other money required by law to be deposited in the  
2 account.

3           (b) The department may solicit and accept gifts in kind,  
4 donations, and grants of money from the federal government, local  
5 governments, private corporations, or other persons to be used for  
6 the purposes of this chapter.

7           (c) Money in the account may be appropriated only to the  
8 department for the purpose of implementing and maintaining the  
9 agricultural biomass and landfill diversion incentive program.

10           (d) Income from money in the account shall be credited to  
11 the account.

12           (e) The account is exempt from the application of Section  
13 403.095, Government Code.

14           Sec. 22.005. LIMITATION ON GRANT AMOUNT. (a) The total  
15 amount of grants awarded by operators of facilities under Section  
16 22.003 and by the department under Section 22.006 during each state  
17 fiscal year may not exceed \$30 million.

18           (b) During each state fiscal year, the department may not  
19 pay to an operator of a facility as reimbursements under Section  
20 22.003 or grants under Section 22.006 an amount that exceeds 20  
21 percent of the total amount of the reimbursements or grants to  
22 operators of facilities under those sections during that state  
23 fiscal year.

24           Sec. 22.006. ELIGIBILITY OF OPERATORS OF ELECTRIC ENERGY  
25 GENERATION FACILITIES FOR GRANTS. (a) Except as provided by  
26 Subsection (b), an operator of a facility that uses biomass to  
27 generate electric energy is not eligible to receive a grant under

1 this chapter or under any other state law for the generation of  
2 electric energy with qualified agricultural biomass, forest wood  
3 waste, urban wood waste, or storm-generated biomass debris for  
4 which a farmer, logger, or diverter has received a grant under this  
5 chapter.

6 (b) An operator of a facility that uses biomass to generate  
7 electric energy may receive a grant from the department under this  
8 chapter for generating electric energy with qualified agricultural  
9 biomass, forest wood waste, urban wood waste, or storm-generated  
10 biomass debris that arrives at the facility in a form unsuitable for  
11 generating electric energy and that the facility processes into a  
12 form suitable for generating electric energy.

13 (c) To receive a grant from the department under Subsection  
14 (b), an operator of a facility must file an application with the  
15 department that verifies the amount of qualified agricultural  
16 biomass, forest wood waste, urban wood waste, or storm-generated  
17 biomass debris that the facility processed into a form suitable for  
18 generating electric energy. The department shall make grants to  
19 eligible operators of facilities quarterly, subject to  
20 appropriations. The provisions of this chapter governing grants to  
21 farmers, loggers, and diverters, including the provisions  
22 governing the amount of a grant, apply to a grant from the  
23 department under Subsection (b) to the extent they can be made  
24 applicable.

25 Sec. 22.007. RULES. The commissioner, in consultation with  
26 the Public Utility Commission of Texas and the Texas Commission on  
27 Environmental Quality, shall adopt rules to implement this chapter.



1       Sec. 22.008. AVAILABILITY OF FUNDS. Notwithstanding any  
2 other provision of this chapter, the department is not required to  
3 administer this chapter or adopt rules under this chapter, and the  
4 operator of a facility described by Section 22.003(b) is not  
5 required to make a grant on behalf of the department, until funds  
6 are appropriated for those purposes.

7       Sec. 22.009. EXPIRATION OF PROGRAM AND CHAPTER. The  
8 agricultural biomass and landfill diversion incentive program  
9 terminates on August 31, 2019. On September 1, 2019:

10           (1) any unobligated funds remaining in the  
11 agricultural biomass and landfill diversion incentive program  
12 account shall be transferred to the undedicated portion of the  
13 general revenue fund; and

14           (2) this chapter expires.

15       SECTION 2. This Act takes effect September 1, 2007.

**ADOPTED**

MAY 17 2007

*Leroy Spaul*  
Secretary of the Senate

By: Jackson

H.B. No. 1070

Substitute the following for \_\_\_B. No. \_\_\_\_\_:

By: Jackson

C.S. \_\_\_B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT

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relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Agriculture Code, is amended by adding Chapter 22 to read as follows:

CHAPTER 22. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION

INCENTIVE PROGRAM

Sec. 22.001. POLICY AND PURPOSE. It is the policy of this state and the purpose of this chapter to reduce air pollution, improve air quality, protect public health, help this state diversify its energy supply, and divert waste from landfills through new price-support incentives to encourage the construction of facilities to generate electric energy with certain types of agricultural residues, forest wood waste, urban wood waste, storm-generated biomass debris, and energy-dedicated crops.

Sec. 22.002. DEFINITIONS. In this chapter:

(1) "Diverter":

(A) means:

(i) a person or facility that qualifies for an exemption under Section 361.111 or 363.006, Health and Safety Code;

1                    (ii) a handler of nonhazardous industrial  
2 waste that is registered or permitted under Chapter 361, Health and  
3 Safety Code; or

4                    (iii) a facility that separates recyclable  
5 materials from a municipal solid waste stream and that is  
6 registered or permitted under Chapter 363, Health and Safety Code,  
7 as a municipal solid waste management facility; and

8                    (B) does not include a facility that uses biomass  
9 to generate electric energy.

10                   (2) "Farmer" means the owner or operator of an  
11 agricultural facility that produces qualified agricultural  
12 biomass.

13                   (3) "Forest wood waste" includes residual tops and  
14 limbs of trees, unused cull trees, thinnings, and wood or debris  
15 from noncommercial tree species, slash, or brush.

16                   (4) "Logger" means a harvester of forest wood waste,  
17 regardless of whether the harvesting occurs as a part of the  
18 harvesting of merchantable timber.

19                   (5) "Qualified agricultural biomass" means:

20                   (A) agricultural residues that are of a type that  
21 historically have been disposed of in a landfill, relocated from  
22 their point of origin and stored in a manner not intended to enhance  
23 or restore the soil, burned in open fields in the area from which  
24 they are derived, or burned in fields and orchards that continue to  
25 be used for the production of agricultural goods, and includes:

26                   (i) field or seed crop residues, including  
27 straw from rice or wheat;

1 (ii) fruit or nut crop residues, including  
2 orchard or vineyard prunings and removals;

3 (iii) forest wood products or urban wood  
4 products; and

5 (iv) agricultural livestock waste  
6 nutrients; and

7 (B) a crop grown and used specifically for its  
8 energy generation value, including a crop consisting of a  
9 fast-growing tree species.

10 (6) "Storm-generated biomass debris" means  
11 biomass-based residues that result from a natural weather event,  
12 including a hurricane, tornado, or flood, that would otherwise be  
13 disposed of in a landfill or burned in the open. The term includes:

14 (A) trees, brush, and other vegetative matter  
15 that have been damaged or felled by severe weather but that would  
16 not otherwise qualify as forest wood waste; and

17 (B) clean solid wood waste that has been damaged  
18 by severe weather but that would not otherwise qualify as urban wood  
19 waste.

20 (7) "Urban wood waste" means:

21 (A) solid wood waste material, other than  
22 pressure-treated, chemically treated, or painted wood waste, that  
23 is free of rubber, plastic, glass, nails, or other inorganic  
24 material; and

25 (B) landscape or right-of-way trimmings.

26 Sec. 22.003. GRANT PROGRAM. (a) The department shall  
27 develop and administer an agricultural biomass and landfill

1 diversion incentive program to make grants to farmers, loggers, and  
2 diverters who provide qualified agricultural biomass, forest wood  
3 waste, urban wood waste, or storm-generated biomass debris to  
4 facilities that use biomass to generate electric energy in order to  
5 provide an incentive for the construction of facilities for that  
6 purpose and to:

7 (1) promote economic development;

8 (2) encourage the use of renewable sources in the  
9 generation of electric energy;

10 (3) reduce air pollution caused by burning  
11 agricultural biomass, forest wood waste, urban wood waste, or  
12 storm-generated biomass debris in open fields; and

13 (4) divert waste from landfills.

14 (b) Subject to Section 22.005, a farmer, logger, or diverter  
15 is entitled to receive a grant in the amount of \$20 for each  
16 bone-dry ton of qualified agricultural biomass, forest wood waste,  
17 urban wood waste, or storm-generated biomass debris provided by the  
18 farmer, logger, or diverter in a form suitable for generating  
19 electric energy to a facility that:

20 (1) is located in this state;

21 (2) was placed in service after August 31, 2009;

22 (3) generates electric energy sold to a third party by  
23 using qualified agricultural biomass, forest wood waste, urban wood  
24 waste, or storm-generated biomass debris;

25 (4) uses the best available emissions control  
26 technology, considering the technical practicability and economic  
27 reasonableness of reducing or eliminating the air contaminant

1 emissions resulting from the facility;

2 (5) maintains its emissions control equipment in good  
3 working order; and

4 (6) is in compliance with its operating permit issued  
5 by the Texas Commission on Environmental Quality under Chapter 382,  
6 Health and Safety Code.

7 (c) The commissioner by rule may authorize a grant to be  
8 made for providing each bone-dry ton of a type or source of  
9 qualified agricultural biomass, forest wood waste, urban wood  
10 waste, or storm-generated biomass debris in an amount that is  
11 greater than the amount provided by Subsection (b) if the  
12 commissioner determines that a grant in a greater amount is  
13 necessary to provide an adequate incentive to use that type or  
14 source of qualified agricultural biomass, forest wood waste, urban  
15 wood waste, or storm-generated biomass debris to generate electric  
16 energy.

17 (d) The Public Utility Commission of Texas and the Texas  
18 Commission on Environmental Quality shall assist the department as  
19 necessary to enable the department to determine whether a facility  
20 meets the requirements of Subsection (b) for purposes of the  
21 eligibility of farmers, loggers, and diverters for grants under  
22 this chapter.

23 (e) To receive a grant under this chapter, a farmer, logger,  
24 or diverter must deliver qualified agricultural biomass, forest  
25 wood waste, urban wood waste, or storm-generated biomass debris to  
26 a facility described by Subsection (b). The operator of each  
27 facility described by that subsection shall:

1           (1) verify and document the amount of qualified  
2 agricultural biomass, forest wood waste, urban wood waste, or  
3 storm-generated biomass debris delivered to the facility for the  
4 generation of electric energy; and

5           (2) make a grant on behalf of the department in the  
6 appropriate amount to each farmer, logger, or diverter who delivers  
7 qualified agricultural biomass, forest wood waste, urban wood  
8 waste, or storm-generated biomass debris to the facility.

9           (f) The department quarterly shall reimburse each operator  
10 of a facility described by Subsection (b) for grants under this  
11 chapter made by the operator during the preceding quarter to  
12 eligible farmers, loggers, and diverters. To receive reimbursement  
13 for one or more grants, an operator of a facility described by that  
14 subsection must file an application with the department that  
15 verifies the amount of the grants made by the operator during the  
16 preceding quarter for which the operator seeks reimbursement.

17           (g) The department may contract with and provide for the  
18 compensation of private consultants, contractors, and other  
19 persons to assist the department in administering the agricultural  
20 biomass and landfill diversion incentive program.

21           Sec. 22.004. AGRICULTURAL BIOMASS AND LANDFILL DIVERSION  
22 INCENTIVE PROGRAM ACCOUNT. (a) The agricultural biomass and  
23 landfill diversion incentive program account is an account in the  
24 general revenue fund. The account is composed of:

25           (1) legislative appropriations;  
26           (2) gifts, grants, donations, and matching funds  
27 received under Subsection (b); and

1           (3) other money required by law to be deposited in the  
2 account.

3           (b) The department may solicit and accept gifts in kind,  
4 donations, and grants of money from the federal government, local  
5 governments, private corporations, or other persons to be used for  
6 the purposes of this chapter.

7           (c) Money in the account may be appropriated only to the  
8 department for the purpose of implementing and maintaining the  
9 agricultural biomass and landfill diversion incentive program.

10          (d) Income from money in the account shall be credited to  
11 the account.

12          (e) The account is exempt from the application of Section  
13 403.095, Government Code.

14          Sec. 22.005. LIMITATION ON GRANT AMOUNT. (a) The total  
15 amount of grants awarded by operators of facilities under Section  
16 22.003 and by the department under Section 22.006 during each state  
17 fiscal year may not exceed \$30 million.

18          (b) During each state fiscal year, the department may not  
19 pay to an operator of a facility as reimbursements under Section  
20 22.003 or grants under Section 22.006 an amount that exceeds \$6  
21 million.

22          Sec. 22.006. ELIGIBILITY OF OPERATORS OF ELECTRIC ENERGY  
23 GENERATION FACILITIES FOR GRANTS. (a) Except as provided by  
24 Subsection (b), an operator of a facility that uses biomass to  
25 generate electric energy is not eligible to receive a grant under  
26 this chapter or under any other state law for the generation of  
27 electric energy with qualified agricultural biomass, forest wood



1 waste, urban wood waste, or storm-generated biomass debris for  
2 which a farmer, logger, or diverter has received a grant under this  
3 chapter.

4 (b) An operator of a facility that uses biomass to generate  
5 electric energy may receive a grant from the department under this  
6 chapter for generating electric energy with qualified agricultural  
7 biomass, forest wood waste, urban wood waste, or storm-generated  
8 biomass debris that arrives at the facility in a form unsuitable for  
9 generating electric energy and that the facility processes into a  
10 form suitable for generating electric energy.

11 (c) To receive a grant from the department under Subsection  
12 (b), an operator of a facility must file an application with the  
13 department that verifies the amount of qualified agricultural  
14 biomass, forest wood waste, urban wood waste, or storm-generated  
15 biomass debris that the facility processed into a form suitable for  
16 generating electric energy. The department shall make grants to  
17 eligible operators of facilities quarterly, subject to  
18 appropriations. The provisions of this chapter governing grants to  
19 farmers, loggers, and diverters, including the provisions  
20 governing the amount of a grant, apply to a grant from the  
21 department under Subsection (b) to the extent they can be made  
22 applicable.

23 Sec. 22.007. RULES. The commissioner, in consultation with  
24 the Public Utility Commission of Texas and the Texas Commission on  
25 Environmental Quality, shall adopt rules to implement this chapter.

26 Sec. 22.008. AVAILABILITY OF FUNDS. Notwithstanding any  
27 other provision of this chapter, the department is not required to

1 administer this chapter or adopt rules under this chapter, and the  
2 operator of a facility described by Section 22.003(b) is not  
3 required to make a grant on behalf of the department, until funds  
4 are appropriated for those purposes.

5 Sec. 22.009. EXPIRATION OF PROGRAM AND CHAPTER. The  
6 agricultural biomass and landfill diversion incentive program  
7 terminates on August 31, 2019. On September 1, 2019:

8 (1) any unobligated funds remaining in the  
9 agricultural biomass and landfill diversion incentive program  
10 account shall be transferred to the undedicated portion of the  
11 general revenue fund; and

12 (2) this chapter expires.

13 SECTION 2. This Act takes effect September 1, 2007.

FLOOR AMENDMENT NO. 1

BY: *Phil Nichols*  
(Nichols)

1 Amend C.S.H.B. 1090, on page 1, line 47, between "unused  
2 cull trees," and "thinnings," by inserting "pre-commercial" and  
3 amend Section 22.002(5)(iii) (page 1, line 63 through page 2,  
4 line 1) to read as follows:  
5 "(iii) forest wood waste or urban wood waste; and"

**ADOPTED**

MAY 17 2007

*Leta Spaw*  
Secretary of the Senate

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 17 2007

BY: [Signature]  
(Nichols)

[Signature]  
Secretary of the Senate

1 Amend C.S.H.B. 1090, in Section 1 of the bill, amend  
2 Section 22.007 (page 4, line 45) to read as follows:

3 Sec. 22.007. RULES AND STUDY. (a) The commissioner, in  
4 consultation with the Public Utility Commission of Texas and the  
5 Texas Commission on Environmental Quality, shall adopt rules to  
6 implement this chapter.

7 (b) The commissioner, in consultation with the Public  
8 Utility Commission, Texas Forest Service, and other interested  
9 parties, shall conduct a study of the impact of the agricultural  
10 biomass and landfill diversion incentive program on existing  
11 forest products manufacturing facilities in the state. The  
12 study shall consider the potential impact of the program for  
13 each year the program remains in effect on:

14 (1) the supply of forest wood products to  
15 manufacturing facilities and, considering individually each  
16 area or region that supplies a particular manufacturing  
17 facility, whether the incentives are likely to divert  
18 forest wood products from manufacturing use to electric  
19 generation use;

20 (2) the cost and availability of qualified agricultural  
21 biomass currently used to generate electricity by existing  
22 manufacturing facilities;

23 (3) the cost of electricity generated by biomass  
24 compared to the cost of electricity generated by other  
25 fuels; and

26 (4) any other factors the commissioner deems relevant.

27 (c) Not later than January 1, 2009, the commissioner shall  
28 issue a report and make recommendations for changes in the  
29 program to mitigate any adverse impact on the forest products

1 manufacturing industry. The commissioner shall send a copy of  
2 the report to the Governor, Lieutenant Governor, Speaker of the  
3 House of Representatives, and each member of the Legislature."



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

May 14, 2007

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1090** by Swinford (Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electrical energy with certain types of agricultural residues, waste, debris, or crops. ), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1090, Committee Report 2nd House, Substituted: a negative impact of (\$94,402) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	(\$94,402)
2010	(\$15,067,637)
2011	(\$15,067,637)
2012	(\$15,067,637)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Revenue Gain/(Loss) from <i>New GR-Dedicated Agricultural Biomass and Landfill Diversion Incentive Program Account</i>	Probable Savings/ (Cost) from <i>New GR-Dedicated Agricultural Biomass Landfill Diversion Incentive Program Account</i>	Change in Number of State Employees from FY 2007
2008	\$0	\$0	\$0	0.0
2009	(\$94,402)	\$94,402	(\$94,402)	1.0
2010	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0
2011	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0
2012	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0

**Fiscal Analysis**

The bill requires that the Texas Department of Agriculture (TDA) with the assistance of the Texas Commission on Environmental Quality (TCEQ) and the Public Utility Commission (PUC), establish an Agricultural Biomass and Landfill Diversion Incentive Program to provide grants to farmers, loggers, and diverters who provide agricultural biomass to facilities that: are located in the state; placed in service after August 31, 2009; generate electric energy sold to a third party using agricultural biomass; and use the best available emissions control technology.





The bill would entitle each farmer, logger, or diverter to \$20 per each ton of bone-dry agricultural biomass suitable for biomass conversion. This bill would authorize TDA to grant no more than \$30 million each fiscal year. The grants to the farmers, loggers, and diverters would be made by the operators of the electric generation facilities; operators that process unsuitable biomass into a form suitable for producing electric energy are also eligible for grants under this program. The bill would provide that the facility operators would be reimbursed on a quarterly basis by TDA, after filing out an application with the agency that verifies the amount of qualified agricultural biomass processed into a form suitable for generating electric energy. The bill limits the amount an operator can receive to no more than \$6.0 million.

The bill would create a new General Revenue-Dedicated Account within the General Revenue Fund, the Agricultural Biomass and Landfill Diversion Incentive Program Account, which would consist of money transferred to the account at the direction of the Legislature, gifts, grants, donations and money from any other sources to be used by TDA to implement the incentive program. This new fund would be subject to funds consolidation review by the current Legislature.

### **Methodology**

Assuming an average load of 40 tons (the maximum load limit for non-permitted commercial transporters) of which 75 percent is bone-dry and 25,000 loads being transported by farmers, loggers and/or diverters a year, the Department of Agriculture estimates that based on an incentive of \$20 for each ton of bone-dry biomass, \$15 million would be granted to farmers/loggers/diverters per fiscal year. No grants, however, are anticipated to be made until fiscal year 2010 given the provision that to be eligible for the incentive payments, these tons of biomass can only be provided to facilities that were in service after August 31, 2009.

In order to be ready to implement the provisions of the bill when this program comes on-line in the beginning of fiscal year 2010, TDA anticipates needing 1.0 FTE in fiscal year 2009 and some associated start up costs, including the creation of a computer application to support the new grant program, for a total cost of \$94,402. TDA anticipates needing just one FTE in subsequent fiscal years as well to administer the new grant program. Since no funding is available in the new General Revenue-Dedicated Account created by the bill, it is assumed that all costs would be paid from the General Revenue Fund.

### **Technology**

TDA anticipates that the cost to create a computer application to support the new grant program would be \$21,600.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality, 551 Department of Agriculture

**LBB Staff:** JOB, JF, WK, ZS, TL



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

May 11, 2007

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1090** by Swinford (Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1090, As Engrossed: a negative impact of (\$94,402) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	(\$94,402)
2010	(\$15,067,637)
2011	(\$15,067,637)
2012	(\$15,067,637)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from New GR-Dedicated Agricultural Biomass and Landfill Diversion Incentive Program Account	Probable Savings/ (Cost) from New GR-Dedicated Agricultural Biomass Landfill Diversion Incentive Program Account	Change in Number of State Employees from FY 2007
2008	\$0	\$0	\$0	0.0
2009	(\$94,402)	\$94,402	(\$94,402)	1.0
2010	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0
2011	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0
2012	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0

**Fiscal Analysis**

The bill requires that the Texas Department of Agriculture (TDA) with the assistance of the Texas Commission on Environmental Quality (TCEQ) and the Public Utility Commission (PUC), establish an Agricultural Biomass and Landfill Diversion Incentive Program to provide grants to farmers, loggers, and diverters who provide agricultural biomass to facilities that: are located in the state; placed in service after August 31, 2009; generate electric energy sold to a third party using agricultural biomass; and use the best available emissions control technology.



The bill would entitle each farmer, logger, or diverter to \$20 per each ton of bone-dry agricultural biomass suitable for biomass conversion. This bill would authorize TDA to grant no more than \$30 million each fiscal year. The grants to the farmers, loggers, and diverters would be made by the operators of the electric generation facilities; operators that process unsuitable biomass into a form suitable for producing electric energy are also eligible for grants under this program. The bill would provide that the facility operators would be reimbursed on a quarterly basis by TDA, after filing out an application with the agency that verifies the amount of qualified agricultural biomass processed into a form suitable for generating electric energy. The bill limits the amount an operator can receive to no more than 20 percent of the total amount of reimbursements or grants made to all eligible operators during a fiscal year.

The bill would create a new General Revenue-Dedicated Account within the General Revenue Fund, the Agricultural Biomass and Landfill Diversion Incentive Program Account, which would consist of money transferred to the account at the direction of the Legislature, gifts, grants, donations and money from any other sources to be used by TDA to implement the incentive program. This new fund would be subject to funds consolidation review by the current Legislature.

### **Methodology**

Assuming an average load of 40 tons (the maximum load limit for non-permitted commercial transporters) of which 75 percent is bone-dry and 25,000 loads being transported by farmers, loggers and/or diverters a year, the Department of Agriculture estimates that based on an incentive of \$20 for each ton of bone-dry biomass, \$15 million would be granted to farmers/loggers/diverters per fiscal year. No grants, however, are anticipated to be made until fiscal year 2010 given the provision that to be eligible for the incentive payments, these tons of biomass can only be provided to facilities that were in service after August 31, 2009.

In order to be ready to implement the provisions of the bill when this program comes on-line in the beginning of fiscal year 2010, TDA anticipates needing 1.0 FTE in fiscal year 2009 and some associated start up costs, including the creation of a computer application to support the new grant program, for a total cost of \$94,402. TDA anticipates needing just one FTE in subsequent fiscal years as well to administer the new grant program. Since no funding is available in the new General Revenue-Dedicated Account created by the bill, it is assumed that all costs would be paid from the General Revenue Fund.

### **Technology**

TDA anticipates that the cost to create a computer application to support the new grant program would be \$21,600.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas, 551 Department of Agriculture, 582 Commission on Environmental Quality

**LBB Staff:** JOB, JF, WK, ZS, TL



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

April 20, 2007

**TO:** Honorable Sid Miller, Chair, House Committee on Agriculture & Livestock

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1090** by Swinford (Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1090, Committee Report 1st House, Substituted: a negative impact of (\$94,402) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	(\$94,402)
2010	(\$15,067,637)
2011	(\$15,067,637)
2012	(\$15,067,637)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from New GR-Dedicated Agricultural Biomass and Landfill Diversion Incentive Program Account	Probable Savings/ (Cost) from New GR-Dedicated Agricultural Biomass Landfill Diversion Incentive Program Account	Change in Number of State Employees from FY 2007
2008	\$0	\$0	\$0	0.0
2009	(\$94,402)	\$94,402	(\$94,402)	1.0
2010	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0
2011	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0
2012	(\$15,067,637)	\$15,067,637	(\$15,067,637)	1.0

**Fiscal Analysis**

The bill requires that the Texas Department of Agriculture (TDA) with the assistance of the Texas Commission on Environmental Quality (TCEQ) and the Public Utility Commission (PUC), establish an Agricultural Biomass and Landfill Diversion Incentive Program to provide grants to farmers, loggers, and diverters who provide agricultural biomass to facilities that: are located in the state; placed in service after August 31, 2009; generate electric energy sold to a third party using agricultural biomass; and use the best available emissions control technology.





The bill would entitle each farmer, logger, or diverter to \$20 per each ton of bone-dry agricultural biomass suitable for biomass conversion. This bill would authorize TDA to grant no more than \$30 million each fiscal year. The grants to the farmers, loggers, and diverters would be made by the operators of the electric generation facilities; operators that process unsuitable biomass into a form suitable for producing electric energy are also eligible for grants under this program. The bill would provide that the facility operators would be reimbursed on a quarterly basis by TDA, after filing out an application with the agency that verifies the amount of qualified agricultural biomass processed into a form suitable for generating electric energy.

The bill would create a new General Revenue-Dedicated Account within the General Revenue Fund, the Agricultural Biomass and Landfill Diversion Incentive Program Account, which would consist of money transferred to the account at the direction of the Legislature, gifts, grants, donations and money from any other sources to be used by TDA to implement the incentive program. This new fund would be subject to funds consolidation review by the current Legislature.

### **Methodology**

Assuming an average load of 40 tons (the maximum load limit for non-permitted commercial transporters) of which 75 percent is bone-dry and 25,000 loads being transported by farmers, loggers and/or diverters a year, the Department of Agriculture estimates that based on an incentive of \$20 for each ton of bone-dry biomass, \$15 million would be granted to farmers/loggers/diverters per fiscal year. No grants, however, are anticipated to be made until fiscal year 2010 given the provision that to be eligible for the incentive payments, these tons of biomass can only be provided to facilities that were in service after August 31, 2009.

In order to be ready to implement the provisions of the bill when this program comes on-line in the beginning of fiscal year 2010, TDA anticipates needing 1.0 FTE in fiscal year 2009 and some associated start up costs, including the creation of a computer application to support the new grant program, for a total cost of \$94,402. TDA anticipates needing just one FTE in subsequent fiscal years as well to administer the new grant program. Since no funding is available in the new General Revenue-Dedicated Account created by the bill, it is assumed that all costs would be paid from the General Revenue Fund.

### **Technology**

TDA anticipates that the cost to create a computer application to support the new grant program would be \$21,600.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality,  
551 Department of Agriculture

**LBB Staff:** JOB, JF, WK, ZS, TL



**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 26, 2007**

**TO:** Honorable Sid Miller, Chair, House Committee on Agriculture & Livestock

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1090** by Swinford (Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electrical energy with certain types of agricultural residues, waste, debris, or crops.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1090, As Introduced: a negative impact of (\$15,232,341) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$94,402)
2009	(\$15,137,939)
2010	(\$15,132,774)
2011	(\$15,132,774)
2012	(\$15,132,774)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from GENERAL REVENUE FUND 1	Probable Revenue Gain/(Loss) from New GR-Dedicated Agricultural Biomass and Landfill Diversion Incentive Program Account	Probable Savings/ (Cost) from New GR-Dedicated Agricultural Biomass Landfill Diversion Incentive Program Account	Change in Number of State Employees from FY 2007
2008	(\$94,402)	\$94,402	(\$94,402)	1.0
2009	(\$15,137,939)	\$15,137,939	(\$15,137,939)	2.0
2010	(\$15,132,774)	\$15,132,774	(\$15,132,774)	2.0
2011	(\$15,132,774)	\$15,132,774	(\$15,132,774)	2.0
2012	(\$15,132,774)	\$15,132,774	(\$15,132,774)	2.0

**Fiscal Analysis**

The bill requires that the Texas Department of Agriculture (TDA) with the assistance of the Texas Commission on Environmental Quality (TCEQ) and the Public Utility Commission (PUC), establish an Agricultural Biomass and Landfill Diversion Incentive Program to provide grants to farmers, loggers, and diverters who provide agricultural biomass to facilities that: are located in the state; constructed on or after June 30, 2008; generate electrical energy sold to a third party using agricultural biomass; and use the best available emissions control technology.



This bill would entitle each farmer, logger, or diverter to \$20 per ton of each bone-dry agricultural biomass suitable for biomass conversion. This bill would authorize TDA to grant no more than \$30 million each fiscal year.

The bill would create a new General Revenue-Dedicated Account within the General Revenue Fund, the Agricultural Biomass and Landfill Diversion Incentive Program Account, which would consist of money transferred to the account at the direction of the Legislature, gifts, grants, donations and money from any other sources to be used by TDA to implement the incentive program.

### **Methodology**

Assuming an average load of 40 tons (the maximum load limit for non-permitted commercial transporters) of which 75 percent is bone-dry and 25,000 loads being transported by farmers, loggers and/or diverters a year, the Department of Agriculture estimates that based on an incentive of \$20 for each ton of bone-dry biomass, \$15 million would be granted to farmers/loggers/diverters per fiscal year. No grants, however, are anticipated to be made in fiscal year 2008 given the provision that to be eligible for the incentive payments, these tons of biomass can only be provided to facilities constructed on or after June 30, 2008.

In order to implement the provisions of this bill TDA anticipates needing 1.0 FTE in fiscal year 2008 for a total cost of \$64,145 and 2.0 FTEs in subsequent fiscal years for a total cost of \$128,290 per fiscal year.

### **Technology**

TDA anticipates that the cost to create a computer application to support the new grant program would be \$21,600.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 473 Public Utility Commission of Texas, 551 Department of Agriculture, 582 Commission on Environmental Quality

**LBB Staff:** JOB, JF, WK, ZS, TL

