

By: Representative Morgan

To: Forestry

HOUSE BILL NO. 1533

1 AN ACT TO PROVIDE THAT BIOENERGY PRODUCED FROM BIOMASS IS
 2 CONSIDERED RENEWABLE AND CARBON NEUTRAL; TO PROVIDE THAT WHEN THE
 3 BIOENERGY PRODUCED FROM BIOMASS IS PAIRED WITH BIOENERGY WITH
 4 CARBON CAPTURE AND STORAGE, THE BIOENERGY IS CARBON NEGATIVE; TO
 5 PROVIDE THAT BIOENERGY PRODUCED FROM AGRICULTURAL HARVESTING IS
 6 CONSIDERED RENEWABLE AND CARBON NEUTRAL; TO PROVIDE THAT WHEN THE
 7 BIOENERGY PRODUCED FROM AGRICULTURAL HARVESTING IS PAIRED WITH
 8 BIOENERGY WITH CARBON CAPTURE AND STORAGE, THE BIOENERGY IS CARBON
 9 NEGATIVE; TO BRING FORWARD SECTIONS 49-33-7, 57-39-45 AND 75-79-5,
 10 WHICH RELATE TO THE MISSISSIPPI AGRICULTURAL AND FORESTRY ACTIVITY
 11 ACT, COMPILATION OF DATA RELATED TO ENERGY RESOURCES, AND PULPWOOD
 12 SCALING AND PRACTICES, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR
 13 RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** (1) For purposes of this act, the following
 16 words and phrases shall have the meanings as defined in this
 17 section unless the context clearly indicates otherwise:

18 (a) "Biomass" means bioenergy feedstocks from forest
 19 products manufacturing, including, without limitation:

20 (i) Forest products manufacturing residuals,
 21 including without limitation:

- 22 1. Pulping liquors;
- 23 2. Pulping byproducts;



24 3. Woody manufacturing residuals;
25 4. Paper recycling residuals;
26 5. Wastewater and process water treatment
27 plant residuals; and
28 6. Anaerobic digester biogas;
29 (ii) Harvest residues, including without
30 limitation trees or portions of harvested trees;
31 (iii) Downed wood from extreme weather events or
32 natural disasters;
33 (iv) Nonhazardous landscape or right-of-way
34 trimmings and municipal trimmings;
35 (v) Plant material removed for purposes of
36 invasive or noxious plant species control;
37 (vi) Biowaste, including without limitation
38 landfill gas;
39 (vii) Forest biomass derived from residues created
40 as a byproduct of timber harvesting;
41 (viii) Forest management activities conducted for
42 timber stand improvement or to increase yield, ecological
43 restoration, or to maintain or enhance forest health;
44 (ix) Biomass materials described by the United
45 States Environmental Protection Agency as fuels under 40 CFR
46 Section 241.1 et seq., as it existed on January 1, 2023; and
47 (x) Other used wood products, including without
48 limitation crates or pallets; and



49 (2) "Bioenergy with carbon capture and storage" means the
50 process of capturing and permanently storing carbon dioxide from
51 biomass energy generation.

52 (3) Bioenergy produced from biomass is considered renewable
53 and carbon neutral.

54 (4) When the bioenergy produced from biomass is paired with
55 bioenergy with carbon capture and storage, the bioenergy is carbon
56 negative.

57 (5) Bioenergy produced from agricultural harvesting is
58 considered renewable and carbon neutral.

59 (6) When the bioenergy produced from agricultural harvesting
60 is paired with bioenergy with carbon capture and storage, the
61 bioenergy is carbon negative.

62 **SECTION 2.** Section 49-33-7, Mississippi Code of 1972, is
63 brought forward as follows:

64 49-33-7. For the purposes of this chapter, the following
65 words and phrases shall have the meanings ascribed to them in this
66 section:

67 (a) "Act" shall mean the Mississippi Agricultural and
68 Forestry Activity Act.

69 (b) "Forest or agricultural land" means any land in the
70 state devoted to the growing of trees or the commercial production
71 of agricultural products or timber, wood or forest products
72 including nongame species where the land is classified by the
73 county as forest, agricultural or open land and being used as



74 forest or agricultural land in the performance of forestry or
75 agricultural activities.

76 (c) "Forestry activities" means any activity on forest
77 land associated with the reforesting, growing, managing,
78 protecting and harvesting of timber, wood and forest products
79 including nongame species.

80 (d) "Agricultural activities" means any activities
81 included under Section 27-35-50(4) as agricultural purposes.

82 (e) "Inverse condemnation" means any action by the
83 State of Mississippi that prohibits or severely limits the right
84 of an owner to conduct forestry or agricultural activities on
85 forest or agricultural land. Inverse condemnation shall not
86 include an action by the state that is:

87 (i) A taking as defined in paragraph (1) of this
88 section;

89 (ii) A result of police power to prohibit
90 activities that are noxious in fact or are harmful to the public
91 health and safety; or

92 (iii) An order issued as a result of a violation
93 of state law; or

94 (iv) An action as prescribed by the Mississippi
95 Commission on Wildlife, Fisheries and Parks as set forth in
96 Sections 49-7-1 through 49-7-257 or concerning the closing or
97 shortening of open seasons as set forth in Section 49-1-29(a).



98 (f) "Noxious in fact" means an activity that
99 constitutes a public nuisance under common law.

100 (g) "Owner" means the holder of legal or equitable
101 title to:

102 (i) Forest or agricultural land or timber, wood or
103 forest products, including the management of nongame species
104 thereon; or

105 (ii) Personal property rights associated with
106 conducting forestry or agricultural activities on forest or
107 agricultural land.

108 (h) "Prohibits or severely limits" means to reduce the
109 fair market value of forest or agricultural land (or any part or
110 parcel thereof) or timber, wood or forest products including
111 nongame species (or any part or parcel thereof) or personal
112 property rights associated with conducting forestry or
113 agricultural activities on the forest or agricultural land by more
114 than forty percent (40%) of their value before the action.

115 (i) "Public health and safety" means actions by the
116 State of Mississippi based upon its police powers. Public health
117 and safety actions prohibiting or severely restricting forestry or
118 agricultural activities shall be:

119 (i) Taken only in response to real and substantial
120 threats to public health and safety;

121 (ii) Designated to significantly advance the
122 health and safety purpose; and



123 (iii) No greater than necessary to achieve the
124 health and safety purpose.

125 (j) "State of Mississippi" or "state" means the State
126 of Mississippi, any county, municipality or any political
127 subdivision thereof.

128 (k) "State law" means any statute, rule, regulation,
129 ordinance, resolution or similar action by the State of
130 Mississippi validly existing and as interpreted on October 1,
131 1994. State law shall not include:

132 (i) Any judicial or executive interpretation of a
133 state law after October 1, 1994, that prohibits or severely limits
134 the conducting of forestry or agricultural activities that were
135 not prohibited or severely limited before October 1, 1994; or

136 (ii) Any legislative amendment, interpretation or
137 enactment by the state after October 1, 1994, that prohibits or
138 severely limits the conducting of forestry or agricultural
139 activities (except such actions that are the result of police
140 power to prohibit activities that are noxious in fact or are
141 harmful to the public health and safety).

142 (l) "Taking" means any action by the State of
143 Mississippi under the Fifth Amendment to the United States
144 Constitution, the Fourteenth Amendment to the United States
145 Constitution, or Article III, Section 17 of the Mississippi
146 Constitution where the owner is entitled to compensation for the
147 fair market value of the owner's property or some part thereof (or



148 required to forfeit the property in accordance with state
149 forfeiture laws). Taking shall include the formal exercise of the
150 power of eminent domain, the seizure or forfeiture of property for
151 violations of law or as evidence in criminal proceedings or the
152 issuance of orders authorized by statute or issued by a state
153 agency or court of law for violations of state law. Taking shall
154 not include the repealing of any state action that lessens
155 interference with the conduct of forestry or agricultural
156 activities.

157 (m) "Personal property" means any interest acquired by
158 deed, lease, contract or agreement in standing or severed timber,
159 wood or forest products.

160 **SECTION 3.** Section 57-39-45, Mississippi Code of 1972, is
161 brought forward as follows:

162 57-39-45. (1) The division shall be responsible for
163 compiling on an ongoing basis data related to the energy
164 resources, both natural and manmade, of the State of Mississippi.
165 This information shall be compiled from trusted and verified
166 sources for the purposes of aggregation for analysis and
167 dissemination to partners and the public with the intent to
168 maximize the energy resources of the state.

169 (2) **Biomass resources.** The division shall be responsible
170 for maintaining a current database and map of biomass feedstocks
171 found in the State of Mississippi. The division shall work with
172 the Mississippi Forestry Commission, the Department of



173 Agriculture, the institutions of higher learning, and other
174 knowledgeable partners to produce and maintain accurate data on
175 the renewable biomass resources of the state. The division shall
176 analyze the data and prepare reports on a regular basis in order
177 to highlight and promote the biomass resources of the state.

178 (3) **Energy infrastructure.** The division shall be
179 responsible for maintaining a current database and map of the
180 infrastructure that transports energy fuels and products across
181 the state. The division shall analyze the data and prepare
182 reports on a regular basis in order to highlight and promote the
183 energy infrastructure of the state.

184 (4) **Energy production and reserves.** The division shall be
185 responsible for maintaining information from all readily available
186 resources on the energy production capacity in the state. The
187 division shall maintain information on the energy reserves of the
188 state.

189 (5) **Reports and publications.** The division shall produce
190 reports, white papers, or articles for placement in targeted
191 publications that include information to promote Mississippi as a
192 leader in the energy sector.

193 **SECTION 4.** Section 75-79-5, Mississippi Code of 1972, is
194 brought forward as follows:

195 75-79-5. The following words and phrases, as used in this
196 chapter, shall have the meanings respectively ascribed to them in



197 this section, except where the context or subject matter otherwise
198 requires:

199 (a) "Person" means any individual, firm, copartnership,
200 association, corporation, receiver, trustee, legal representative,
201 organization or any other group or combination acting as a unit.

202 (b) "Commissioner" means the Mississippi Commissioner
203 of Agriculture and Commerce.

204 (c) "Pulpwood" means any timber product delivered to a
205 receiving facility in short-length form, eight (8) feet or less,
206 and intended for use as a raw material in the manufacture of pulp
207 and pulp products.

208 (d) "Pulpwood cutter-hauler" or "cutter-hauler" means
209 any person engaging in or continuing to engage in this state in
210 the business of severing and carrying pulpwood.

211 (e) "Pulpwood receiving facility" or "facility" means
212 any woodyard, pulpmill or other place of business at which
213 pulpwood is received from pulpwood cutter-haulers as herein
214 defined in the regular course of business.

215 (f) "Facility operator" means any person who owns,
216 operates or manages a pulpwood receiving facility as herein
217 defined. Provided, however, that any landowner who shall pay
218 employees an hourly wage to both cut and collect pulpwood on his
219 private property shall not be deemed a facility operator under the
220 provisions of this chapter.



221 **SECTION 5.** This act shall take effect and be in force from
222 and after July 1, 2024.

