

An Act

ENROLLED HOUSE
BILL NO. 2509

By: Bengé of the House

and

Bingman, Myers and Newberry
of the Senate

An Act relating to environment and natural resources; amending 27A O.S. 2001, Section 2-2-201, which relates to advisory councils; deleting obsolete initial appointment language; modifying membership of the Solid Waste Management Advisory Council; providing for appointments; providing for terms, service and removal of members; providing for vacancies and a quorum; adding an additional appointment by the Governor; deleting requirement for continued membership of the Air Quality Council; deleting obsolete appointment language; amending 27A O.S. 2001, Section 2-10-802, as last amended by Section 1, Chapter 71, O.S.L. 2007 (27A O.S. Supp. 2009, Section 2-10-802), which relates to fees and operations of landfill disposal sites; adding commercial incinerators to operating requirements; defining certain terms; modifying the written record requirement for certain waste reused or recovered; adding commercial incinerators to certain fee requirements; making commercial incinerators eligible for reimbursement of certain capital investments; modifying date for claiming reimbursement; limiting reimbursement; changing the maximum amount of reimbursement allowed during a fiscal year; adding exemption from certain fee for certain ash; expanding authorization to expend certain fee income for incentive payments; amending Section 2, Chapter 71, O.S.L. 2007 (27A O.S. Supp. 2009, Section 2-10-802.1), which relates to the application of reimbursement remainder to landfill closures; deleting reference to certain type of site; changing

reimbursement amount; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-2-201, is amended to read as follows:

Section 2-2-201. A. There are hereby created:

1. The Water Quality Management Advisory Council;
2. The Hazardous Waste Management Advisory Council;
3. The Solid Waste Management Advisory Council;
4. The Radiation Management Advisory Council; and
5. The Laboratory Services Advisory Council.

B. 1. ~~Each~~ Except as provided for in paragraph 2 of this subsection, each Council created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. ~~The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments~~ Appointments shall be for three-year terms. Members of the Advisory Councils shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. The Solid Waste Management Advisory Council shall consist of ten (10) members. Four members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. Appointments shall be for three-year terms. Members of the Solid Waste Management Advisory

Council shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Six members shall constitute a quorum.

3. Each Council shall elect a chair and a vice-chair from among its members. Each Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three (3) members.

C. 1. All members of the Water Quality Management Advisory Council shall be knowledgeable of water quality and of the environment. The Council shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing the field of engineering,
 - (2) one member representing a statewide nonprofit environmental organization, and
 - (3) one member representing the general public,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing an industry located in this state,
 - (2) one member representing an oil field-related industry, and
 - (3) one member representing the field of geology, and
- c. the Speaker of the House of Representatives shall appoint three members as follows:
 - (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
 - (2) one member representing a rural water district organized pursuant to the laws of this state, and

(3) one member representing the field of agriculture.

2. The jurisdictional areas of the Water Quality Management Advisory Council shall include Article VI of this chapter, water quality and protection and related activities and such other areas as designated by the Board.

D. 1. All members of the Hazardous Waste Management Advisory Council shall be knowledgeable of hazardous waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

(1) one member representing an industry located in this state,

(2) one member representing a statewide nonprofit environmental organization, and

(3) one member representing a political subdivision of the state who shall be a member of the local governing body of a city or town,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,

(2) one member representing the general public, and

(3) one member representing industry generating hazardous waste, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

(1) one member representing the field of engineering,

(2) one member representing the hazardous waste industry, and

(3) one member representing the field of geology.

2. The jurisdictional areas of the Hazardous Waste Management Advisory Council shall include Article VII of this chapter, the Oklahoma Hazardous Waste Reduction Program, and such other areas as designated by the Board.

E. 1. All members of the Solid Waste Management Advisory Council shall be knowledgeable of solid waste and of the environment. The Council shall be composed as follows:

- a. the Governor shall appoint ~~three~~ four members as follows:
 - (1) one member representing a statewide nonprofit environmental organization,
 - (2) one member shall be a county commissioner, ~~and~~
 - (3) one member representing the general public, and
 - (4) one member representing the solid waste incineration, waste-to-energy industry in this state,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing an industry located in this state generating solid waste,
 - (2) one member representing a political subdivision of this state who shall be a member of the local governmental body of a city or town, and
 - (3) one member representing the field of geology, and
- c. the Speaker of the House of Representatives shall appoint three members as follows:
 - (1) one member representing the solid waste disposal industry in this state,
 - (2) one member representing the field of engineering, and

- (3) one member representing the transportation industry.

2. The jurisdictional areas of the Solid Waste Management Advisory Council shall include Article X of this chapter, the Oklahoma Waste Tire Recycling Act and such other areas as designated by the Board.

F. 1. All members of the Radiation Management Advisory Council shall be knowledgeable of radiation hazards and radiation protection. The Council shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing an industry located in this state which uses sources of radiation in its manufacturing or processing business,
 - (2) one member representing a statewide nonprofit environmental organization, and
 - (3) one member representing the engineering profession who shall be a professional engineer employed and experienced in matters of radiation management and protection,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing the faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of radiation management and protection,
 - (2) one member representing the general public, and
 - (3) one member representing the field of industrial radiography, and
- c. the Speaker of the House of Representatives shall appoint three members as follows:
 - (1) one member representing the transportation industry,

- (2) one member representing the petroleum industry who is trained and experienced in radiation management and protection, and
- (3) one member representing a medical institution within this state who shall be experienced in matters of radiation management and protection.

2. The jurisdictional areas of the Radiation Management Advisory Council shall include Article IX of this chapter and such other areas as designated by the Board.

G. 1. All members of the Laboratory Services Advisory Council shall be knowledgeable of laboratory services and certification standards. The Council shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member representing a private laboratory within the state certified by the Department,
 - (2) one member representing the field of hydro-geology, and
 - (3) one member representing permit holders required to routinely submit laboratory analyses results to the Department,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing a private laboratory within the state certified by the Department,
 - (2) one member representing a public laboratory within the state certified by the Department, and
 - (3) one member representing the field of microbiology, and
- c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing a private laboratory within the state certified by the Department,
- (2) one member representing permit holders required to routinely submit laboratory analyses results to the Department, and
- (3) one member representing the field of environmental chemistry.

2. The jurisdictional areas of the Laboratory Services Advisory Council shall include Article IV of this chapter and such other areas designated by the Board.

H. 1. The Air Quality Council created pursuant to Section 6, Chapter 215, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-1807.1) shall remain in effect as the Air Quality Advisory Council and carry on the powers and duties assigned to it by law. ~~The current members of the Air Quality Council shall remain on the Council until the expiration of their individual terms of office or until such offices are vacated.~~ Future appointments to the Council shall be made according to the provisions of this section.

2. The Council shall consist of nine (9) members who shall be residents of this state and appointed by the Governor with the advice and consent of the Senate.

3. Members of the Council shall have the qualifications as follows:

- a. one member shall be selected from the engineering profession, and, as such, shall be a professional engineer and experienced in matters of air pollution equipment and control, who shall not be an employee of any unit of government,
- b. one member shall be selected from industry in general, and, as such, shall be employed as a manufacturing executive carrying on a manufacturing business within this state,
- c. one member shall be selected from a faculty of an institution of higher learning of university status and shall be experienced in matters of scientific

knowledge and competent in matters of air pollution control and evaluation,

- d. one member shall be selected from the transportation industry,
- e. one member shall be selected from the petroleum industry, and, as such, shall be employed by a petroleum company carrying on a petroleum refining business within the state, and, as such, shall be trained and experienced in matters of scientific knowledge of causes as well as effects of air pollution,
- f. one member shall be selected from agriculture, and, as such, shall be engaged in or employed by a basic agricultural business or the processing of agricultural products,
- g. one member shall be selected from the political subdivisions of the state, and, as such, shall be a member of the local government body of a city or town,
- h. one member, whose first term shall expire on June 15, 1998, shall be selected from the general public, and
- i. one member, whose first term shall expire on June 15, 1999, shall be selected from the electric utilities industry, and as such, shall be knowledgeable in matters of air pollution and control.

4. Each member shall be appointed to serve a term of office of seven (7) years, ~~except that the term of those first appointed shall expire as follows:~~

~~One at the end of one (1) year after date of appointment;~~

~~One at the end of two (2) years after date of appointment;~~

~~One at the end of three (3) years after date of appointment;~~

~~One at the end of four (4) years after date of appointment;~~

~~One at the end of five (5) years after date of appointment;~~

~~One at the end of six (6) years after date of appointment,~~

and

~~One at the end of seven (7) years after date of appointment,~~

The terms of all members shall be deemed to have expired on June 15th of the year of expiration, and shall continue until successors have been duly appointed and qualified. If a vacancy occurs, the Governor shall appoint a person for the remaining portion of the unexpired term created by the vacancy. Five members of the Council shall constitute a quorum.

5. The Council shall hold at least two regular meetings each calendar year at a place and time to be fixed by the Council. The Council shall select one of its members to serve as chair and another of its members to serve as vice-chair at the first regular meeting in each calendar year to serve as the chair and vice-chair for the ensuing year. Special meetings may be called, and any meeting may be canceled, by the chair, or by three members of the Council by delivery of written notice to each member of the Council.

6. The jurisdictional areas of the Air Quality Council shall include Article V of this chapter and such other areas as designated by the Board.

I. In addition to other powers and duties assigned to each Council pursuant to this Code, each Council shall, within its jurisdictional area:

1. Have authority to recommend to the Board rules on behalf of the Department. The Department shall not have standing to recommend to the Board permanent rules or changes to such rules within the jurisdiction of a Council which have not previously been submitted to the appropriate Council for action;

2. Before recommending any permanent rules to the Board, give public notice, offer opportunity for public comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act;

3. Have the authority to make written recommendations to the Board which have been concurred upon by at least a majority of the membership of the Council;

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

- a. pass nonbinding resolutions expressing the sense of the Council, and
- b. make recommendations to the Board or Department concerning the need and the desirability of conducting meetings, workshops and seminars; and

5. Cooperate with each other Council, the public, the Board and the Executive Director in order to coordinate the rules within their respective jurisdictional areas and to achieve maximum efficiency and effectiveness in furthering the objectives of the Department.

J. The Councils shall not recommend rules for promulgation by the Environmental Quality Board unless all applicable requirements of the Administrative Procedures Act have been followed, including but not limited to notice, rule impact statement and rule-making hearings.

K. Members of the Councils shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Councils are authorized to utilize the conference rooms of the Department of Environmental Quality and obtain administrative assistance from the Department, as required.

SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-10-802, as last amended by Section 1, Chapter 71, O.S.L. 2007 (27A O.S. Supp. 2009, Section 2-10-802), is amended to read as follows:

Section 2-10-802. A. 1. Owners or operators of landfill disposal sites which are not generator-owned and -operated nonhazardous industrial waste monofills and owners or operators of commercial incinerators shall install scales. Such scales shall be installed on or within five (5) miles of the landfill disposal site or incinerator and shall be tested and certified as required by Section 14-35 of Title 2 of the Oklahoma Statutes relating to the authority of the Board of Agriculture to test the standards of

weights and measures within the state and to approve if found to be correct. For purposes of this section, any reference to "incinerator" or "incineration" shall encompass waste-to-energy facilities that produce recoverable energy by high-temperature combustion.

2. The owner or operator shall upon receipt weigh all waste received and record the weight in writing. If scales at a disposal site or incinerator are not operative, tonnage shall be estimated on a volume basis whereby the volume reported shall be no less than the volume capacity of the containers or, if none, of the vehicles delivering the waste, and one cubic yard of solid waste shall be calculated to weigh one-third (1/3) ton. The owner or operator shall place notice in the ~~disposal site's~~ operating record of the disposal site or incinerator of the time and date at which the scales became inoperable, describe the steps taken to repair them, and note the date use was resumed. If daily use has not resumed within thirty (30) days after the scales became inoperable, the owner or operator shall give written notice to the Department of Environmental Quality.

3. The owner or operator shall also maintain a written record of the weight or volume of any solid waste received which is productively reused or recovered in materially the same form as when received and sold in accordance with the ~~landfill disposal site's~~ permit for the landfill disposal site or incinerator.

4. The scale location restriction of this subsection shall not apply to federal or state military installations so long as:

- a. the scales are located within the physical boundary of that installation, and
- b. the disposal site or incinerator receives waste only from that military installation.

B. 1. Except as otherwise provided by this subsection:

- a. owners and operators of landfill disposal sites or commercial incinerators which receive an average of less than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents (\$1.50) per ton of solid waste received for disposal or incineration. A total of fifty cents (\$.50) per ton of such fee shall be retained by the

owner or operator and used exclusively for capital improvement to their facilities and for the projects required pursuant to the Oklahoma Solid Waste Management Act or the ~~disposal site's~~ permit for the disposal site or incinerator for such period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of a total of Forty Thousand Dollars (\$40,000.00),

- b. when the owner or operators have recouped a capital investment of the total specified in subparagraph a of this paragraph, the fee to be assessed shall be One Dollar and twenty-five cents (\$1.25) per ton of solid waste received for disposal or incineration. At such time, for a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected, and
 - c. records documenting the projects and use of the funds shall be included with each return.
2. a. Owners and operators of landfill disposal sites or commercial incinerators which receive an average of more than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents (\$1.50) per ton of solid waste received for disposal or incineration, retaining twenty-five cents (\$0.25) per ton for a period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars (\$40,000.00). At the end of such period the fee shall revert to One Dollar and twenty-five cents (\$1.25) per ton. For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected.
 - b. Records documenting the capital investment and the use of the funds shall be included with each return.
3. a. Owners and operators of landfill disposal sites or commercial incinerators may be reimbursed for capital investment costs that have been or will be expended for the purchase and installation of a wheel wash system for use at the landfill disposal site or

commercial incinerator facility. To be eligible to claim this reimbursement, the owner or operator must notify the Department no later than ~~June 30, 2007~~ January 1, 2011, of the intent to claim the reimbursement, and the wheel wash system must be in place and operational no later than ~~June 30, 2008~~ January 1, 2012. Reimbursement shall be paid only after the wheel wash system is installed and operational and each landfill disposal site or commercial incinerator shall be eligible for reimbursement for only one wheel wash system.

- b. The owner or operator shall provide records documenting the capital investment costs of the wheel wash system to the Department.
- c. At such time as the wheel wash system is in place and operational and the capital investment costs have been approved by the Department, the Department shall reimburse the owner or operator the approved costs, subject to the limitations in subparagraph d of this paragraph. The Department shall reimburse eligible applicants in the order of approval until that limitation has been reached. If there are multiple eligible applicants awaiting reimbursement, the Department shall apportion the reimbursement amount among the eligible applicants according to the capital investment costs approved by the Department.
- d. If the total amount reimbursed to all eligible owners and operators reaches ~~Three Hundred Thousand Dollars (\$300,000.00)~~ Fifty Thousand Dollars (\$50,000.00) within any state fiscal year, the Department shall notify the owners and operators, and thereafter the owners and operators shall not receive any reimbursement until the next state fiscal year.
- e. The Environmental Quality Board is authorized to promulgate rules as necessary to implement the provisions of the Solid Waste Management Act, including rules specifying minimum standards or other criteria for wheel wash systems necessary to qualify for the reimbursement.

4. The fee shall not be imposed on:

- a. the solid waste received which is productively reused or recovered in materially the same form as when received in accordance with the landfill disposal site's permit for the landfill disposal site or incinerator. The owner or operator shall include records pertaining to this fee exemption in the quarterly return of fees to the Department, ~~and~~
- b. generator-owned and -operated nonhazardous waste land disposal monofills and waste subject to a fee pursuant to Section 2-10-803 of this title. For emergencies and other special events, the Department and the owner or operator of a site subject to this section may enter into a formal agreement to waive the fee, and
- c. ash produced as a result of the combustion in a commercial incinerator of waste on which the fee imposed by this section has been paid.

5. Large industrial waste generators who generate over ten thousand (10,000) tons of nonhazardous industrial solid waste in the state in a calendar year may annually apply to the Department for a certificate exempting the disposal or incineration of such generated waste in excess of ten thousand (10,000) tons from the disposal and incineration fee authorized by this section. An applicant must have implemented a pollution prevention plan for such waste and filed it with the Department, provided operational documentation regarding such plan and paid the disposal and incineration fee on ten thousand (10,000) tons of the waste during the calendar year of application. The Department-issued exemption certificates shall be valid for the remainder of the calendar year of application, may contain conditions, and, upon presentation by authorized persons, shall be recognized by owners or operators of landfill disposal sites and incinerators subject to this section. If a generator operates a landfill or incinerator solely for waste from that generator, and if that generator chooses to seek the exemption authorized by this paragraph, the generator shall not be required to install scales or keep records relative to quantity of waste received for the landfill or incinerator.

6. The fee assessed by this subsection is to be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.

7. The owner or operator of a solid waste disposal site or incinerator shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department quarterly returns indicating:

- a. the total tonnage of solid wastes received for disposal or incineration at the gate of the site, and
- b. the total amount of the fees collected pursuant to this section.

8. Not later than thirty (30) days after the end of the quarter to which such a return applies, the owner or operator shall mail to the Department the return for that quarter together with the fees collected during that quarter as indicated on the return.

9. The owner or operator may receive an extension of not more than thirty (30) days for filing the return and remitting the fees, provided that:

- a. the owner or operator has submitted a request for an extension in writing to the Department together with a detailed description of why the extension is requested,
- b. the Department has received the request not later than the day on which the return is required to be filed, and
- c. the Department has approved the request.

10. For any quarterly return filed more than thirty (30) days after the last day of the quarter or extension date, the owner or operator shall remit an additional five percent (5%) of the fees collected during the month to which the return applies. If the fees are not remitted within sixty (60) days of the last day of the quarter during which they were collected, the owner or operator shall pay an additional fifteen percent (15%) of the amount of the fees for each month that they are late.

11. If the owner or operator misrepresents, or fails to properly measure or record, the amount of waste received or fails to remit fees within sixty (60) days after the last day of the quarter during which they were collected, the ~~landfill disposal site's~~

permit for the landfill disposal site or incinerator shall be summarily suspended by order and the Department shall initiate the process of revoking the permit and may require closure of the landfill or incinerator.

C. 1. The Department shall expend funds collected pursuant to the provisions of this section solely for the administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of solid waste technical assistance programs, solid waste public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, solid waste recycling and litter prevention programs, and other environmental improvements.

2. In order to assist the Department of Environmental Quality regarding its responsibilities relating to the promotion of recycling of solid waste, each fiscal year the Department shall contract with units of local government, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities or counties, or substate planning districts recognized by the Oklahoma Department of Commerce, for up to a total of One Hundred Thousand Dollars (\$100,000.00) and to the extent such monies are available for projects promoting the recycling of solid waste. Local governments, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities and counties and substate planning districts recognized by the Oklahoma Department of Commerce desiring to contract with the Department for such projects shall meet the application requirements of rules promulgated by the Environmental Quality Board and the criteria established by a recycling priorities plan prepared annually by the Department after review and comment by the Solid Waste Management Advisory Council. Except as otherwise provided by this section, contracts for such projects shall not be granted to state agencies.

3. Any litter prevention program shall be developed by the Department in conjunction with the Department of Transportation.

4. a. To the extent that funds are available, the Department may also reimburse any governmental entity for equipment other than motor vehicles or buildings to separate, process, modify, convert or treat solid waste or recovered materials so that the resulting product is being used in a productive manner.

- b. The reimbursements shall be from solid waste fee funds and shall not exceed twenty-five percent (25%) of the person's total project costs. No reimbursement may be larger than Twenty Thousand Dollars (\$20,000.00).
 - c. Reimbursements must be expended in accordance with rules promulgated by the Environmental Quality Board and criteria established through the Department's annual recycling priorities plan. The Department shall not expend more than Two Hundred Thousand Dollars (\$200,000.00) in each fiscal year for such reimbursements, nor shall the Department reimburse waste tire facilities that may be eligible for compensation from the Waste Tire Recycling Indemnity Fund.
- 5.
- a. The Department, in conjunction with the Corporation Commission, the Oklahoma Energy Resources Board and the Oklahoma Conservation Commission, may develop a plan to use suitable portions of the solid waste stream to reclaim Oklahoma lands damaged by oil and gas exploration and production or by mining activities.
 - b. To the extent that funds are available, the Department may use up to ten percent (10%) of the annual income from the fees received pursuant to the provisions of this section to implement the plan. The Department may use its discretion in administering the funds for the purpose of this paragraph, but shall keep records subject to audit by the State Auditor and Inspector for good business practices.
- 6.
- a. To the extent that funds are available, after having reasonably met other specified uses of the solid waste fund, the Department is authorized to expend up to five percent (5%) of the total annual solid waste fee income for the purpose of making incentive payments to any person, firm or corporation located in this state generating energy by utilizing solid waste landfill methane or steam produced by a commercial incinerator.
 - b. The Environmental Quality Board shall promulgate rules to administer the provisions of this paragraph.

c. No person, firm or corporation shall be eligible to receive incentive payments as provided in subparagraph a of this paragraph for more than three (3) years. The amount of such payments shall be determined by the Department based on the amount of energy generated and the cost of production.

D. The provisions of this section shall not apply to landfill disposal sites that receive only ash generated by the burning of coal.

E. On or before September 1 of each year, the Department of Environmental Quality shall prepare a report of income and expenditures for the period of each fiscal year in which solid waste fee monies authorized by this section were received and such report shall be distributed to members of the Solid Waste Management Advisory Council for review. By November 1 of each year, the Council shall submit to the Executive Director, Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate its written comments on the comparison of income with program expenditures.

SECTION 3. AMENDATORY Section 2, Chapter 71, O.S.L. 2007 (27A O.S. Supp. 2009, Section 2-10-802.1), is amended to read as follows:

Section 2-10-802.1 In any fiscal year in which the amount reimbursed ~~to landfill disposal sites~~ under paragraph 3 of subsection B of Section 2-10-802 of ~~Title 27A of the Oklahoma Statutes~~ this title for the costs of purchase and installation of wheel wash systems is less than ~~Three Hundred Thousand Dollars (\$300,000.00)~~ Fifty Thousand Dollars (\$50,000.00), the Department of Environmental Quality may apply any or all of the remainder toward the proper closure of solid waste landfills that meet the following criteria:

1. The landfill is no longer in operation;
2. The owner or operator of the landfill failed to provide sufficient financial assurance for proper closure of the landfill; and

3. The owner or operator of the landfill cannot be identified, found or, despite all reasonable efforts, cannot be compelled to properly close the landfill.

SECTION 4. This act shall become effective July 1, 2010.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 13th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 21st day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 24th
day of May, 2010,
at 1:17 o'clock P M.

By:

Approved by the Governor of the State of Oklahoma the 5th day of
June, 2010, at 2:12 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
7th day of June, 2010,
at 11:20 o'clock A M.

By: