

**House Bill 3732**  
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SECTION 1. Chapter 447, Government Code, is amended by adding Section 447.013 to read as follows:

Sec. 447.013. **ULTRACLEAN** ENERGY PROJECT GRANT AND LOAN PROGRAM. (a) In this section:

- (1) "Account" means the **ultraclean** energy project account established under this section.
- (2) "Program" means the **ultraclean** energy project grant and loan program established under this section.
- (3) "**Ultraclean** energy project" has the meaning assigned by Section 382.003, Health and Safety Code.
- (b) The **ultraclean** energy project grant and loan program is established to encourage the development of **ultraclean** energy projects in an environmentally protective manner. The program is administered by the **state energy conservation office**.
- (c) The **ultraclean** energy project account is an account in the general revenue fund.
- (d) The account consists of:
  - (1) a sub-account in the account that consists of the proceeds of bonds issued under Subsection (j);
  - (2) revenues allocated to the account under Section 182.122, Tax Code;
  - (3) any amount appropriated by the legislature for the account;
  - (4) gifts, grants, and other donations received for the account; and
  - (5) interest earned on the investment of money in the account.

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SECTION 1. Chapter 447, Government Code, is amended by adding Sections 447.013 and 447.014 to read as follows:

Sec. 447.013. **ADVANCED** CLEAN ENERGY PROJECT GRANT AND LOAN PROGRAM. (a) In this section:

- (1) "Account" means the **advanced clean** energy project account established under this section.
- (2) "Program" means the **advanced clean** energy project grant and loan program established under this section.
- (3) "**Advanced clean** energy project" has the meaning assigned by Section 382.003, Health and Safety Code.
- (b) The **advanced clean** energy project grant and loan program is established to encourage the development of **advanced clean** energy projects in an environmentally protective manner. The program is administered by the **State Energy Conservation Office**.
- (c) The **advanced clean** energy project account is an account in the general revenue fund.
- (d) The account consists of:
  - (1) a sub-account in the account that consists of the proceeds of bonds issued under Subsection (j);
  - (2) revenues allocated to the account under Section 182.122, Tax Code;
  - (3) any amount appropriated by the legislature for the account;
  - (4) gifts, grants, and other donations received for the account; and
  - (5) interest earned on the investment of money in the account.

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(e) Money in the account may be appropriated only to the **state energy conservation office** to award grants or to make or guarantee loans under this section. The total amount of grants that may be awarded under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$20 million. The total amount of loans that may be made or guaranteed under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$10 million.

(f) Before awarding a grant or making a loan under this section, the **state energy conservation office** shall enter into a written agreement with the entity to which the grant is to be awarded or the loan is to be made. The agreement may specify that if, as of a date specified by the agreement, the entity has not used the grant or loan for the purposes for which the grant or loan was intended, the entity shall repay the amount of the grant or the amount of the loan and any accrued interest, as applicable, under terms specified by the agreement.

(g) Under the program, the **state energy conservation office** may award a grant to the managing entity of an **ultraclean** energy project in an amount not to exceed 50 percent of the total amount invested in the project by private industry sources. The managing entity of the project must provide any information considered necessary by the **state energy conservation office** to determine whether the entity qualifies for the grant.

(h) Under the program, the **state energy conservation office** may make or guarantee a loan to the managing

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(e) Money in the account may be appropriated only to the **State Energy Conservation Office** to award grants or to make or guarantee loans under this section. The total amount of grants that may be awarded under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$20 million. The total amount of loans that may be made or guaranteed under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$10 million.

(f) Before awarding a grant or making a loan under this section, the **State Energy Conservation Office** shall enter into a written agreement with the entity to which the grant is to be awarded or the loan is to be made. The agreement may specify that if, as of a date specified by the agreement, the entity has not used the grant or loan for the purposes for which the grant or loan was intended, the entity shall repay the amount of the grant or the amount of the loan and any accrued interest, as applicable, under terms specified by the agreement.

(g) Under the program, the **State Energy Conservation Office** may award a grant to the managing entity of an **advanced clean** energy project in an amount not to exceed 50 percent of the total amount invested in the project by private industry sources. The managing entity of the project must provide any information considered necessary by the **State Energy Conservation Office** to determine whether the entity qualifies for the grant.

(h) Under the program, the **State Energy Conservation Office** may make or guarantee a loan to the managing

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entity of an **ultraclean** energy project in this state. If the loan or guarantee is to be funded by the proceeds of bonds issued under Subsection (j), the project must qualify for the loan or guarantee under Section 49-p, Article III, Texas Constitution.

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses, as those terms are defined by Section 481.191, Government Code.

(j) The Texas Public Finance Authority shall issue general obligation bonds as authorized by Section 49-p, Article III, Texas Constitution.

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entity of an **advanced clean** energy project in this state. If the loan or guarantee is to be funded by the proceeds of bonds issued under Subsection (j), the project must qualify for the loan or guarantee under Section 49-q, Article III, Texas Constitution.

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses, as those terms are defined by Section 481.191, Government Code.

(j) The Texas Public Finance Authority shall issue general obligation bonds **in accordance with and subject to Chapter 1232, Government Code, for the purposes** authorized by Section 49-q, Article III, Texas Constitution.

Sec. 447.014. **HYDROGEN ENERGY LOAN PROGRAM.** (a) The State Energy Conservation Office shall establish and administer a program to make and guarantee loans to business entities for projects that:

(1) **expand the use of carbon-free hydrogen energy in this state; or**

(2) **relate to the manufacture, storage, distribution, or sale of carbon-free hydrogen energy in this state.**

(b) **The Texas Public Finance Authority shall issue general obligation bonds in an aggregate amount not to exceed \$250 million as authorized by Section 49-p, Article III, Texas Constitution.**

(c) **The program may be funded by:**

(1) **the proceeds of bonds issued under Subsection (c); or**

(2) **gifts, grants, and donations made for that purpose.**

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(d) The comptroller may adopt rules to implement this section.

(e) For purposes of this section, hydrogen is considered to be carbon-free if:

(1) any carbon resulting from the production of the hydrogen is captured during production and:

(A) permanently geologically; or

(B) used in the production of other carbon-based products at a rate that exceeds 90 percent of the input; and

(2) Any carbon resulting from the generation of any electricity used in the production of the hydrogen is captured and:

(A) permanently geologically sequestered; or

(B) used in the production of other carbon-based products at a rate that exceeds 90 percent of the input.

(c) For purposes of subsection (e), the generation of wind power, solar power, hydroelectricity, geothermal electricity, tidal electricity, or nuclear power is considered to result in no carbon.

(d) Hydrogen that is generated as a byproduct of the manufacturing of chlorine is considered carbon-free so long as it meets the criteria of subsection (e).

SECTION 2. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (3-a), (3-b), (11-a), and (12-a) to read as follows:

SECTION 2. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (1-a), (3-a), (7-a), and (11-a) to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit under this chapter

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(3-a) "Clean coal technology" means a technology or process, including a technology or process applied at the precombustion, combustion, or postcombustion stage, for use at a new or existing facility that will achieve a 97 percent reduction of sulfur dioxide emissions, an emission rate for nitrogen oxides of 0.08 pounds per million British thermal units, and significant reductions in mercury emissions associated with the use of coal in the generation of electricity, process steam, or industrial products, including the creation of liquid fuels, hydrogen for fuel cells, and other coproducts. The technology used

is received by the commission on or after January 1, 2008, and before January 1, 2020, and that:

(A) involves the use of coal, biomass, petroleum coke, or solid waste, hydrogen derived from the manufacture of chlorine, coke, or other chemical and petrochemical production processes, hydrogen fuel cells powered by such fuels, or, in the generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity;

(B) is capable of achieving on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions, a 95 percent or greater reduction of mercury emissions, and an emission rate for nitrogen oxides of 0.05 pounds or less per million British thermal units or of achieving the emissions profile required by rules adopted by the commission under Section 382.0566, if applicable; and

(C) renders carbon dioxide capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project.

(7-a) "Federally qualified clean coal technology" means a technology or process, including a technology or process applied at the precombustion, combustion, or postcombustion stage, for use at a new or existing facility that will achieve on an annual basis a 97 percent or greater reduction of sulfur dioxide emissions, an emission rate for nitrogen oxides of 0.08 pounds or less per million British thermal units, and significant reductions in mercury emissions associated with the use of coal in the generation of electricity, process steam, or industrial products, including the creation of liquid fuels,

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must comply with applicable federal law regarding mercury emissions and must render carbon dioxide capable of capture, sequestration, or abatement. **Clean coal technology** includes atmospheric or pressurized fluidized bed combustion technology, integrated gasification combined cycle technology, methanation technology, magnetohydrodynamic technology, direct and indirect coal-fired turbines, undiluted high-flame temperature oxygen combustion technology that excludes air, and integrated gasification fuel cells.

(3-b) "Coal" has the meaning assigned by Section 134.004, Natural Resources Code.

(11-a) "Solid waste" has the meaning assigned by Section 361.003.

(12-a) "Ultraclean energy project" means a project that:

(A) involves the use of coal, biomass, petroleum coke, or solid waste in the generation of electricity, process steam, or industrial products, including gasification and the creation of liquid fuels, hydrogen for fuel cells, and other coproducts;

(B) is capable of achieving a 99 percent reduction of sulfur dioxide emissions, a 95 percent reduction of mercury emissions, and an emission rate for nitrogen oxides of 0.05 pounds per million British thermal units; and

(C) renders carbon dioxide capable of capture, sequestration, or abatement.

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hydrogen for fuel cells, and other coproducts. The technology used must comply with applicable federal law regarding mercury emissions and must render carbon dioxide capable of capture, sequestration, or abatement. **Federally qualified clean coal technology** includes atmospheric or pressurized fluidized bed combustion technology, integrated gasification combined cycle technology, methanation technology, magnetohydrodynamic technology, direct and indirect coal-fired turbines, undiluted high-flame temperature oxygen combustion technology that excludes air, and integrated gasification fuel cells.

(3-a) "Coal" has the meaning assigned by Section 134.004, Natural Resources Code.

(11-a) "Solid waste" has the meaning assigned by Section 361.003.

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SECTION \_\_. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0174 to read as follows:

Sec. 382.0174. EMISSION REDUCTION STRATEGIES FOR GREENHOUSE GASES. (a) In this section, "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(b) Not later than October 31, 2008, the commission shall prepare and deliver to each member of the legislature a report including a list of strategies for reducing emissions of greenhouse gases in this state that:  
(1) may result in net savings for consumers or businesses in this state; or

(2) can be achieved without financial cost to consumers or businesses in this state.

(c) In preparing the list of emission reduction strategies, the commission shall consider the strategies for reducing the emissions of greenhouse gases that have been implemented in other states or nations.

(d) In determining under Subsection (b) whether an emission reduction strategy may result in a financial cost to consumers or businesses in this state, the commission shall consider the total net costs that may occur over the life of the strategy, as opposed to the short-term capital costs that may result from the implementation of the strategy.

(e) The commission may appoint advisory committees to assist the commission in identifying and evaluating greenhouse gas emission reduction strategies.

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No equivalent provision.

SECTION \_\_. Section 382.0518, Health and Safety Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) In considering the issuance of a permit for a new electric generating facility, the commission shall analyze and consider:

(1)the cumulative effects of the facility's expected emissions together with the cumulative effects of the authorized emissions from all sources of pollution permitted under this section, as well as all sources of pollution from electric generating facility applications determined to be technically complete, that are located within a radius of impact specified by commission rule, or 200 km, whichever is greater; and

(2)whether the emissions from the facility will cause an area to be designated a nonattainment area; or

(3)whether the emissions from the facility will negatively affect compliance with the state implementation plan.

SECTION 3. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.0566 to read as follows:

Sec. 382.0566. **ULTRACLEAN ENERGY PROJECT PERMITTING PROCEDURE.** (a) An application for a permit under this chapter for an ultraclean energy project must be received by the commission on or after January 1, 2008, and before January 1, 2020.

SECTION 4. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0566 and 382.0567 to read as follows:

Sec. 382.0566. **ADVANCED CLEAN ENERGY PROJECT PERMITTING PROCEDURE.**

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(b) As authorized by federal law, not later than nine months after the executive director declares an application for a permit under this chapter for an advanced clean energy project to be administratively complete, the executive director shall complete its technical review of the application.

(c) The commission shall issue a final order issuing or denying the permit not later than nine months after the executive director declares the application technically complete. The commission may extend the deadline set out in this subsection up to three months if it determines that the number of complex pending applications for permits under this chapter will prevent the commission from meeting the deadline imposed by this subsection without creating an extraordinary burden on the resources of the commission.

(d) The permit process authorized by this section is subject to the requirements relating to a contested case hearing under this chapter, Chapter 5, Water Code, or Subchapters C-G, Chapter 2001, Government Code, as applicable.

(e) An applicant for a permit under this chapter for an ultraclean energy project is not required to prove, as part

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(a) As authorized by federal law, not later than nine months after the executive director declares an application for a permit under this chapter for an advanced clean energy project to be administratively complete, the executive director shall complete its technical review of the application.

(b) The commission shall issue a final order issuing or denying the permit not later than nine months after the executive director declares the application technically complete. The commission may extend the deadline set out in this subsection up to three months if it determines that the number of complex pending applications for permits under this chapter will prevent the commission from meeting the deadline imposed by this subsection without creating an extraordinary burden on the resources of the commission.

(c) The permit process authorized by this section is subject to the requirements relating to a contested case hearing under this chapter, Chapter 5, Water Code, or Subchapters C-G, Chapter 2001, Government Code, as applicable.

(d) The commission shall not issue a permit under this chapter for an advanced clean energy project if emissions from the proposed facility will cause an area to be designated a nonattainment area.

Sec. 382.0567. PROOF THAT TECHNOLOGY IS COMMERCIALY FEASIBLE NOT REQUIRED. An applicant for a permit under this chapter for a project in connection with which advanced clean energy

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of an analysis of whether the project will use the best available control technology or reduce emissions to the lowest achievable rate, that the **clean coal technology or ultraclean energy** technology proposed to be used **in connection with the project** has been demonstrated to be feasible in a commercial operation.

(f) The commission shall adopt rules to implement this section.

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**technology, federally qualified clean coal technology, or another technology is proposed to be used** is not required to prove, as part of an analysis of whether the project will use the best available control technology or reduce emissions to the lowest achievable rate, that the technology proposed to be used has been demonstrated to be feasible in a commercial operation.

(d) The commission shall adopt rules to implement this section.

(e) **Not later than September 1 of the years 2010, 2012, 2014, 2016, and 2018, the commission shall:**

(1) **determine whether any element of the emissions profile specified by Section 382.003(1-a)(B) should be increased or decreased;**

(2) **determine whether any other regulated pollutant should be added to the emissions profile; and**

(3) **adopt rules adjusting the profile if the commission determines an adjustment to be appropriate.**

(f) **The factors the commission must consider under Subsection (e) in determining whether the emissions profile should be adjusted include:**

(1) **the technical and economic feasibility of achieving all of the elements of the emissions profile in a commercially viable project, as documented by the United States Department of Energy;**

(2) **the technical and economic feasibility of projects to achieve all of the elements of the emissions profile and still use a diverse range of fuels, including lignite; and**

(3) **the adequacy of the incentives provided by this**

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section, Section 447.013, Government Code, and Sections 11.31, 26.045, 182.022, 182.122, 202.0545, and 313.024, Tax Code, to continue to attract investment in and federal funding for advanced clean energy projects in this state.

(g) Any adjustment to the emissions profile that is adopted by commission rule under Subsection (e) applies only to an application that the executive director has not declared to be administratively complete as of the date the rule is adopted.

(h) The commission may not consider any technology or level of emission reduction to be adequately demonstrated or achievable for purposes of a best available control technology analysis or lowest achievable emission rate analysis conducted by the commission under another provision of this chapter solely because the technology is used or the emission reduction is achieved by a facility receiving an incentive under a law listed in Subsection (f)(3).

SECTION 4. Section 11.31, Tax Code, is amended by amending Subsection (b) and adding Subsections (k), (l), and (m) to read as follows:

(b) In this section, "facility, device, or method for the control of air, water, or land pollution" means land that is acquired after January 1, 1994, or any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or

SECTION 5. Section 11.31, Tax Code, is amended by adding Subsections (k), (l), and (m) to read as follows:

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reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. Whether or not carbon dioxide is considered a pollutant, the term includes property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced recovery project for which a producer of oil receives a severance tax exemption under Section 202.0545, or that is geologically sequestered. This section does not apply to a motor vehicle.

(k) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

- (1) coal cleaning facilities;
- (2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;
- (3) ultra-supercritical pulverized coal boilers;
- (4) flue gas recirculation components;
- (5) syngas purification systems and gas-cleanup units;
- (6) enhanced heat recovery systems;
- (7) exhaust heat recovery boilers;
- (8) heat recovery steam generators;

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(k) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

- (1) coal cleaning or refining facilities;
- (2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;
- (3) ultra-supercritical pulverized coal boilers;
- (4) flue gas recirculation components;
- (5) syngas purification systems and gas-cleanup units;
- (6) enhanced heat recovery systems;
- (7) exhaust heat recovery boilers;
- (8) heat recovery steam generators;

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- (9) superheaters and evaporators;
- (10) enhanced steam turbine systems;
- (11) methanation;
- (12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;
- (13) biomass cofiring storage, distribution, and firing systems;
- (14) coal cleaning or drying processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;
- (15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology; and

(16) any other equipment designed to capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, **carbon dioxide**, or any criteria pollutant.

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- (9) superheaters and evaporators;
- (10) enhanced steam turbine systems;
- (11) methanation;
- (12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;
- (13) biomass cofiring storage, distribution, and firing systems;
- (14) coal cleaning or drying processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;
- (15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology;

(16) if the United States Environmental Protection Agency or the Texas Commission on Environmental Quality adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced recovery project in this state or that is geologically sequestered in this state;

(17) fuel cells generating electricity using hydrocarbons or hydrogen without combustion; and

(18) any other equipment designed to **prevent**, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

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rule shall update the list adopted under Subsection (k) at least once every three years. An item may not be removed from the list unless the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

(m) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in an application for an exemption under this section is a facility, device, or method included on the list adopted under Subsection (k), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the application is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the actions that are required by Subsection (d) in the event such a determination is made.

SECTION 5. Section 26.045, Tax Code, is amended to read as follows:

Sec. 26.045. ROLLBACK RELIEF FOR POLLUTION CONTROL REQUIREMENTS. (a) The rollback tax rate for a political subdivision of this state is increased by the rate that, if applied to the total current value, would impose an amount of taxes equal to the amount

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rule shall update the list adopted under Subsection (k) at least once every three years. An item may be removed from the list if the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

(m) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in an application for an exemption under this section is a facility, device, or method included on the list adopted under Subsection (k), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the application is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the actions that are required by Subsection (d) in the event such a determination is made.

SECTION 6. Section 26.045, Tax Code, is amended to read as follows:

Sec. 26.045. ROLLBACK RELIEF FOR POLLUTION CONTROL REQUIREMENTS. (a) The rollback tax rate for a political subdivision of this state is increased by the rate that, if applied to the total current value, would impose an amount of taxes equal to the amount

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the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16)[~~Tax Code,~~] to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

(b) In this section, "facility, device, or method for control of air, water, or land pollution" means any land, structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States or this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(c) To receive an adjustment to the rollback tax rate under this section, a political subdivision shall present information to the executive director of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:

- (1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;
- (2) the estimated cost of the pollution control facility, device, or method; and
- (3) the purpose of the installation of the facility, device,

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the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16)[~~Tax Code,~~] to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

(b) In this section, "facility, device, or method for control of air, water, or land pollution" means any land, structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States or this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(c) To receive an adjustment to the rollback tax rate under this section, a political subdivision shall present information to the executive director of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:

- (1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;
- (2) the estimated cost of the pollution control facility, device, or method; and
- (3) the purpose of the installation of the facility, device,

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or method, and the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality shall determine whether [if] the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.

(e) The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

- (1) coal cleaning facilities;
- (2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle

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or method, and the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality shall determine whether [if] the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.

(e) The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

- (1) coal cleaning **or refining** facilities;
- (2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle

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systems;

- (3) ultra-supercritical pulverized coal boilers;
- (4) flue gas recirculation components;
- (5) syngas purification systems and gas-cleanup units;
- (6) enhanced heat recovery systems;
- (7) exhaust heat recovery boilers;
- (8) heat recovery steam generators;
- (9) superheaters and evaporators;
- (10) enhanced steam turbine systems;
- (11) methanation;
- (12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;
- (13) biomass cofiring storage, distribution, and firing systems;
- (14) coal cleaning or drying processes such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;
- (15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology; and

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systems;

- (3) ultra-supercritical pulverized coal boilers;
- (4) flue gas recirculation components;
- (5) syngas purification systems and gas-cleanup units;
- (6) enhanced heat recovery systems;
- (7) exhaust heat recovery boilers;
- (8) heat recovery steam generators;
- (9) superheaters and evaporators;
- (10) enhanced steam turbine systems;
- (11) methanation;
- (12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;
- (13) biomass cofiring storage, distribution, and firing systems;
- (14) coal cleaning or drying processes such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;
- (15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology;
- (16) if the United States Environmental Protection Agency or the Texas Commission on Environmental Quality adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced recovery project in this state or that is geologically sequestered in this state;

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(16) any other equipment designed to capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, **carbon dioxide**, or any criteria pollutant.

(g) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (f) at least once every three years. An item may **not** be removed from the list **unless** the commission finds compelling evidence to support the conclusion that the item does not render pollution control benefits.

(h) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in a permit application or in a request for any exemption from a permit that would otherwise be required is a facility, device, or method included on the list adopted under Subsection (f), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the permit application or in the request for an exemption from a permit that would otherwise be required is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the action that is required by Subsection (d) in the event such a determination is made.

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**(17) fuel cells generating electricity using hydrocarbons or hydrogen without combustion; and**

(18) any other equipment designed to **prevent**, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

(g) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (f) at least once every three years. An item may be removed from the list **if** the commission finds compelling evidence to support the conclusion that the item does not render pollution control benefits.

(h) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in a permit application or in a request for any exemption from a permit that would otherwise be required is a facility, device, or method included on the list adopted under Subsection (f), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the permit application or in the request for an exemption from a permit that would otherwise be required is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the action that is required by Subsection (d) in the event such a determination is made.

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(i) A political subdivision of the state seeking an adjustment in its rollback tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the rollback tax rate for the political subdivision as provided for by Subsection (a).

SECTION 6. Section 182.022, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this chapter, a tax under this chapter may not be imposed on gross receipts from the sale of electricity generated by an **ultraclean** energy project, as defined by Section 382.003, Health and Safety Code.

SECTION 7. Section 182.122, Tax Code, is amended to read as follows:

Sec. 182.122. ALLOCATION OF TAX. (a) Revenues collected under this chapter are allocated:

- (1) one-fourth to the foundation school fund; and
- (2) three-fourths to the general revenue fund.

(b) The comptroller shall transfer to the **ultraclean** energy project account the first \$30 million of the

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(i) A political subdivision of the state seeking an adjustment in its rollback tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the rollback tax rate for the political subdivision as provided for by Subsection (a).

SECTION 7. Section 182.022, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this chapter, a tax under this chapter may not be imposed on gross receipts from the sale of electricity generated by an **advanced clean** energy project, as defined by Section 382.003, Health and Safety Code.

SECTION 8. Section 182.122, Tax Code, is amended to read as follows:

Sec. 182.122. ALLOCATION OF TAX. (a) Revenues collected under this chapter are allocated:

- (1) one-fourth to the foundation school fund; and
- (2) three-fourths to the general revenue fund.

(b) The comptroller shall transfer to the **advanced clean** energy project account the first \$30 million of the

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revenues collected under this chapter that are allocated to the general revenue fund under Subsection (a)(2) in any state fiscal biennium.

SECTION 8. Effective September 1, 2020, Section 182.122, Tax Code, is amended to read as follows:  
Sec. 182.122. ALLOCATION OF TAX. Revenues collected under this chapter are allocated:  
(1) one-fourth to the foundation school fund; and  
(2) three-fourths to the general revenue fund.

SECTION 9. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.0545 to read as follows:  
Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the limitations provided by this section, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

(1) is captured from an anthropogenic source;

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revenues collected under this chapter that are allocated to the general revenue fund under Subsection (a)(2) in any state fiscal biennium.

SECTION 9. Same as House version.

SECTION 10. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.0545 to read as follows:  
Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Until the United States Environmental Protection Agency or the Texas Commission on Environmental Quality adopts a final rule or regulation regulating carbon dioxide as a pollutant and subject to the limitations provided by this section, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

(1) is captured from an anthropogenic source in this

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(2) would otherwise be released into the atmosphere as industrial **emission**;

(3) is measurable at the source of capture; and

(4) is sequestered in one or more geological formations following the enhanced oil recovery process.

(b) In the event that a portion of the carbon dioxide used in the enhanced oil recovery project is anthropogenic carbon dioxide that satisfies the criteria of Subsection (a) and a portion of the carbon dioxide used in the project fails to satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) shall be reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

(c) To qualify for the tax rate reduction under this section, the operator must apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require.

(d) To qualify for the tax rate reduction under this section, the operator must apply for a certification from:

(1) the Railroad Commission of Texas, if carbon dioxide used in the project is to be sequestered in **a reservoir productive of** oil or natural gas;

(2) the Texas Commission on Environmental Quality, if carbon dioxide used in the project is to be sequestered in a geological formation other than **a reservoir productive of** oil or natural gas; or

(3) both the Railroad Commission of Texas and the

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**state:**

(2) would otherwise be released into the atmosphere as industrial **emissions**;

(3) is measurable at the source of capture; and

(4) is sequestered in one or more geological formations **in this state** following the enhanced oil recovery process.

(b) In the event that a portion of the carbon dioxide used in the enhanced oil recovery project is anthropogenic carbon dioxide that satisfies the criteria of Subsection (a) and a portion of the carbon dioxide used in the project fails to satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) shall be reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

(c) To qualify for the tax rate reduction under this section, the operator must:

(1) apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require; **and**

(2) apply for a certification from:

(A) the Railroad Commission of Texas, if carbon dioxide used in the project is to be sequestered in **an** oil or natural gas **reservoir**;

(B) the Texas Commission on Environmental Quality, if carbon dioxide used in the project is to be sequestered in a geological formation other than **an** oil or natural gas **reservoir**; or

(C) both the Railroad Commission of Texas and the

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Texas Commission on Environmental Quality if both **Subdivisions (1) and (2)** apply.

(e) An agency to which an operator applies for a certification under Subsection (d) may issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that:

(1) the operator's planned sequestration program will ensure that at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

(e-1) The tax rate reduction does not apply if the operator's sequestration program or the operator's monitoring and verification measures differ substantially from the planned program described by Subsection (e), and the operator shall refund the difference between the amount of the tax paid under this section and the amount that would have been imposed in the absence of this section.

(f) The comptroller shall approve the application if the operator submits the certification or certifications required by Subsection (d) and if the comptroller determines that the oil is otherwise eligible under this section.

(g) If, before the comptroller approves an application for

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Texas Commission on Environmental Quality if both **Paragraphs (A) and (B)** apply.

(d) An agency to which an operator applies for a certification under Subsection (c)(2) may issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that:

(1) the operator's planned sequestration program will ensure that at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

(e) The tax rate reduction does not apply if the operator's sequestration program or the operator's monitoring and verification measures differ substantially from the planned program described by Subsection (d), and the operator shall refund the difference between the amount of the tax paid under this section and the amount that would have been imposed in the absence of this section.

(f) The comptroller shall approve the application if the operator submits the certification or certifications required by Subsection (c)(2) and if the comptroller determines that the oil is otherwise eligible under this section.

(g) If, before the comptroller approves an application for the tax rate reduction under this section, the tax imposed

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the tax rate reduction under this section, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) or (b) on oil that qualifies under this section, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. The credit is allowed to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(h) The comptroller **may enact rules and establish procedures to implement and administer this section.**

(i) The Railroad Commission of Texas **may enact rules and establish procedures to implement and administer this section.**

(j) The Texas Commission on Environmental Quality may **enact** rules and establish procedures to implement and administer this section.

SECTION 10. Section 313.024(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

- (1) manufacturing;
- (2) research and development;

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by this chapter is paid at the rate provided by Section 202.052(a) or (b) on oil that qualifies under this section, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. The credit is allowed to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(h) The comptroller, the Railroad Commission of Texas, **and** the Texas Commission on Environmental Quality may **adopt** rules and establish procedures to implement and administer this section.

SECTION 11. Section 313.024(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

- (1) manufacturing;
- (2) research and development;

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- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an **ultraclean** energy [~~a gasification~~] project, as defined by Section 382.003, Health and Safety Code [~~for a coal and biomass mixture~~]; or
- (5) renewable energy electric generation.

SECTION 11. (a) Not later than September 1, 2012, and September 1, 2016, the Texas Commission on Environmental Quality and the State Energy Conservation Office shall issue a joint report to the legislature providing a status update on the implementation of the ultraclean energy program and an assessment of whether the emissions profile set out in Section 382.003(12-a)(B), Health and Safety Code, as added by this Act, should be adjusted to increase or decrease elements of the emissions profile.

(b) Factors to be considered in the assessment of the emissions profile shall include:

- (1) the technical and economic feasibility of meeting all of the elements of the emissions profile in a commercially viable project, as documented by the United States Department of Energy;
- (2) the technical and economic feasibility of projects to meet all of the elements of the emissions profile and still use a diverse range of fuels, including lignite; and
- (3) the adequacy of the incentives provided by this Act to continue to attract investment in and federal funding for ultraclean energy projects in this state.

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- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an **advanced clean** energy [~~a gasification~~] project, as defined by Section 382.003, Health and Safety Code [~~for a coal and biomass mixture~~]; or
- (5) renewable energy electric generation.

No equivalent provision.

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(c) Any adjustments to the emissions profile implemented by the legislature in response to a report required by this section shall not apply to an application deemed administratively complete on or before the date of the report.

SECTION 11. (d) Not later than September 1, 2020, the State Energy Conservation Office shall issue a report to the legislature providing an assessment of whether the ultraclean energy program should be extended due to a continued need for incentives to ensure that a diverse range of affordable fuels, including lignite, can be utilized in a manner that achieves the lowest emission profile that is technically and economically feasible.

SECTION 12. The state energy conservation office shall promulgate rules to establish the ultraclean energy grant and loan program under Section 447.013, Government Code, as added by this Act, not later than January 1, 2008.

No equivalent provision.

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SECTION 12. Not later than September 1, 2015, the State Energy Conservation Office shall issue a report to the legislature providing an assessment of whether the advanced clean energy program should be extended due to a continued need for incentives to ensure that a diverse range of affordable fuels, including lignite, can be used in a manner that achieves the lowest emission profile that is technically and economically feasible.

SECTION 13. The State Energy Conservation Office shall adopt rules to establish the advanced clean energy grant and loan program under Section 447.013, Government Code, as added by this Act, not later than January 1, 2008. Such rules may allow for the recovery of fees and administrative expenses. The State Energy Conservation Office shall establish a program under Section 447.014, Government Code, as added by this Act, not later than January 1, 2008.

SECTION \_\_\_\_ SELECTIVE CATALYTIC  
REDUCTION TECHNOLOGY OR LOW

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TEMPERATURE OXIDATION TECHNOLOGY PILOT. (a) The Texas Commission on Environmental Quality shall select one cement kiln stack in a nonattainment or a near nonattainment area for the purpose of a pilot test to determine the effectiveness of a selective catalytic reduction technology or a low temperature oxidation technology as an advanced control technology for reducing the nitrogen oxides emissions from the cement kiln stack. The Texas Commission on Environmental Quality shall select a selective catalytic reduction technology or a low temperature oxidation technology vendor to provide the selective catalytic reduction technology or low temperature oxidation technology needed to conduct the testing required by this subsection.

(b) The Texas Commission on Environmental Quality shall:

(1) conduct a feasibility study, design, supervise, and monitor the testing required by Subsection (a) of this section in consultation with:

(A) the selective catalytic reduction technology or low temperature oxidation technology vendor selected by the commission;

(B) the owner or operator of the cement kiln stack selected for testing under Subsection (a) of this section;

(C) representatives of a regional council of government of the region in which the cement kiln is located; and

(D) a representative of a citizen environmental advocacy group active within the region; and

(2) verify the accuracy of the results of the testing.

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(c) The Texas Commission on Environmental Quality may accept and hold a gift or grant conditioned on its use for testing advanced controls for nitrogen oxides emissions from cement kilns in a nonattainment or near nonattainment area and use such gifts or grants without an appropriation for the pilot test under this section.

(d) The Texas Commission on Environmental Quality shall:

(1) not later than December 31, 2008, complete the selective catalytic reduction technology or low temperature oxidation technology testing required under Subsection (a) of this section; and

(2) not later than January 1, 2009, prepare and deliver to each member of the legislature a report describing:

(A) the results of the testing, including whether any reduction in nitrogen oxides emissions resulted from the use of the selective catalytic reduction technology or low temperature oxidation technology; and

(B) the costs involved in the installation, use, and maintenance of the selective catalytic reduction technology or low temperature oxidation technology.

No equivalent provision.

SECTION 14. Section 382.0518(c-1), Health and Safety Code, as added by this Act, applies only to an application for a permit under Section 382.0518, Health and Safety Code, that is received by the Texas Commission on Environmental Quality on or after January 1, 2008.

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SECTION 13. Not later than January 1, 2008, the Texas Commission on Environmental Quality shall adopt rules required under Section 382.0566, Health and Safety Code, and Section 11.31(k), Tax Code, as added by this Act, and Section 26.045(f), Tax Code, as amended by this Act.

SECTION 14. Section 447.013(j), Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy is approved by the voters. If that amendment is not approved by the voters, Section 447.013(j), Government Code, as added by this Act, has no effect.

SECTION 15. The amendment made by this Act to Section 11.31(b), Tax Code, takes effect January 1, 2008.

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SECTION 15. Same as House version.

SECTION 16. (a) Section 447.013(j), Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage clean energy projects is approved by the voters. If that amendment is not approved by the voters, Section 447.013(j), Government Code, as added by this Act, has no effect.

(b) Section 447.014, Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy, is approved by the voters. If that amendment is not approved by the voters, Section 447.014, Government Code, has no effect.

No equivalent provision.

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SECTION 16. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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SECTION 17. Same as House version.

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