(5) a calculation of the net impact of the legislation proposing the change on the unified budget.

(d) The dynamic fiscal impact statement must be attached to the bill or resolution immediately following the fiscal note attached under Section 314.003.

(e) On the fifth anniversary of the effective date of a bill that becomes law for which a dynamic fiscal impact statement was prepared under this section, the comptroller shall prepare and submit to the presiding officer of each house of the legislature a report that assesses the accuracy of the relevant fiscal note prepared for the bill and the accuracy of the relevant dynamic fiscal impact statement prepared for the bill.

SECTION 2. Section 314.004(c), Government Code, is amended to read as follows:

(e) The impact statement must be attached to the bill or resolution immediately following:

(1) the fiscal note attached under Section 314.003; or

(2) if a dynamic fiscal impact statement is prepared under Section 314.005, the dynamic fiscal impact statement.

SECTION 3. This Act takes effect September 1, 2009.

Passed by the House on May 15, 2009: Yeas 139, Nays 0, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 464 on May 29, 2009: Yeas 142, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May 26, 2009: Yeas 30, Nays 1.

Approved June 19, 2009.

Effective September 1, 2009.

CHAPTER 1109

H.B. No. 469

AN ACT
relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester carbon dioxide that would otherwise be emitted into the atmosphere.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 490, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT

Sec. 490.351. DEFINITION. In this subchapter, “clean energy project” has the meaning assigned by Section 120.001, Natural Resources Code.

Sec. 490.352. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT. (a) The comptroller shall adopt rules for issuing to an entity implementing a clean energy project in this state a franchise tax credit. A clean energy project is eligible for a franchise tax credit only if the project is implemented in connection with the construction of a new facility.

(b) The comptroller shall issue a franchise tax credit to an entity operating a clean energy project after:

(1) the Railroad Commission of Texas has issued a certificate of compliance for the project to the entity as provided by Section 120.004, Natural Resources Code;

(2) the construction of the project has been completed;

(3) the electric generating facility associated with the project is fully operational;

(4) the Bureau of Economic Geology of The University of Texas at Austin verifies to the comptroller that the electric generating facility associated with the project is sequestering at least 70 percent of the carbon dioxide resulting from or associated with the generation of electricity by the facility; and
the owner or operator of the project has entered into an interconnection agreement
relating to the project with the Electric Reliability Council of Texas.

(c) The total amount of the franchise tax credit that may be issued to the entity designated
in the certificate of compliance for a clean energy project is equal to the lesser of:

(1) 10 percent of the total capital cost of the project, including the cost of designing,
engineering, permitting, constructing, and commissioning the project, the cost of procuring
land, water, and equipment for the project, and all fees, taxes, and commissions paid
and other payments made in connection with the project but excluding the cost of
financing the capital cost of the project; or

(2) $100 million.

(d) The amount of the franchise tax credit for each report year is calculated by determining
the amount of franchise tax that is due based on the taxable margin generated by a clean
energy project from the generation and sale of power and the sale of any products that are
produced by the electric generation facility. The amount of the franchise tax credit claimed
under this section for a report year may not exceed the amount of franchise tax attributable
to the clean energy project for that report year.

(e) The comptroller may not issue a franchise tax credit under this section before
September 1, 2013. This subsection expires September 2, 2013.

SECTION 2. Section 382.003(1-a), Health and Safety Code, is amended to read as
follows:

(1-a) “Advanced clean energy project” means a project for which an application for a
permit or for an authorization to use a standard permit under this chapter 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, solid waste, or fuel cells using
hydrogen derived from such fuels, in the generation of electricity, or the creation of
liquid fuels outside of the existing fuel production infrastructure while co-generating
electricity, whether the project is implemented in connection with the construction of a
new facility or in connection with the modification of an existing facility and whether
the project involves the entire emissions stream from the facility or only a portion of the
emissions stream from the facility;

(B) with regard to the portion of the emissions stream from the facility that is
associated with the project, is capable of achieving:

(i) on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions
or, if the project is designed for the use of feedstock substantially all of which is
subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per
million British thermal units as determined by a 30-day average;

(ii) on an annual basis a 95 percent or greater reduction of mercury emissions;

(iii) an annual average emission rate for nitrogen oxides of:

(a) 0.05 pounds or less per million British thermal units; or

(b) if the project uses gasification technology, 0.034 pounds or less per million
British thermal units; and

(iv) an annual average emission rate for filterable particulate matter of 0.015
pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the carbon dioxide in the portion
of the emissions stream from the facility that is associated with the project and sequesters
that captured carbon dioxide by geologic storage or other means [capable of capture,
sequestration, or abatement if any carbon dioxide is produced by the project].

SECTION 3. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter
120 to read as follows:
CHAPTER 120. VERIFICATION, MONITORING, AND CERTIFICATION OF CLEAN ENERGY PROJECT

Sec. 120.001. DEFINITIONS. In this chapter:

(1) “Bureau” means the Bureau of Economic Geology of The University of Texas at Austin.

(2) “Clean energy project” means a project to construct a coal-fueled or petroleum coke-fueled electric generating facility, including a facility in which the fuel is gasified before combustion, that will:

(A) have a capacity of at least 200 megawatts;

(B) meet the emissions profile for an advanced clean energy project under Section 382.003(1-a)(B), Health and Safety Code;

(C) capture at least 70 percent of the carbon dioxide resulting from or associated with the generation of electricity by the facility;

(D) be capable of permanently sequestering in a geological formation the carbon dioxide captured; and

(E) be capable of supplying the carbon dioxide captured for purposes of an enhanced oil recovery project.

(3) “Commission” means the Railroad Commission of Texas.

(4) “Sequester” means to inject carbon dioxide into a geological formation in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide injected will remain sequestered from the atmosphere for at least 1,000 years.

Sec. 120.002. CERTIFICATION OF CLEAN ENERGY PROJECT. (a) The commission is the authority responsible for certifying whether a project has met the requirements for a clean energy project.

(b) An entity may apply to the commission for a certification that a project operated by the entity meets the requirements for a clean energy project. The application must be accompanied by:

(1) a certificate from a qualified independent engineer that the project is operational and meets the standards provided by Sections 120.001(2)(A), (B), and (C); and

(2) a fee payable to the commission.

(c) The amount of the fee prescribed by Subsection (b)(2) is $50,000 unless the commission by rule determines that a fee in a greater amount is necessary to cover the commission’s costs of processing an application.

Sec. 120.003. MONITORING OF SEQUESTERED CARBON DIOXIDE. (a) An entity that applies to the commission under Section 120.002 for a certification that a project operated by the entity meets the requirements for a clean energy project is responsible for conducting a monitoring, measuring, and verification process that demonstrates that the project complies with the requirements of Section 490.352(b)(4), Government Code.

(b) The entity shall contract with the bureau for the bureau to:

(1) design initial protocols and standards for the process described by Subsection (a);

(2) review the conduct of the process described by Subsection (a) in order to make any necessary changes in the design of the protocols and standards;

(3) evaluate the results of the process described by Subsection (a);

(4) provide an evaluation of the results of the process described by Subsection (a) to the commission; and

(5) determine whether to transmit to the comptroller the verification described by Section 490.352(b)(4), Government Code.
(c) Unless otherwise agreed by the entity and the bureau, a contract required by Subsection (b) must require the entity to compensate the bureau by paying an annual fee in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
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<tr>
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<td>Seven</td>
<td>$500,000</td>
</tr>
<tr>
<td>Eight</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

(d) The first payment under Subsection (c) is due not later than 24 months before the date the entity first supplies carbon dioxide captured by the project to an enhanced oil recovery project.

Sec. 120.004. ISSUANCE OF CERTIFICATE OF COMPLIANCE. (a) On verification that a project meets the requirements for certification as a clean energy project, the commission shall issue a certificate of compliance for the project to the entity operating the project and shall provide a copy of the certificate to the comptroller.

(b) The commission may not issue a certificate of compliance for more than three clean energy projects.

SECTION 4. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.334 to read as follows:

Sec. 151.334. COMPONENTS OF TANGIBLE PERSONAL PROPERTY USED IN CONNECTION WITH SEQUESTRATION OF CARBON DIOXIDE. Components of tangible personal property used in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, or a clean energy project, as defined by Section 120.001, Natural Resources Code, are exempted from the taxes imposed by this chapter if:

(1) the components are installed to capture carbon dioxide from an anthropogenic emission source, transport or inject carbon dioxide from such a source, or prepare carbon dioxide from such a source for transportation or injection; and

(2) the carbon dioxide is sequestered in this state:

   (A) as part of an enhanced oil recovery project that qualifies for a tax rate reduction under Section 202.0545, as provided by Subsection (c) of that section; or

   (B) in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years.

SECTION 5. Sections 202.0545(a) and (d), Tax Code, are amended to read as follows:

(a) Subject to the limitations provided by this section, until the later of the 30th anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section or the effective date of a final rule adopted by the United States Environmental Protection Agency regulating carbon dioxide as a pollutant, 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 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.
(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.

SECTION 6. Section 313.021(4), Tax Code, is amended to read as follows:

(4) "Qualifying time period" means:

(A) the first two tax years that begin on or after the date a person's application for a limitation on appraised value under this subchapter is approved, except as provided by Paragraph (B) or (C); [or]

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

SECTION 7. (a) Not later than September 1, 2010, September 1, 2012, and September 1, 2016, the Texas Commission on Environmental Quality shall make recommendations to the legislature on whether the emissions profile set out in Sections 120.001(2)(B) and (C), Natural Resources Code, as added by this Act, and Sections 382.003(1-a)(B) and (C), Health and Safety Code, as amended by this Act, should be adjusted to increase or decrease elements of the emissions profile. Before making its recommendations, the commission shall determine whether any commercially demonstrated electric generating facility operating in the United States that meets the criteria and emissions profile specified by Section 120.001(2), Natural Resources Code, as added by this Act, is capturing and sequestering a greater percentage of the carbon dioxide in the emissions stream from the facility than would be required to meet the emissions profile set out in that subdivision and whether any commercially demonstrated electric generating facility operating in the United States that meets the criteria and emissions profile set out by Sections 382.003(1-a)(A), (B), and (C), Health and Safety Code, as amended by this Act, is capturing and sequestering a greater percentage of the carbon dioxide in the emissions stream from the facility than would be required to meet the emissions profile set out in those paragraphs. If at least one such facility exists, the commission shall recommend raising the minimum percentage of carbon dioxide in the emissions stream from a facility that is required to be captured and sequestered for the facility to qualify as a clean energy project or advanced clean energy project to the highest percentage of carbon dioxide that is being captured and sequestered by such a facility.

(b) Factors that must be considered in the assessment of the emissions profile include:

(1) the technical and economic feasibility of meeting all of the elements of the emissions profile set out in Sections 120.001(2)(B) and (C), Natural Resources Code, as added by this Act, or Sections 382.003(1-a)(A), (B), and (C), Health and Safety Code, as amended by this Act, 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, or similar legislation that becomes law, to continue to attract investment in and federal funding for clean energy projects and advanced clean energy projects in this state.

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(c) Any adjustments to the emissions profile implemented by the legislature in response to a report required by this section do not apply to an application considered administratively complete on or before the date the adjustment takes effect.

SECTION 8. The comptroller shall adopt rules under Section 490.352, Government Code, as added by this Act, not later than December 31, 2010.

SECTION 9. Not later than January 1, 2010, the Texas Commission on Environmental Quality shall adopt rules as necessary to implement Section 382.003, Health and Safety Code, as amended by this Act.

SECTION 10. Section 151.334, Tax Code, as added by this Act, does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 11. The Railroad Commission of Texas may adopt rules as necessary to implement Section 202.0545, Tax Code, as amended by this Act.

SECTION 12. The comptroller of public accounts may adopt rules as necessary to implement Section 202.0545, Tax Code, as amended by this Act.

SECTION 13. This Act takes effect September 1, 2009.

Passed by the House on May 5, 2009: Yeas 140, Nays 3, 1 present, not voting; the House refused to concur in Senate amendments to H.B. No. 469 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 469 on May 31, 2009: Yeas 141, Nays 5, 1 present, not voting; passed by the Senate, with amendments, on May 27, 2009: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 469 on May 31, 2009: Yeas 31, Nays 0.

Approved June 19, 2009.

Effective September 1, 2009.

CHAPTER 1110

H.B. No. 715

AN ACT

relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter F, Chapter 548, Transportation Code, is amended by adding Section 548.3075 to read as follows:

Sec. 548.3075. LIMITED EMISSIONS INSPECTIONS. (a) In this section, “limited emissions inspection” means an emissions inspection of a motor vehicle conducted only by using the onboard diagnostic system of the vehicle.

(b) A department rule that allows a qualified inspection station to perform a limited emissions inspection of a motor vehicle may not restrict the station to fewer than 150 inspections per month.

SECTION 2. This Act takes effect December 31, 2010.

Passed by the House on April 28, 2009: Yeas 149, Nays 0, 1 present, not voting; the House refused to concur in Senate amendments to H.B. No. 715 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 715 on May 31, 2009: Yeas 144, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May 25, 2009: Yeas 27, Nays 4; at the request of the House, the Senate appointed a conference committee to consider the