Amend **CSHB 469** (Senate committee report) as follows:

(1) Strike SECTIONS 1, 2, and 3 of the bill (page 1, lines 15-29).

(2) Strike the recital to SECTION 4 of the bill (page 1, lines 30 and 31) and substitute the following:

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

SUBCHAPTER H. CLEAN ENERGY PROJECTS

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

(3) In SECTION 4 of the bill, strike the heading to added Section 490.305, Government Code (page 1, lines 32 and 33), and substitute the following:

Sec. 490.352. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT.

(4) At the end of SECTION 4 of the bill, immediately following added Section 490.305, Government Code (page 2, between lines 8 and 9), insert the following:

Sec. 490.353. USE OF MONEY FOR CLEAN ENERGY PROJECTS. (a) Notwithstanding Section 490.102, the governor may allocate under this section proceeds deposited in the fund to eligible applicants if the governor has the express written agreement of the lieutenant governor and the speaker of the house of representatives to do so.

(b) An allocation under this section may take the form of an investment in the form of equity, a convertible note, a debt instrument, a grant, a matching grant, or any combination of those methods.

(c) Before making an allocation under this subchapter, the governor shall enter into a written agreement with the entity to which the allocation is to be awarded.

(d) An applicant for an allocation under this section must provide any information considered necessary by the governor to determine whether the applicant qualifies for an allocation.

(e) In addition to any other provisions of this chapter, a clean energy project constitutes an opportunity for emerging technology suitable for consideration for an allocation under this

section. Sections 490.102 and 490.103 and Subchapters D, E, and F do not apply to an allocation made pursuant to this section.

(5) In SECTION 5 of the bill, strike added Section 120.001(2)(B), Natural Resources Code (page 2, lines 21-30), and substitute the following:

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

(6) In SECTION 5 of the bill, in added Section 120.003(a), Natural Resources Code (page 2, line 66), strike "490.305(b)(4)" and substitute "490.352(b)(4)".

(7) In SECTION 5 of the bill, in added Section 120.003(b)(5), Natural Resources Code (page 3, line 10), strike "Section 490.305(b)(4)" and substitute "Section 490.352(b)(4)".

(8) In SECTION 6 of the bill, in the heading to added Section 151.334, Tax Code (page 3, line 40), strike "GEOLOGIC".

(9) In SECTION 6 of the bill, in added Section 151.334(2), Tax Code (page 3, line 50), strike "geologically".

(10) In SECTION 6 of the bill, in added Section 151.334(2)(B), Tax Code (page 3, line 57), strike "injected".

(11) Strike SECTION 7 of the bill (page 3, lines 59-68).

(12) In SECTION 8 of the bill (page 4, line 1), strike "490.305" and substitute "490.352".

(13) Add the following SECTIONS to the bill, appropriately numbered:

SECTION ___. 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) [~~, and~~] 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 [~~renders~~] 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 ____. Subsections (a) and (d), Section 202.0545, Tax Code, are amended to read as follows:

(a) Subject to the limitations provided by this section, until [~~the later of~~] the 30th [~~seventh~~] 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 ____. Subdivision (4), Section 313.021, 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 _____. Subchapter M, Chapter 5, Water Code, is amended by adding Section 5.559 to read as follows:

Sec. 5.559. ADVANCED CLEAN ENERGY PROJECT PERMITTING PROCEDURE. (a) In this section, "advanced clean energy project" has the meaning assigned by Section 382.003, Health and Safety Code.

(b) As authorized by federal law, not later than nine months after the executive director declares an application for a permit under Chapter 26 for an advanced clean energy project to be administratively complete, the executive director shall complete the 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 or Subchapters C-G, Chapter 2001, Government Code, as applicable.

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

SECTION _____. (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 specified 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.

(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 _____. 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, and Section 5.559, Water Code, as added by this Act.

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

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

(14) Renumber the existing SECTIONS of the bill accordingly.