

1-1 By: Averitt, Ellis S.B. No. 12
1-2 (In the Senate - Filed February 15, 2007; February 21, 2007,
1-3 read first time and referred to Committee on Natural Resources;
1-4 March 19, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; March 19, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 12 By: Averitt

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to programs for the enhancement of air quality, including
1-11 energy efficiency standards in state purchasing; providing
1-12 penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND
1-15 ACCELERATED VEHICLE RETIREMENT PROGRAM

1-16 SECTION 1.01. Section 382.003, Health and Safety Code, is
1-17 amended by adding Subdivisions (7-a), (9-a), (9-b), (10-a), and
1-18 (10-b) to read as follows:

1-19 (7-a) "Hybrid motor vehicle" means a motor vehicle
1-20 that draws propulsion energy from both gasoline or conventional
1-21 diesel fuel and a rechargeable energy storage system.

1-22 (9-a) "Motor vehicle" means a fully self-propelled
1-23 vehicle having four wheels that has as its primary purpose the
1-24 transport of a person or persons, or property, on a public highway.

1-25 (9-b) "New motor vehicle" means a motor vehicle that
1-26 has not been the subject of a retail sale regardless of the mileage
1-27 of the vehicle.

1-28 (10-a) "Qualifying new motor vehicle" means a new
1-29 motor vehicle that:

1-30 (A) has a model year no earlier than the calendar
1-31 year immediately preceding the current calendar year; and

1-32 (B) meets the requirements of Section
1-33 382.210(b).

1-34 (10-b) "Retail sale" means any sale of a motor vehicle
1-35 other than a sale in which the purchaser acquires a vehicle for
1-36 resale.

1-37 SECTION 1.02. Section 382.209, Health and Safety Code, is
1-38 amended by amending Subsections (b), (e), and (g) and adding
1-39 Subsections (i) and (j) to read as follows:

1-40 (b) The commission shall provide funding for local
1-41 low-income vehicle repair assistance, retrofit, and accelerated
1-42 vehicle retirement programs with available funds collected under
1-43 Section 382.202, 382.302, or other designated and available funds.
1-44 The programs shall be administered in accordance with Chapter 783,
1-45 Government Code. Program [Programmatic] costs may include call
1-46 center management, application oversight, invoice analysis,
1-47 education, outreach, and advertising. Not more than 10 percent of
1-48 the money provided to a local low-income vehicle repair assistance,
1-49 retrofit, and accelerated vehicle retirement program under this
1-50 section may be used for the administration of the programs,
1-51 including program costs.

1-52 (e) A vehicle is not eligible to participate in a low-income
1-53 vehicle repair assistance, retrofit, and accelerated vehicle
1-54 retirement program established under this section unless:

1-55 (1) the vehicle is capable of being operated;

1-56 (2) the registration of the vehicle:

1-57 (A) is current; and

1-58 (B) reflects that the vehicle has been registered
1-59 in the county implementing the program for the 12 months preceding
1-60 the application for participation in the program;

1-61 (3) the commissioners court of the county
1-62 administering the program determines that the vehicle meets the
1-63 eligibility criteria adopted by the commission, the Texas

2-1 Department of Transportation, and the Public Safety Commission;
2-2 [~~and~~]

2-3 (4) if the vehicle is to be repaired, the repair is
2-4 done by a repair facility recognized by the Department of Public
2-5 Safety, which may be an independent or private entity licensed by
2-6 the state; and

2-7 (5) if the vehicle is to be retired under this
2-8 subsection and Section 382.213, the replacement vehicle is a
2-9 qualifying new motor vehicle.

2-10 (g) A participating county may contract with any
2-11 appropriate entity, including the regional council of governments
2-12 or the metropolitan planning organization in the appropriate
2-13 region, or with another county for services necessary to implement
2-14 the participating county's low-income vehicle repair assistance,
2-15 retrofit, and accelerated vehicle retirement program. The
2-16 participating counties in a nonattainment region or counties
2-17 participating in an early action compact under Subchapter H may
2-18 agree to have the money collected in any one county be used in any
2-19 other participating county in the same region. [~~The participating~~
2-20 ~~counties may also agree to contract with any appropriate entity,~~
2-21 ~~including the regional metropolitan planning organization or~~
2-22 ~~council of governments, to implement a program under Section~~
2-23 ~~382.217.~~]

2-24 (i) Notwithstanding the vehicle replacement requirements
2-25 provided by Subsection (d)(2), the commission by rule may provide
2-26 monetary or other compensatory assistance under the low-income
2-27 vehicle repair assistance, retrofit, and accelerated vehicle
2-28 retirement program, subject to the availability of funds, for the
2-29 replacement of a vehicle that meets the following criteria:

2-30 (1) the vehicle is gasoline-powered and is at least 10
2-31 years old;

2-32 (2) the vehicle owner meets applicable financial
2-33 eligibility criteria;

2-34 (3) the vehicle meets the requirements provided by
2-35 Subsections (e)(1) and (2); and

2-36 (4) the vehicle has passed a Department of Public
2-37 Safety motor vehicle safety inspection or safety and emissions
2-38 inspection within the 15-month period before the application is
2-39 submitted.

2-40 (j) The commission may provide monetary or other
2-41 compensatory assistance under the low-income vehicle repair
2-42 assistance, retrofit, and accelerated vehicle retirement program
2-43 for a replacement vehicle or replacement assistance for a pre-1996
2-44 model year vehicle that passes the required United States
2-45 Environmental Protection Agency Start-Up Acceleration Simulation
2-46 Mode Standards emissions test but that would have failed the United
2-47 States Environmental Protection Agency Final Acceleration
2-48 Simulation Mode Standards emissions test or some other criterion
2-49 determined by the commission; provided, however, that a replacement
2-50 vehicle under this subsection must be a qualifying new motor
2-51 vehicle.

2-52 SECTION 1.03. Section 382.210, Health and Safety Code, is
2-53 amended to read as follows:

2-54 Sec. 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

2-55 (a) The commission by rule shall adopt guidelines to assist a
2-56 participating county in implementing a low-income vehicle repair
2-57 assistance, retrofit, and accelerated vehicle retirement program
2-58 authorized under Section 382.209. The guidelines at a minimum
2-59 shall recommend:

2-60 (1) a minimum and maximum amount for repair
2-61 assistance;

2-62 (2) a minimum and maximum amount toward the purchase
2-63 price of a replacement vehicle qualified for the accelerated
2-64 retirement program, with the maximum amount not to exceed \$2,500
2-65 or, if the replacement vehicle is a hybrid motor vehicle, \$3,500;

2-66 (3) criteria for determining eligibility, taking into
2-67 account:

2-68 (A) the vehicle owner's income, which may not
2-69 exceed 300 percent of the federal poverty level;

- 3-1 (B) the fair market value of the vehicle; and
- 3-2 (C) any other relevant considerations;
- 3-3 (4) safeguards for preventing fraud in the repair,
- 3-4 purchase, or sale of a vehicle in the program; and
- 3-5 (5) procedures for determining the degree and amount
- 3-6 of repair assistance a vehicle is allowed, based on:
- 3-7 (A) the amount of money the vehicle owner has
- 3-8 spent on repairs;
- 3-9 (B) the vehicle owner's income; and
- 3-10 (C) any other relevant factors.

3-11 (b) A replacement vehicle described by Subsection (a)(2)
 3-12 must:

3-13 (1) except as provided by Subsection (c), be a vehicle
 3-14 in a class or category of vehicles that has been certified to meet
 3-15 federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R.
 3-16 Section 86.1811-04, as published in the February 10, 2000, Federal
 3-17 Register;

3-18 (2) have a gross vehicle weight rating of less than
 3-19 10,000 pounds; and

3-20 (3) be a vehicle the total cost of which does not
 3-21 exceed \$25,000.

3-22 (c) The commission may adopt any revisions made by the
 3-23 federal government to the emissions standards described by
 3-24 Subsection (b)(1).

3-25 (d) A participating county shall provide an electronic
 3-26 means for distributing vehicle repair or replacement funds once all
 3-27 program criteria have been met with regard to the repair or
 3-28 replacement. The county shall ensure that funds are transferred to
 3-29 a participating dealer under this section not later than one
 3-30 business day after the date the sale of a replacement vehicle is
 3-31 completed.

3-32 (e) In rules adopted under this section, the commission
 3-33 shall require a mandatory procedure that:

3-34 (1) produces a document confirming that a person is
 3-35 eligible to purchase a new vehicle in the manner provided by this
 3-36 chapter, and the amount of money available to the participating
 3-37 purchaser;

3-38 (2) provides that a person who seeks to purchase a new
 3-39 vehicle in the manner provided by this chapter is required to have
 3-40 the document required by Subdivision (1) before the person enters
 3-41 into negotiation for a new vehicle in the manner provided by this
 3-42 chapter; and

3-43 (3) provides that a participating dealer who relies on
 3-44 a document issued as required by Subdivision (1) has no duty to
 3-45 otherwise confirm the eligibility of a person to purchase a new
 3-46 vehicle in the manner provided by this chapter.

3-47 (f) In this section, "total cost" means the total amount of
 3-48 money paid or to be paid for the purchase of a motor vehicle as set
 3-49 forth as "sales price" in the form entitled "Application for Texas
 3-50 Certificate of Title" promulgated by the Texas Department of
 3-51 Transportation. In a transaction that does not involve the use of
 3-52 that form, the term means an amount of money that is equivalent, or
 3-53 substantially equivalent, to the amount that would appear as "sales
 3-54 price" on the Application for Texas Certificate of Title if that
 3-55 form were involved.

3-56 SECTION 1.04. Section 382.213, Health and Safety Code, is
 3-57 amended by amending Subsection (a) and adding Subsections (d)
 3-58 through (i) to read as follows:

3-59 (a) Except as provided by Subsection (c) and Subdivision (5)
 3-60 of this subsection, a vehicle retired under an accelerated vehicle
 3-61 retirement program authorized by Section 382.209 may not be resold
 3-62 or reused in its entirety in this or another state. Subject to the
 3-63 provisions of Subsection (i), the automobile dealer who takes
 3-64 possession of the vehicle must submit to the program administrator
 3-65 proof, in a manner adopted by the commission, that the vehicle has
 3-66 been retired. The vehicle must be:

- 3-67 (1) destroyed;
- 3-68 (2) recycled;
- 3-69 (3) dismantled and its parts sold as used parts or used

4-1 in the program;

4-2 (4) placed in a storage facility of a program
 4-3 established under Section 382.209 and subsequently destroyed,
 4-4 recycled, or dismantled and its parts sold or used in the program;
 4-5 or

4-6 (5) repaired, brought into compliance, and used as a
 4-7 replacement vehicle under Section 382.209(d)(2).

4-8 (d) Notwithstanding Subsection (a)(3), the dismantler of a
 4-9 vehicle shall scrap the emissions control equipment and engine.
 4-10 The dismantler shall certify that the equipment and engine have
 4-11 been scrapped and not resold into the marketplace. A person who
 4-12 causes, suffers, allows, or permits a violation of this subsection
 4-13 or of a rule adopted under this section is subject to a civil
 4-14 penalty under Subchapter D, Chapter 7, Water Code, for each
 4-15 violation. For purposes of this subsection, a separate violation
 4-16 occurs with each fraudulent certification or prohibited resale.

4-17 (e) Notwithstanding Subsection (d), vehicle parts not
 4-18 related to emissions control equipment or the engine may be resold
 4-19 in any state.

4-20 (f) Any dismantling of vehicles or salvaging of steel under
 4-21 this section must be performed at a facility located in this state.

4-22 (g) In dismantling a vehicle under this section, the
 4-23 dismantler shall remove any mercury switches in accordance with
 4-24 state and federal law.

4-25 (h) For purposes of this section, the commission shall adopt
 4-26 rules defining "emissions control equipment" and "engine."

4-27 (i) Notwithstanding any other provision of this section,
 4-28 and except as provided by this subsection, a dealer is in compliance
 4-29 with this section and incurs no civil or criminal liability as a
 4-30 result of the disposal of a replaced vehicle if the dealer produces
 4-31 proof of transfer of the replaced vehicle by the dealer to a
 4-32 dismantler. The defense provided by this subsection is not
 4-33 available to a dealer who knowingly and intentionally conspires
 4-34 with another person to violate this section.

4-35 SECTION 1.05. Subchapter G, Chapter 382, Health and Safety
 4-36 Code, is amended by adding Section 382.219 to read as follows:

4-37 Sec. 382.219. PURCHASE OF REPLACEMENT VEHICLE; AUTOMOBILE
 4-38 DEALERSHIPS. (a) An amount described by Section 382.210(a)(2) may
 4-39 be used as a down payment toward the purchase of a replacement
 4-40 vehicle.

4-41 (b) An automobile dealer that participates in the
 4-42 procedures and programs offered by this chapter must be located in
 4-43 the state. No dealer is required to participate in the procedures
 4-44 and programs provided by this chapter.

4-45 SECTION 1.06. Subchapter G, Chapter 382, Health and Safety
 4-46 Code, is amended by adding Section 382.220 to read as follows:

4-47 Sec. 382.220. USE OF FUNDING FOR LOCAL INITIATIVE PROJECTS.
 4-48 (a) Money that is made available to affected or participating
 4-49 counties under Sections 382.202(g) and 382.302 may be appropriated
 4-50 only for programs administered in accordance with Chapter 783,
 4-51 Government Code, to improve air quality.

4-52 (b) A program under this section must be implemented in
 4-53 consultation with the commission and may include a program to:

4-54 (1) expand and enhance the AirCheck Texas Repair and
 4-55 Replacement Assistance Program;

4-56 (2) develop and implement programs or systems that
 4-57 remotely determine vehicle emissions and notify the vehicle's
 4-58 operator;

4-59 (3) develop and implement projects to implement the
 4-60 commission's smoking vehicle program;

4-61 (4) develop and implement projects for coordinating
 4-62 with local law enforcement officials to reduce the use of
 4-63 counterfeit state inspection stickers by providing local law
 4-64 enforcement officials with funds to identify vehicles with
 4-65 counterfeit state inspection stickers and to carry out appropriate
 4-66 actions;

4-67 (5) develop and implement programs to enhance
 4-68 transportation system improvements; or

4-69 (6) develop and implement new air control strategies

5-1 designed to assist local areas in complying with state and federal
 5-2 air quality rules and regulations.

5-3 (c) Money that is made available for the implementation of a
 5-4 program under Subsection (b) may not be expended for call center
 5-5 management, application oversight, invoice analysis, education,
 5-6 outreach, or advertising purposes.

5-7 (d) Fees collected under Sections 382.202 and 382.302 may be
 5-8 used, in an amount not to exceed \$5 million per fiscal year, for
 5-9 projects described by Subsection (b). The fees shall be made
 5-10 available only to counties participating in the low-income vehicle
 5-11 repair assistance, retrofit, and accelerated vehicle retirement
 5-12 programs created under Section 382.209 and only on a matching
 5-13 basis, whereby the commission provides money to a county in the same
 5-14 amount that the county dedicates to a project authorized by
 5-15 Subsection (b).

5-16 SECTION 1.07. Subsection (b), Section 152.002, Tax Code, is
 5-17 amended to read as follows:

5-18 (b) "Total consideration" does not include:

5-19 (1) a cash discount;
 5-20 (2) a full cash or credit refund to a customer of the
 5-21 sales price of a motor vehicle returned to the seller;
 5-22 (3) the amount charged for labor or service rendered
 5-23 in installing, applying, remodeling, or repairing the motor vehicle
 5-24 sold;

5-25 (4) a financing, carrying, or service charge or
 5-26 interest on credit extended on a motor vehicle sold under a
 5-27 conditional sale or other deferred payment contract;

5-28 (5) the value of a motor vehicle taken by a seller as
 5-29 all or a part of the consideration for sale of another motor
 5-30 vehicle, including any cash payment to the buyer under Section
 5-31 348.404, Finance Code;

5-32 (6) a charge for transportation of the motor vehicle
 5-33 after a sale; ~~or~~

5-34 (7) motor vehicle inventory tax; or

5-35 (8) an amount made available to the customer under
 5-36 Subchapter G, Chapter 382, Health and Safety Code.

5-37 SECTION 1.08. Section 7.102, Water Code, is amended to read
 5-38 as follows:

5-39 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
 5-40 allows, or permits a violation of a statute, rule, order, or permit
 5-41 relating to Chapter 37 of this code, Chapter 366, 371, or 372,
 5-42 Health and Safety Code, Subchapter G, Chapter 382, Health and
 5-43 Safety Code, or Chapter 1903, Occupations Code, shall be assessed
 5-44 for each violation a civil penalty not less than \$50 nor greater
 5-45 than \$5,000 for each day of each violation as the court or jury
 5-46 considers proper. A person who causes, suffers, allows, or permits
 5-47 a violation of a statute, rule, order, or permit relating to any
 5-48 other matter within the commission's jurisdiction to enforce, other
 5-49 than violations of Chapter 11, 12, 13, 16, or 36 of this code, or
 5-50 Chapter 341, Health and Safety Code, shall be assessed for each
 5-51 violation a civil penalty not less than \$50 nor greater than \$25,000
 5-52 for each day of each violation as the court or jury considers
 5-53 proper. Each day of a continuing violation is a separate violation.

5-54 SECTION 1.09. The following provisions of the Health and
 5-55 Safety Code are repealed:

5-56 (1) Subsection (e), Section 382.0622;

5-57 (2) Subsections (q) and (r), Section 382.202; and

5-58 (3) Section 382.217.

5-59 SECTION 1.10. The Texas Commission on Environmental Quality
 5-60 shall review its current cutpoint levels for nitrogen oxide
 5-61 emissions and determine whether a lower cutpoint standard would
 5-62 best serve the interest of the public health and welfare. The
 5-63 determination shall be made by rule not later than January 1, 2008.
 5-64 If the commission adopts a lower cutpoint standard, the commission
 5-65 shall make the low-income vehicle repair assistance, retrofit, and
 5-66 accelerated vehicle retirement program under Section 382.209,
 5-67 Health and Safety Code, as amended by this article, available to
 5-68 owners of vehicles that did not meet the prior, more stringent
 5-69 standard.

6-1 SECTION 1.11. (a) The Texas Commission on Environmental
 6-2 Quality shall seek to work in partnership with automobile
 6-3 manufacturers and dealers in the state to increase public awareness
 6-4 of and participation in the low-income vehicle repair assistance,
 6-5 retrofit, and accelerated vehicle retirement program under Section
 6-6 382.209, Health and Safety Code, as amended by this article.

6-7 (b) Funding for the partnership described by Subsection (a)
 6-8 of this section shall be used exclusively for the purpose of
 6-9 publicizing the program.

6-10 SECTION 1.12. (a) The Texas Commission on Environmental
 6-11 Quality shall seek to work in partnership with the steel industry
 6-12 and automobile dismantlers to ensure that vehicles being replaced
 6-13 are scrapped and that proof of scrapping is provided to the
 6-14 commission.

6-15 (b) Not later than January 1, 2008, the Texas Commission on
 6-16 Environmental Quality shall adopt procedures for certifying that
 6-17 emissions control equipment and vehicle engines have been scrapped
 6-18 and not resold into the marketplace and shall by rule define
 6-19 "emissions control equipment" and "engine," as required by Section
 6-20 382.213, Health and Safety Code, as amended by this article.

6-21 ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

6-22 SECTION 2.01. Section 386.002, Health and Safety Code, is
 6-23 amended to read as follows:

6-24 Sec. 386.002. EXPIRATION. This chapter expires August 31,
 6-25 2013 [~~2010~~].

6-26 SECTION 2.02. Subsection (d), Section 386.053, Health and
 6-27 Safety Code, is amended to read as follows:

6-28 (d) The commission may propose revisions to the guidelines
 6-29 and criteria adopted under this section as necessary to improve the
 6-30 ability of the plan to achieve its goals. Revisions may include,
 6-31 among other changes, adding additional pollutants, adding
 6-32 stationary engines or engines used in stationary applications,
 6-33 adding vehicles and equipment that use fuels other than diesel, or
 6-34 adjusting eligible program categories, as appropriate, to ensure
 6-35 that incentives established under this chapter achieve the maximum
 6-36 possible emissions reductions. The commission shall make a
 6-37 proposed revision available to the public before the 30th [~~45th~~]
 6-38 day preceding the date of final adoption of the revision and shall
 6-39 hold at least one public meeting to consider public comments on the
 6-40 proposed revision before final adoption.

6-41 SECTION 2.03. Subsection (c), Section 386.104, Health and
 6-42 Safety Code, is amended to read as follows:

6-43 (c) For a proposed project as described by Section
 6-44 386.102(b), other than a project involving a marine vessel or
 6-45 engine, not less than 75 percent of vehicle miles traveled or hours
 6-46 of operation projected for the five years immediately following the
 6-47 award of a grant must be projected to take place in a nonattainment
 6-48 area or affected county of this state. The commission may also
 6-49 allow vehicle travel on highways and roadways, or portions of a
 6-50 highway or roadway, designated by the commission and located
 6-51 outside of a nonattainment area or affected county to count towards
 6-52 the percentage of use requirement in this subsection. For a
 6-53 proposed project involving a marine vessel or engine, the vessel or
 6-54 engine must be operated in the intercoastal waterways or bays
 6-55 adjacent to a nonattainment area or affected county of this state
 6-56 for a sufficient amount of time over the lifetime of the project, as
 6-57 determined by the commission, to meet the cost-effectiveness
 6-58 requirements of Section 386.105.

6-59 SECTION 2.04. Subsection (a), Section 386.106, Health and
 6-60 Safety Code, is amended to read as follows:

6-61 (a) Except as provided by Section 386.107 and except for
 6-62 infrastructure projects and infrastructure purchases that are part
 6-63 of a broader retrofit, repower, replacement, or add-on equipment
 6-64 project, the commission may not award a grant for a proposed project
 6-65 the cost-effectiveness of which, calculated in accordance with
 6-66 Section 386.105 and criteria developed under that section, exceeds
 6-67 \$15,000 [~~\$13,000~~] per ton of oxides of nitrogen emissions reduced
 6-68 in the nonattainment area or affected county for which the project
 6-69 is proposed. This subsection does not restrict commission

7-1 authority under other law to require emissions reductions with a
7-2 cost-effectiveness that exceeds \$15,000 [~~\$13,000~~] per ton.

7-3 SECTION 2.05. Section 386.109, Health and Safety Code, is
7-4 amended to read as follows:

7-5 Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The
7-6 commission may consider for funding under Section 386.108:

7-7 (1) the purchase and installation at a site of
7-8 equipment that is designed primarily to dispense qualifying fuel,
7-9 other than standard gasoline or diesel, or the purchase of on-site
7-10 mobile fueling equipment;

7-11 (2) infrastructure projects, including auxiliary
7-12 power units, designed to dispense electricity to motor vehicles and
7-13 on-road and non-road diesels; and

7-14 (3) a project that involves a technology that allows a
7-15 vehicle to replace with electric power, while the vehicle is
7-16 parked, the power normally supplied by the vehicle's internal
7-17 combustion engine.

7-18 (b) The commission may provide funding to other state
7-19 agencies to implement projects under Subsection (a)(3), including
7-20 funding for the lease, purchase, or installation of idle reduction
7-21 technologies and facilities at rest areas and other public
7-22 facilities on major highway transportation routes located in areas
7-23 eligible for funding. Funding under this subsection may include
7-24 reasonable operational costs determined by the commission to be
7-25 needed for the initial start-up and proper operation of the idle
7-26 reduction technologies. The state agency leasing, owning, or
7-27 operating the idle reduction facility constructed with funds
7-28 provided under this subsection may, but is not required to, charge
7-29 reasonable fees for the provision of idle reduction services
7-30 provided that those fees are used to directly offset the cost of
7-31 providing the services.

7-32 (c) The commission shall encourage the use of a technology
7-33 that allows a vehicle to replace with electric power, while the
7-34 vehicle is parked, the power normally supplied by the vehicle's
7-35 internal combustion engine at the state's ports and border
7-36 crossings in affected areas.

7-37 SECTION 2.06. Section 386.117, Health and Safety Code, is
7-38 amended by adding Subsection (e) to read as follows:

7-39 (e) The commission or its designee shall notify potential
7-40 applicants of any changes to the rebate grant process by its email
7-41 list service and posting those changes on its Internet website at
7-42 least 30 days before the changes become effective.

7-43 SECTION 2.07. Subsection (b), Section 386.251, Health and
7-44 Safety Code, is amended to read as follows:

7-45 (b) The fund is administered by the commission
7-46 [~~comptroller~~] for the benefit of the plan established under this
7-47 chapter. The fund is exempt from the application of Section
7-48 403.095, Government Code. Interest earned on the fund shall be
7-49 credited to the fund.

7-50 SECTION 2.08. Section 387.003, Health and Safety Code, is
7-51 amended by adding Subsections (c) through (f) to read as follows:

7-52 (c) The commission shall provide oversight as appropriate
7-53 for grants provided to the nonprofit organization under this
7-54 program.

7-55 (d) The nonprofit organization shall submit to the
7-56 commission for approval a budget for the disposition of funds
7-57 granted under this program.

7-58 (e) The commission shall limit the use of grants for
7-59 administrative costs incurred by the nonprofit organization to an
7-60 amount not to exceed 10 percent of funding provided to the nonprofit
7-61 organization under this program.

7-62 (f) The nonprofit organization that receives grants from
7-63 the commission under this program is subject to Chapters 551 and
7-64 552, Government Code.

7-65 SECTION 2.09. Section 387.005, Health and Safety Code, is
7-66 amended to read as follows:

7-67 Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants
7-68 awarded under this chapter shall be directed toward a balanced mix
7-69 of:

8-1 (1) retrofit and add-on technologies and other
 8-2 advanced technologies that ~~to~~ reduce emissions from the existing
 8-3 stock of engines and vehicles targeted by the Texas emissions
 8-4 reduction plan; and

8-5 (2) advanced technologies for new engines and vehicles
 8-6 that produce very-low or zero emissions of oxides of nitrogen,
 8-7 including stationary and mobile fuel cells~~;~~

8-8 ~~[(3) studies to improve air quality assessment and~~
 8-9 ~~modeling; and~~

8-10 ~~[(4) advanced technologies that reduce emissions from~~
 8-11 ~~other significant sources].~~

8-12 (b) The commission shall identify and evaluate and may
 8-13 consider making grants for technology projects that would allow
 8-14 qualifying fuels to be produced from energy resources in this
 8-15 state. In considering projects under this subsection, the
 8-16 commission shall give preference to projects involving otherwise
 8-17 unusable energy resources in this state and producing qualifying
 8-18 fuels at prices lower than otherwise available and low enough to
 8-19 make the projects to be funded under the program economically
 8-20 attractive to local businesses in the area for which the project is
 8-21 proposed.

8-22 (c) In soliciting proposals under Section 387.004 and
 8-23 determining how to allocate grant money available for projects
 8-24 under this chapter, the commission shall give special consideration
 8-25 to advanced technologies and retrofit or add-on projects that
 8-26 provide multiple benefits by reducing emissions of particulates and
 8-27 other air pollutants.

8-28 (d) A project that involves publicly or privately owned
 8-29 vehicles or vessels is eligible for funding under this chapter if
 8-30 the project meets all applicable criteria.

8-31 ~~(e) [Studies authorized under Subsection (a)(3) shall be~~
 8-32 ~~consistent with air quality research priorities identified by the~~
 8-33 ~~commission and conducted in an independent and objective manner.~~

8-34 ~~[(f)]~~ If a commissioner is an employee or owner of an entity
 8-35 that applies for a grant under this chapter, the commissioner,
 8-36 before a vote on the grant, shall disclose the fact of the
 8-37 commissioner's employment or ownership. The disclosure must be
 8-38 entered into the minutes of the meeting. The commissioner may not
 8-39 vote on or otherwise participate in the awarding of the grant. If
 8-40 the commissioner does not comply with this subsection, the entity
 8-41 is not eligible for the grant.

8-42 SECTION 2.10. Subsection (d), Section 151.0515, Tax Code,
 8-43 is amended to read as follows:

8-44 (d) This section expires August 31, 2013 ~~[September 30,~~
 8-45 ~~2010]~~.

8-46 SECTION 2.11. Subsection (c), Section 152.0215, Tax Code,
 8-47 is amended to read as follows:

8-48 (c) This section expires August 31, 2013 ~~[September 30,~~
 8-49 ~~2010]~~.

8-50 SECTION 2.12. Subsections (a), (b), and (b-1), Section
 8-51 501.138, Transportation Code, are amended to read as follows:

8-52 (a) An applicant for a certificate of title, other than the
 8-53 state or a political subdivision of the state, must pay the county
 8-54 assessor-collector a fee of:

8-55 (1) \$33 if the applicant's residence is a county
 8-56 located within a nonattainment area as defined under Section 107(d)
 8-57 of the federal Clean Air Act (42 U.S.C. Section 7407), as amended,
 8-58 or is an affected county, as defined by Section 386.001, Health and
 8-59 Safety Code; or

8-60 (2) \$28 if the applicant's residence is any other
 8-61 county~~;~~ ~~or~~

8-62 ~~[(3) on or after September 1, 2010, \$28 regardless of~~
 8-63 ~~the county in which the applicant resides].~~

8-64 (b) The county assessor-collector shall send:

8-65 (1) \$5 of the fee to the county treasurer for deposit
 8-66 in the officers' salary fund;

8-67 (2) \$8 of the fee to the department:

8-68 (A) together with the application within the time
 8-69 prescribed by Section 501.023; or

9-1 (B) if the fee is deposited in an
9-2 interest-bearing account or certificate in the county depository or
9-3 invested in an investment authorized by Subchapter A, Chapter 2256,
9-4 Government Code, not later than the 35th day after the date on which
9-5 the fee is received; and

9-6 (3) the following amount to the comptroller at the
9-7 time and in the manner prescribed by the comptroller:

9-8 (A) \$20 of the fee if the applicant's residence
9-9 is a county located within a nonattainment area as defined under
9-10 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
9-11 7407), as amended, or is an affected county, as defined by Section
9-12 386.001, Health and Safety Code; or

9-13 (B) \$15 of the fee if the applicant's residence
9-14 is any other county[~~or~~

9-15 [~~(C) on or after September 1, 2010, \$15~~
9-16 ~~regardless of the county in which the applicant resides].~~

9-17 (b-1) Fees collected under Subsection (b) to be sent to the
9-18 comptroller shall be deposited as follows:

9-19 (1) before September 1, 2008, to the credit of the
9-20 Texas emissions reduction plan fund; ~~and~~

9-21 (2) on or after September 1, 2008, and before
9-22 September 1, 2010, to the credit of the Texas Mobility Fund, except
9-23 that \$5 of each fee imposed under Subsection (a)(1) and deposited on
9-24 or after September 1, 2008, and before September 1, 2010, shall be
9-25 deposited to the credit of the Texas emissions reduction plan fund;
9-26 and

9-27 (3) on or after September 1, 2010, to the credit of the
9-28 Texas emissions reduction plan fund.

9-29 SECTION 2.13. Subsection (c), Section 502.1675,
9-30 Transportation Code, is amended to read as follows:

9-31 (c) This section expires August 31, 2013 [~~2010~~].

9-32 SECTION 2.14. Subsection (c), Section 548.5055,
9-33 Transportation Code, is amended to read as follows:

9-34 (c) This section expires August 31, 2013 [~~2010~~].

9-35 SECTION 2.15. Section 12, Chapter 1125, Acts of the 79th
9-36 Legislature, Regular Session, 2005, amending Subsection (a),
9-37 Section 386.252, Health and Safety Code, is repealed.

9-38 ARTICLE 3. ENERGY EFFICIENCY
9-39 SECTION 3.01. Section 388.003, Health and Safety Code, is
9-40 amended by adding Subsections (b-1) and (b-2) to read as follows:

9-41 (b-1) If the State Energy Conservation Office determines,
9-42 based on a written recommendation from the laboratory, that more
9-43 recent versions of the energy efficiency standards of the
9-44 International Residential Code or the International Energy
9-45 Conservation Code exist that improve residential or commercial
9-46 energy efficiency and air quality substantially more than the
9-47 versions adopted under Subsection (a) or (b), the office shall by
9-48 rule adopt the more stringent versions and substitute them for the
9-49 standards described by Subsection (a) or (b). The rule shall
9-50 establish an effective date for the new standards but not earlier
9-51 than one year after the date of adoption. The laboratory shall make
9-52 its recommendations not later than six months after the date of
9-53 publication of the most recent full edition of the International
9-54 Residential Code and International Energy Conservation Code.

9-55 (b-2) The State Energy Conservation Office shall by rule
9-56 establish a procedure for persons who have an interest in the
9-57 adoption of energy efficiency standards under Subsection (b-1),
9-58 including commercial and residential builders, local government
9-59 authorities, and environmental groups, to have an opportunity to
9-60 comment on the standards under consideration and to have the
9-61 commentary considered by the laboratory in developing its
9-62 recommendations.

9-63 SECTION 3.02. Section 388.005, Health and Safety Code, is
9-64 amended to read as follows:

9-65 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN CERTAIN
9-66 POLITICAL SUBDIVISIONS. (a) In this section:

9-67 (1) "Institution of higher education" includes an
9-68 institution of higher education defined by Section 61.003,
9-69 Education Code, and a private institution of higher education that

10-1 receives funding from the state.

10-2 (2) "Political[~~,"~~"political] subdivision" means:

10-3 (A) [~~(1)~~] an affected county; [~~or~~]

10-4 (B) a school district; or

10-5 (C) [~~(2)~~] any political subdivision in a
 10-6 nonattainment area or in an affected county other than[~~+~~

10-7 [~~(A)~~ a school district; or

10-8 [~~(B)~~] a district as defined by Section 36.001 or
 10-9 49.001, Water Code, that had a total annual electricity expense of
 10-10 less than \$200,000 in the previous fiscal year of the district.

10-11 (3) "State agency" means a department, commission,
 10-12 board, office, council, or other agency in the executive branch of
 10-13 government that is created by the constitution or a statute of this
 10-14 state and has authority not limited to a geographical portion of the
 10-15 state.

10-16 (b) Each political subdivision, institution of higher
 10-17 education, or state agency shall implement all energy efficiency
 10-18 measures that meet the standards established for a contract for
 10-19 energy conservation measures under Section 302.004(b), Local
 10-20 Government Code, in order to reduce electricity consumption by the
 10-21 existing facilities of the entity [~~the political subdivision~~].

10-22 (c) Each political subdivision, institution of higher
 10-23 education, or state agency shall establish a goal to reduce the
 10-24 electric consumption by the entity [~~political subdivision~~] by five
 10-25 percent each year for six [~~five~~] years, beginning September 1, 2007
 10-26 [~~January 1, 2002~~].

10-27 (d) A political subdivision, institution of higher
 10-28 education, or state agency that does not attain the goals under
 10-29 Subsection (c) must include in the report required by Subsection
 10-30 (e) justification that the entity [~~political subdivision~~] has
 10-31 already implemented all available measures.

10-32 (e) A political subdivision, institution of higher
 10-33 education, or state agency annually shall report to the State
 10-34 Energy Conservation Office, on forms provided by that office,
 10-35 regarding the entity's [~~political subdivision's~~] efforts and
 10-36 progress under this section. The State Energy Conservation Office
 10-37 shall provide assistance and information to the entity [~~political~~
 10-38 ~~subdivisions~~] to help it [~~the political subdivisions~~] meet the
 10-39 goals set under this section.

10-40 SECTION 3.03. Subsection (d), Section 2155.068, Government
 10-41 Code, is amended to read as follows:

10-42 (d) As part of the standards and specifications program, the
 10-43 commission shall review contracts for opportunities to recycle
 10-44 waste produced at state buildings, shall develop and update a list
 10-45 of equipment and appliances that meet the energy efficiency
 10-46 standards of Section 2158.301, and shall assist state agencies in
 10-47 selecting products under that section as appropriate.

10-48 SECTION 3.04. Chapter 2158, Government Code, is amended by
 10-49 adding Subchapter F to read as follows:

10-50 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS
 10-51 FOR EQUIPMENT AND APPLIANCES

10-52 Sec. 2158.301. ENERGY CONSERVATION. If available and cost
 10-53 effective, the commission or another state agency shall purchase
 10-54 equipment and appliances for state use that meet or exceed:

10-55 (1) the federal energy conservation standards under
 10-56 the Energy Policy and Conservation Act (42 U.S.C. Section 6295) or
 10-57 any federal regulations adopted under the federal act; or

10-58 (2) the federal Energy Star standards designated by
 10-59 the United States Environmental Protection Agency and the United
 10-60 States Department of Energy.

10-61 SECTION 3.05. The State Energy Conservation Office shall
 10-62 adopt rules implementing a procedure for stakeholder participation
 10-63 as required under Subsection (b-2), Section 388.003, Health and
 10-64 Safety Code, as added by this article, as soon as practicable after
 10-65 the effective date of this Act.

10-66 SECTION 3.06. The energy conservation standards for
 10-67 equipment and appliances under Section 2158.301, Government Code,
 10-68 as added by this article, apply to a purchase by a state agency on or
 10-69 after the effective date of this Act.

(b) The Texas Building and Procurement Commission shall develop a list of equipment and appliances under Section 2155.068, Government Code, as amended by this article, as soon as practicable after the effective date of this Act.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. 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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