

AN ACT

relating to the use of the Texas emissions reduction plan fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 386.051, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a) [~~386.252(a)(5)~~];

(7) a health effects study as provided by Section 386.252(a) [~~386.252(a)(7)~~];

(8) air quality planning activities as provided by

1 Section 386.252(a) [~~386.252(a)(8)~~]; [~~and~~]

2 (9) a contract with the Energy Systems Laboratory at
3 the Texas Engineering Experiment Station for computation of
4 creditable statewide emissions reductions as provided by Section
5 386.252(a)(14);

6 (10) the clean fleet program established under Chapter
7 392;

8 (11) the alternative fueling facilities program
9 established under Chapter 393;

10 (12) the natural gas vehicle grant program and clean
11 transportation triangle program established under Chapter 394;

12 (13) other programs the commission may develop that
13 lead to reduced emissions of nitrogen oxides, particulate matter,
14 or volatile organic compounds in a nonattainment area or affected
15 county;

16 (14) other programs the commission may develop that
17 support congestion mitigation to reduce mobile source ozone
18 precursor emissions; and

19 (15) the drayage truck incentive program established
20 under Subchapter D-1 [~~386.252(a)(9)~~].

21 (b-1) Under the plan, the commission may establish and
22 administer other programs, including other grants or funding
23 programs, as determined by the commission to be necessary or
24 effective in fulfilling its duties and achieving the objectives
25 described under Section 386.052. The commission may apply the
26 criteria and requirements applicable to the programs under
27 Subsection (b) to programs established under this subsection, or

1 the commission may establish separate criteria and requirements as
2 necessary to achieve the commission's objectives. The additional
3 programs shall be consistent with and comply with all applicable
4 laws, regulations, and guidelines pertaining to the use of state
5 funds, the awarding and administration of grants and contracts, and
6 achieving reductions in ozone precursors or particulate matter.
7 Under this subsection, the commission may place a priority on
8 programs that address the following goals:

9 (1) reduction of emissions of oxides of nitrogen or
10 particulate matter from heavy-duty on-road vehicles and non-road
11 equipment, including drayage vehicles, locomotives, and marine
12 vessels, at seaport facilities or servicing seaport facilities in
13 nonattainment areas; and

14 (2) reduction of emissions from the operation of
15 drilling, production, completions, and related heavy-duty on-road
16 vehicles or non-road equipment in oil and gas production fields
17 where the commission determines that the programs can help prevent
18 that area or an adjacent area from being in violation of national
19 ambient air quality standards.

20 SECTION 2. Subchapter B, Chapter 386, Health and Safety
21 Code, is amended by adding Section 386.0515 to read as follows:

22 Sec. 386.0515. AGRICULTURAL PRODUCT TRANSPORTATION
23 PROJECTS. (a) In this section, "agricultural product
24 transportation" means the transportation of a raw agricultural
25 product from the place of production using a heavy-duty truck to:

26 (1) a nonattainment area;

27 (2) an affected county;

1 (3) a destination inside the clean transportation
2 triangle; or

3 (4) a county adjacent to a county described by
4 Subdivision (2) or that contains an area described by Subdivision
5 (1) or (3).

6 (b) Notwithstanding other eligibility requirements, the
7 commission shall by rule or policy provide specific eligibility
8 requirements under the Texas Clean Fleet Program established under
9 Chapter 392 and under the Texas natural gas vehicle grant program
10 established under Chapter 394, as added by Chapter 892 (Senate Bill
11 No. 385), Acts of the 82nd Legislature, Regular Session, 2011, for
12 projects relating to agricultural product transportation.

13 (c) The determining factor for eligibility for
14 participation in a program established under Chapter 392 or Chapter
15 394, as added by Chapter 892 (Senate Bill No. 385), Acts of the 82nd
16 Legislature, Regular Session, 2011, for a project relating to
17 agricultural product transportation is the overall accumulative
18 net reduction in emissions of oxides of nitrogen in a nonattainment
19 area, an affected county, or the clean transportation triangle.

20 SECTION 3. Subsection (b), Section 386.058, Health and
21 Safety Code, is amended to read as follows:

22 (b) The governor shall appoint to the advisory board:

23 (1) a representative of the trucking industry;

24 (2) a representative of the air conditioning
25 manufacturing industry;

26 (3) a representative of the electric utility industry;

27 (4) a representative of regional transportation; and

1 (5) a representative of the nonprofit organization
2 described by Section 387.002 [~~386.252(a)(2)~~].

3 SECTION 4. Section 386.104, Health and Safety Code, is
4 amended by adding Subsection (f-1) to read as follows:

5 (f-1) The commission may establish minimum percentage
6 reduction standards alternative to the standards established under
7 Subsection (f) as an incentive for the conversion of heavy-duty
8 diesel on-road vehicle engines or non-road engines to operate under
9 a dual-fuel configuration that uses natural gas and diesel fuels
10 through an alternative fuel conversion system certified by the
11 United States Environmental Protection Agency or the California Air
12 Resources Board. In determining the emissions rate of the
13 converted vehicle and engine to compute the emissions reductions
14 that can be attributed to the conversion system, the commission may
15 take into account whether the emissions certification requirements
16 for the conversion system prevent fully accounting for the
17 emissions reductions. If the commission determines it to be
18 necessary and appropriate, the commission may consider under this
19 subsection certified engine test information that demonstrates
20 reductions of emissions of nitrogen oxides and other pollutants and
21 other information to verify the emissions reductions.

22 SECTION 5. Section 386.106, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 386.106. COST-EFFECTIVENESS CRITERIA; DETERMINATION
25 OF GRANT AMOUNT. (a) Except as otherwise provided by statute, the
26 ~~[as provided by Section 386.107 and except for infrastructure~~
27 ~~projects and infrastructure purchases that are part of a broader~~

1 ~~retrofit, repower, replacement, or add-on equipment project, the~~
2 ~~commission may not award a grant for a proposed project the~~
3 ~~cost-effectiveness of which, calculated in accordance with Section~~
4 ~~386.105 and criteria developed under that section, exceeds \$15,000~~
5 ~~per ton of oxides of nitrogen emissions reduced in the~~
6 ~~nonattainment area or affected county for which the project is~~
7 ~~proposed. This subsection does not restrict commission authority~~
8 ~~under other law to require emissions reductions with a~~
9 ~~cost-effectiveness that exceeds \$15,000 per ton.~~

10 [(b) ~~The~~] commission may not award a grant that, net of
11 taxes, provides an amount that exceeds the incremental cost of the
12 proposed project.

13 (b) [~~(c)~~] The commission shall adopt guidelines for
14 capitalizing incremental lease costs so those costs may be offset
15 by a grant under this subchapter.

16 (c) [~~(d)~~] In determining the amount of a grant under this
17 subchapter, the commission shall reduce the incremental cost of a
18 proposed new purchase, lease, retrofit, repower, or add-on
19 equipment project by the value of any existing financial incentive
20 that directly reduces the cost of the proposed project, including
21 tax credits or deductions, other grants, or any other public
22 financial assistance.

23 SECTION 6. Sections 386.152 and 386.153, Health and Safety
24 Code, are amended to read as follows:

25 Sec. 386.152. [~~COMPTROLLER AND~~] COMMISSION DUTIES
26 REGARDING LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE
27 PROGRAM. (a) The [~~comptroller and the~~] commission shall develop a

1 purchase or lease incentive program for new light-duty motor
2 vehicles and shall adopt rules necessary to implement the program.

3 (b) The program shall authorize statewide incentives for
4 the purchase or lease [~~according to the schedule provided by~~
5 ~~Section 386.153,~~] of new light-duty motor vehicles powered by
6 compressed natural gas, liquefied petroleum gas, or electric drives
7 ~~[that are certified by the United States Environmental Protection~~
8 ~~Agency to meet an emissions standard that is at least as stringent~~
9 ~~as those provided by Section 386.153]~~ for a purchaser or lessee who
10 agrees to register [~~the vehicle in this state]~~ and [~~to~~] operate the
11 vehicle in this state for a minimum period of time to be established
12 by the commission [~~not less than 75 percent of the vehicle's annual~~
13 ~~mileage]~~.

14 (c) Only one incentive will be provided for each new
15 light-duty motor vehicle. The incentive shall be provided to the
16 lessee and not to the purchaser if the motor vehicle is purchased
17 for the purpose of leasing the vehicle to another person.

18 Sec. 386.153. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE
19 INCENTIVE REQUIREMENTS [~~SCHEDULE~~]. (a) A new light-duty motor
20 vehicle powered by compressed natural gas or liquefied petroleum
21 gas is eligible for a \$2,500 incentive if the vehicle:

- 22 (1) has four wheels;
23 (2) was originally manufactured to comply with and has
24 been certified by an original equipment manufacturer or
25 intermediate or final state vehicle manufacturer as complying with,
26 or has been altered to comply with, federal motor vehicle safety
27 standards, state emissions regulations, and any additional state

1 regulations applicable to vehicles powered by compressed natural
2 gas or liquefied petroleum gas;

3 (3) was manufactured for use primarily on public
4 streets, roads, and highways;

5 (4) is rated at not more than 9,600 pounds unloaded
6 vehicle weight;

7 (5) has a dedicated or bi-fuel compressed natural gas
8 or liquefied petroleum gas fuel system with a range of at least 125
9 miles as estimated, published, and updated by the United States
10 Environmental Protection Agency;

11 (6) has, as applicable, a:

12 (A) compressed natural gas fuel system that
13 complies with the:

14 (i) 2013 NFPA 52 Vehicular Gaseous Fuel
15 Systems Code; and

16 (ii) American National Standard for Basic
17 Requirements for Compressed Natural Gas Vehicle (NGV) Fuel
18 Containers, commonly cited as "ANSI/CSA NGV2"; or

19 (B) liquefied petroleum gas fuel system that
20 complies with:

21 (i) the 2011 NFPA 58 Liquefied Petroleum
22 Gas Code; and

23 (ii) Section VII of the 2013 ASME Boiler and
24 Pressure Vessel Code; and

25 (7) was acquired on or after September 1, 2013, or a
26 later date established by the commission, by the person applying
27 for the incentive under this subsection and for use or lease by that

1 person and not for resale.

2 (b) If the commission determines that an updated version of
3 a code or standard described by Subdivision (a)(6) is more
4 stringent than the version of the code or standard described by
5 Subdivision (a)(6), the commission by rule may provide that a
6 vehicle for which a person applies for an incentive under
7 Subsection (a) is eligible for the incentive only if the vehicle
8 complies with the updated version of the code or standard.

9 (b-1) The incentive under Subsection (a) is limited to 2,000
10 vehicles for the state fiscal biennium beginning September 1, 2013.

11 (c) A new light-duty motor vehicle powered by electric drive
12 is eligible for a \$2,500 incentive if the vehicle:

13 (1) has four wheels;

14 (2) was manufactured for use primarily on public
15 streets, roads, and highways;

16 (3) has not been modified from the original
17 manufacturer's specifications;

18 (4) is rated at not more than 8,500 pounds unloaded
19 vehicle weight;

20 (5) has a maximum speed capability of at least 55 miles
21 per hour;

22 (6) is propelled to a significant extent by an
23 electric motor that draws electricity from a battery that:

24 (A) has a capacity of not less than four kilowatt
25 hours; and

26 (B) is capable of being recharged from an
27 external source of electricity; and

1 (7) was acquired on or after September 1, 2013, or a
2 later date as established by the commission, by the person applying
3 for the incentive under this subsection and for use or lease by that
4 person and not for resale.

5 (d) The incentive under Subsection (c) is limited to 2,000
6 vehicles for the state fiscal biennium beginning September 1, 2013.
7 ~~[A new light-duty motor vehicle is eligible for an incentive~~
8 ~~according to the following schedule:~~

| | |
|----|---|
| 9 | [Incentive emissions standard and incentive amount |
| 10 | [Model year 2003-2007 |
| 11 | [Bin 4 — \$1,250 |
| 12 | [Bin 3 — \$2,225 |
| 13 | [Bin 2 — \$3,750 |
| 14 | [Bin 1 — \$5,000] |

15 SECTION 7. Section 386.156, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On
18 August 1 each year the commission shall publish ~~[and provide to the~~
19 ~~comptroller]~~ a list of ~~[the]~~ new model motor vehicles eligible for
20 inclusion in an incentive under this subchapter as listed for the
21 commission under Section 386.155. The commission shall publish
22 ~~[and provide to the comptroller]~~ supplements to that list as
23 necessary to include additional new vehicle models ~~[listed in a~~
24 ~~supplement to the original list provided by a manufacturer under~~
25 ~~Section 386.155]~~.

26 (b) The commission ~~[comptroller]~~ shall publish ~~[distribute]~~
27 the list of eligible motor vehicles on the commission's Internet

1 website [~~to all new motor vehicle dealers and leasing agents in this~~
2 ~~state~~].

3 SECTION 8. Subsections (a) and (c), Section 386.158, Health
4 and Safety Code, are amended to read as follows:

5 (a) A person who purchases or leases a new light-duty motor
6 vehicle described by Section 386.153 and [~~that has been~~] listed
7 under Section 386.156(a) [~~386.155~~] is eligible to apply for an
8 incentive under this subchapter.

9 (c) To receive money under an incentive program provided by
10 this subchapter, the purchaser or lessee of a new light-duty motor
11 vehicle who is eligible to apply for an incentive under this
12 subchapter shall apply for the incentive in the manner provided by
13 law or by rule of the commission [~~comptroller~~].

14 SECTION 9. Section 386.160, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 386.160. COMMISSION [~~COMPTROLLER~~] TO ACCOUNT FOR MOTOR
17 VEHICLE PURCHASE OR LEASE INCENTIVES. (a) The commission
18 [~~comptroller~~] by rule shall develop a method to administer and
19 account for the motor vehicle purchase or lease incentives
20 authorized by this subchapter and to pay incentive money to the
21 purchaser or lessee of a new motor vehicle, on application of the
22 purchaser or lessee as provided by this subchapter.

23 (b) The commission [~~comptroller~~] shall develop and publish
24 forms and instructions for the purchaser or lessee of a new motor
25 vehicle to use in applying to the commission [~~comptroller~~] for an
26 incentive payment under this subchapter. The commission
27 [~~comptroller~~] shall make the forms available to new motor vehicle

1 dealers and leasing agents. Dealers and leasing agents shall make
2 the forms available to their prospective purchasers or lessees.

3 (c) In addition to other forms developed and published under
4 this section, the commission [~~comptroller~~] shall develop and
5 publish a verification form by which, with information provided by
6 the dealer or leasing agent, the commission [~~comptroller~~] can
7 verify the sale of a vehicle covered by this subchapter. The
8 verification form shall include at least the name of the purchaser,
9 the vehicle identification number of the vehicle involved, the date
10 of the purchase, and the name of the new motor dealer or leasing
11 agent involved in the transaction. At the time of sale or lease of a
12 vehicle eligible for an incentive under this subchapter, the dealer
13 or leasing agent shall complete the verification form supplied to
14 the dealer by the commission [~~comptroller~~]. The purchaser or
15 lessee shall include the completed verification form as part of the
16 purchaser's application for an incentive. The dealer shall
17 maintain a copy of the completed verification form for at least two
18 years from the date of the transaction.

19 SECTION 10. The heading to Section 386.161, Health and
20 Safety Code, is amended to read as follows:

21 Sec. 386.161. [~~REPORT TO COMMISSION,~~] SUSPENSION OF
22 PURCHASE OR LEASE INCENTIVES.

23 SECTION 11. Subsections (b), (c), and (d), Section 386.161,
24 Health and Safety Code, are amended to read as follows:

25 (b) If the balance available for motor vehicle purchase or
26 lease incentives falls below 15 percent of the total allocated for
27 the incentives during that fiscal year, the commission

1 ~~[comptroller]~~ by order shall suspend the incentives until the date
2 the comptroller can certify that the balance available in the fund
3 for incentives is an amount adequate to resume the incentives or the
4 beginning of the next fiscal year, whichever is earlier. If the
5 commission ~~[comptroller]~~ suspends the incentives, the commission
6 ~~[comptroller]~~ shall immediately notify ~~[the commission and]~~ all new
7 motor vehicle dealers and leasing agents that the incentives have
8 been suspended.

9 (c) The commission ~~[comptroller]~~ shall establish a
10 toll-free telephone number available to motor vehicle dealers and
11 leasing agents for the dealers and agents to call to verify that
12 incentives are available. The commission ~~[comptroller]~~ may provide
13 for issuing verification numbers over the telephone line.

14 (d) Reliance by a dealer or leasing agent on information
15 provided by the ~~[comptroller or]~~ commission is a complete defense
16 to an action involving or based on eligibility of a vehicle for an
17 incentive or availability of vehicles eligible for an incentive.

18 SECTION 12. Subchapter D, Chapter 386, Health and Safety
19 Code, is amended by adding Section 386.162 to read as follows:

20 Sec. 386.162. EXPIRATION. This subchapter expires August
21 31, 2015.

22 SECTION 13. Chapter 386, Health and Safety Code, is amended
23 by adding Subchapter D-1 to read as follows:

24 SUBCHAPTER D-1. DRAYAGE TRUCK INCENTIVE PROGRAM

25 Sec. 386.181. DEFINITION; RULES. (a) In this subchapter,
26 "drayage truck" means a truck that transports a load to or from a
27 seaport or rail yard.

1 (b) The commission may include more specific definitions in
2 the rules or guidelines developed to implement the program
3 established by this subchapter in order to reduce emissions in and
4 around seaports in a nonattainment area.

5 Sec. 386.182. COMMISSION DUTIES. (a) The commission shall
6 develop a purchase incentive program to encourage owners to replace
7 drayage trucks with pre-2007 model year engines with newer drayage
8 trucks and shall adopt guidelines necessary to implement the
9 program.

10 (b) The commission by rule shall establish criteria for the
11 models of drayage trucks that are eligible for inclusion in an
12 incentive program under this subchapter. The guidelines must
13 provide that a drayage truck owner is not eligible for an incentive
14 payment under this subchapter unless the truck being replaced
15 contains a pre-2007 model year engine and the replacement truck's
16 engine is from model year 2010 or later as determined by the
17 commission and that the truck operates at a seaport or rail yard.

18 Sec. 386.183. DRAYAGE TRUCK PURCHASE INCENTIVE. (a) To be
19 eligible for an incentive under this subchapter, a person must:

20 (1) purchase a replacement drayage truck that under
21 the guidelines adopted by the commission under Section 386.182 is
22 eligible for inclusion in the program for an incentive under this
23 subchapter; and

24 (2) agree to:

25 (A) register the truck in this state;

26 (B) operate the truck in and within a maximum
27 distance established by the commission of a seaport or rail yard in

1 a nonattainment area of this state for not less than 50 percent of
2 the vehicle's annual mileage or hours of operation, as determined
3 by the commission; and

4 (C) permanently remove a pre-2007 drayage truck
5 containing a pre-2007 engine owned by the person from operation in a
6 nonattainment area of this state by destroying the engine and
7 scrapping the truck after the purchase of the new truck in
8 accordance with guidelines established by the commission.

9 (b) To receive money under an incentive program provided by
10 this subchapter, the purchaser of a drayage truck eligible for
11 inclusion in the program must apply for the incentive in the manner
12 provided by law, rule, or guideline of the commission.

13 (c) Not more than one incentive may be provided for each
14 drayage truck purchased.

15 (d) An incentive provided under this subchapter may be used
16 to fund not more than 80 percent of the purchase price of the
17 drayage truck.

18 (e) The commission shall establish procedures to verify
19 that a person who receives an incentive:

20 (1) has operated in a seaport or rail yard and owned or
21 leased the drayage truck to be replaced for at least two years prior
22 to receiving the grant; and

23 (2) permanently destroys the engine and scraps the
24 drayage truck that contained the pre-2007 engine owned or leased by
25 the person, in accordance with guidelines established by the
26 commission, after the purchase of the new truck.

27 (f) The commission may modify this program to improve its

1 effectiveness or further the goals of Subchapter B.

2 SECTION 14. The heading to Subchapter E, Chapter 386,
3 Health and Safety Code, is amended to read as follows:

4 SUBCHAPTER E. EVALUATION OF UTILITY COMMISSION AND COMPTROLLER
5 ENERGY EFFICIENCY PROGRAMS [~~GRANT PROGRAM~~]

6 SECTION 15. Section 386.205, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 386.205. EVALUATION OF UTILITY COMMISSION AND
9 COMPTROLLER [~~STATE~~] ENERGY EFFICIENCY PROGRAMS. In cooperation
10 with the laboratory, the utility commission shall provide an annual
11 report to the commission that, by county, quantifies the reductions
12 of energy demand, peak loads, and associated emissions of air
13 contaminants achieved from [~~the~~] programs implemented by the state
14 energy conservation office [~~under this subchapter~~] and from
15 programs [~~those~~] implemented under Section 39.905, Utilities Code.

16 SECTION 16. Subsection (a), Section 386.252, Health and
17 Safety Code, as amended by Chapter 28 (S.B. 527), Acts of the 82nd
18 Legislature, Regular Session, 2011, is amended to read as follows:

19 (a) Money in the fund may be used only to implement and
20 administer programs established under the plan. Money appropriated
21 to the commission to be used for the programs under Section
22 386.051(b) [~~and the total appropriation~~] shall be allocated as
23 follows:

24 (1) not more than four percent may be used for the
25 clean school bus program under Chapter 390;

26 (2) not more than three percent [~~not more than 10~~
27 ~~percent may be used for on-road diesel purchase or lease~~

1 ~~incentives,~~

2 ~~[(3) a specified amount]~~ may be used for the new
3 technology implementation grant program under Chapter 391, from
4 which at least \$1 million will ~~[a defined amount may]~~ be set aside
5 for electricity storage projects related to renewable energy;

6 (3) ~~[(4)]~~ five percent shall be used for the clean
7 fleet program under Chapter 392;

8 (4) ~~[(5)]~~ not more than ~~[\$7 million shall be allocated~~
9 ~~in 2012 and 2013 and not more than]~~ \$3 million may ~~[shall]~~ be used by
10 the commission ~~[allocated in 2014 and in subsequent years]~~ to fund a
11 regional air monitoring program in commission Regions 3 and 4 to be
12 implemented under the commission's oversight, including direction
13 regarding the type, number, location, and operation of, and data
14 validation practices for, monitors funded by the program through a
15 regional nonprofit entity located in North Texas having
16 representation from counties, municipalities, higher education
17 institutions, and private sector interests across the area;

18 (5) not less than 16 percent shall be used for the
19 Texas natural gas vehicle grant program under Chapter 394;

20 (6) not more than five percent may be used to provide
21 grants for natural gas fueling stations under the clean
22 transportation triangle program under Section 394.010;

23 (7) not more than five percent may be used for the
24 Texas alternative fueling facilities program under Chapter 393;

25 (8) a specified amount may be used ~~[is to be allocated]~~
26 each year to support research related to air quality as provided by
27 Chapter 387;

1 (9) not more than [(7) up to] \$200,000 may be used [is
2 allocated] for a health effects study;

3 (10) [(8) up to] \$500,000 is to be deposited in the
4 state treasury to the credit of the clean air account created under
5 Section 382.0622 to supplement funding for air quality planning
6 activities in affected counties;

7 (11) at least \$4 million and up to four percent to a
8 maximum of \$7 million, whichever is greater, is allocated to the
9 commission for administrative costs;

10 (12) at least two percent and up to five percent of the
11 fund is to be used by the commission for the drayage truck incentive
12 program established under Subchapter D-1;

13 (13) not more than five percent may be used for the
14 light-duty motor vehicle purchase or lease incentive program
15 established under Subchapter D;

16 (14) [(9)] not more than \$216,000 is allocated to the
17 commission to contract with the Energy Systems Laboratory at the
18 Texas Engineering Experiment Station annually for the development
19 and annual computation of creditable statewide emissions
20 reductions obtained through wind and other renewable energy
21 resources for the state implementation plan;

22 (15) [(10) not more than \$3,400,000 is allocated to
23 the commission for administrative costs incurred by the commission;

24 [(11)] 1.5 percent of the money in the fund is
25 allocated for administrative costs incurred by the laboratory; and

26 (16) [(12)] the balance is to be used by [is allocated
27 to] the commission for the diesel emissions reduction incentive

1 program under Subchapter C as determined by the commission.

2 SECTION 17. Section 386.252, Health and Safety Code, is
3 amended by amending Subsections (b), (c), (d), and (e) and adding
4 Subsection (e-1) to read as follows:

5 (b) The commission may allocate unexpended money designated
6 for the clean fleet program under Chapter 392 to other programs
7 described under Subsection (a) after the commission allocates money
8 to recipients under the clean fleet program.

9 (c) The commission may allocate unexpended money designated
10 for the Texas alternative fueling facilities program under Chapter
11 393 to other programs described under Subsection (a) after the
12 commission allocates money to recipients under the alternative
13 fueling facilities program.

14 (d) The commission may reallocate money designated for the
15 Texas natural gas vehicle grant program under Chapter 394 to other
16 programs described under Subsection (a) if:

17 (1) the commission, in consultation with the governor
18 and the advisory board, determines that the use of the money in the
19 fund for that program will cause the state to be in noncompliance
20 with the state implementation plan to the extent that federal
21 action is likely; and

22 (2) the commission finds that the reallocation of some
23 or all of the funding for the program would resolve the
24 noncompliance.

25 (e) Under Subsection (d), the commission may not reallocate
26 more than the minimum amount of money necessary to resolve the
27 noncompliance.

1 (e-1) Money [~~money~~] allocated under Subsection (a) to a
2 particular program may be used for another program under the plan as
3 determined by the commission.

4 [~~(c) Money in the fund may be allocated to the clean school
5 bus program only if:~~

6 [~~(1) the money is available for that purpose after
7 money is allocated for the other purposes of the fund as required by
8 the state implementation plan; or~~

9 [~~(2) the amount of money deposited to the credit of the
10 fund in a state fiscal year exceeds the amount the comptroller's
11 biennial revenue estimate shows as the comptroller's estimated
12 amount to be deposited to the credit of the fund in that year.~~

13 [~~(d) The commission may allocate unexpended money
14 designated for the clean fleet program to other programs described
15 under Subsection (a) after the commission allocates money to
16 recipients under the clean fleet program.~~

17 [~~(e) The commission may allocate unexpended money
18 designated for the Texas alternative fueling facilities program to
19 other programs described under Subsection (a) after the commission
20 allocates money to recipients under the alternative fueling
21 facilities program.]~~

22 SECTION 18. Subsection (f), Section 386.252, Health and
23 Safety Code, as added by Chapter 892 (S.B. 385), Acts of the 82nd
24 Legislature, Regular Session, 2011, is amended to read as follows:

25 (f) Money in the fund may be used by the commission for
26 programs under Sections 386.051(b)(13), (b)(14), and (b-1) as may
27 be appropriated for those programs [~~Notwithstanding Subsection~~

1 ~~(a), the commission may reallocate money in the fund if:~~

2 ~~[(1) the commission, in consultation with the governor~~
3 ~~and the advisory board, determines that the use of the money in the~~
4 ~~fund for the program established under Chapter 394 will cause the~~
5 ~~state to be in noncompliance with the state implementation plan to~~
6 ~~the extent that federal action is likely; and~~

7 ~~[(2) the commission finds that the reallocation of~~
8 ~~some or all of the funding for the program established under Chapter~~
9 ~~394 would resolve the noncompliance].~~

10 SECTION 19. Section 386.252, Health and Safety Code, is
11 amended by amending Subsection (g) and adding Subsection (h) to
12 read as follows:

13 (g) If the legislature does not specify amounts or
14 percentages from the total appropriation to the commission to be
15 allocated under Subsection (a) or (f), the commission shall
16 determine the amounts of the total appropriation to be allocated
17 under each of those subsections, such that the total appropriation
18 is expended while maximizing emissions reductions ~~[Under~~
19 ~~Subsection (f), the commission may not reallocate more than the~~
20 ~~minimum amount of money necessary to resolve the noncompliance].~~

21 (h) Subject to the limitations outlined in this section and
22 any additional limitations placed on the use of the appropriated
23 funds, money allocated under this section to a particular program
24 may be used for another program under the plan as determined by the
25 commission.

26 SECTION 20. Section 391.002, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 391.002. GRANT PROGRAM. (a) The commission shall
2 establish and administer a new technology implementation grant
3 program to assist the implementation of new technologies to reduce
4 emissions from facilities and other stationary sources in this
5 state. The commission may establish a minimum capital expenditure
6 threshold for projects under Subsection (b)(2). Under the program,
7 the commission shall provide grants or other financial incentives
8 for eligible projects to offset the incremental cost of emissions
9 reductions.

10 (b) Projects that may be considered for a grant under the
11 program include:

12 (1) advanced clean energy projects, as defined by
13 Section 382.003;

14 (2) new technology projects that reduce emissions of
15 regulated pollutants from point sources [~~and involve capital~~
16 ~~expenditures that exceed \$500 million~~]; and

17 (3) electricity storage projects related to renewable
18 energy, including projects to store electricity produced from wind
19 and solar generation that provide efficient means of making the
20 stored energy available during periods of peak energy use.

21 SECTION 21. Subsection (a), Section 392.007, Health and
22 Safety Code, is amended to read as follows:

23 (a) The amount the commission shall award for each vehicle
24 being replaced is up to[+]

25 [~~(1)~~] 80 percent, as determined by the commission, of
26 the total [~~incremental~~] cost for replacement of a heavy-duty or
27 light-duty diesel engine[+]

1 ~~[(A) manufactured prior to implementation of~~
2 ~~federal or California emission standards; and~~

3 ~~[(B) not certified to meet a specific emission~~
4 ~~level by either the United States Environmental Protection Agency~~
5 ~~or the California Air Resources Board;~~

6 ~~[(2) 70 percent of the incremental cost for~~
7 ~~replacement of a heavy-duty diesel engine certified to meet the~~
8 ~~federal emission standards applicable to engines manufactured in~~
9 ~~1990 through 1997;~~

10 ~~[(3) 60 percent of the incremental cost for~~
11 ~~replacement of a heavy-duty diesel engine certified to meet the~~
12 ~~federal emission standards applicable to engines manufactured in~~
13 ~~1998 through 2003;~~

14 ~~[(4) 50 percent of the incremental cost for~~
15 ~~replacement of a heavy-duty diesel engine certified to meet the~~
16 ~~federal emission standards applicable to engines manufactured in~~
17 ~~2004 and later;~~

18 ~~[(5) 80 percent of the incremental cost for~~
19 ~~replacement of a light-duty diesel vehicle;~~

20 ~~[(A) manufactured prior to the implementation of~~
21 ~~certification requirements; and~~

22 ~~[(B) not certified to meet either mandatory or~~
23 ~~voluntary emission certification standards;~~

24 ~~[(6) 70 percent of the incremental cost for~~
25 ~~replacement of a light-duty diesel vehicle certified to meet~~
26 ~~federal Tier 1 emission standards phased in between 1994 and 1997;~~
27 ~~and~~

1 ~~[(7) 60 percent of the incremental cost for~~
2 ~~replacement of a light-duty diesel vehicle certified to meet~~
3 ~~federal Tier 2 emission standards phased in between 2004 and 2009].~~

4 SECTION 22. Subsection (a), Section 394.007, Health and
5 Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd
6 Legislature, Regular Session, 2011, is amended to read as follows:

7 (a) The commission shall develop a grant schedule that:

8 (1) assigns a standardized grant in an amount up to
9 ~~[between 60 and]~~ 90 percent of the incremental cost of a natural gas
10 vehicle purchase, lease, other commercial finance, or repowering;

11 (2) is based on:

12 (A) the certified emission level of nitrogen
13 oxides, or other pollutants as determined by the commission, of the
14 engine powering the natural gas vehicle; and

15 (B) the usage of the natural gas vehicle; and

16 (3) may take into account the overall emissions
17 reduction achieved by the natural gas vehicle.

18 SECTION 23. Section 394.010, Health and Safety Code, as
19 amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature,
20 Regular Session, 2011, is amended by amending Subsections (a), (b),
21 (c), and (d) and adding Subsection (f-1) to read as follows:

22 (a) To ensure that natural gas vehicles purchased, leased,
23 or otherwise commercially financed or repowered under the program
24 have access to fuel, and to build the foundation for a
25 self-sustaining market for natural gas vehicles in Texas, the
26 commission shall award grants to support the development of a
27 network of natural gas vehicle fueling stations along the

1 interstate highways connecting Houston, San Antonio, Dallas, and
2 Fort Worth, and in nonattainment areas and affected counties of the
3 state. In awarding the grants, the commission shall provide for:

4 (1) strategically placed natural gas vehicle fueling
5 stations in and between the Houston, San Antonio, and Dallas-Fort
6 Worth areas, and in nonattainment areas and affected counties of
7 the state, to enable a natural gas vehicle to travel in those areas
8 ~~[along that triangular area]~~ relying solely on natural gas fuel;

9 (2) grants to be dispersed through a competitive
10 bidding process to offset a portion of the cost of installation of
11 the natural gas dispensing equipment;

12 (3) contracts that require the recipient stations to
13 meet operational, maintenance, and reporting requirements as
14 specified by the commission; and

15 (4) a listing, to be maintained by the commission and
16 made available to the public online, of all natural gas vehicle
17 fueling stations that have received grant funding, including
18 location and hours of operation.

19 (b) The commission may not award more than ~~[+~~
20 ~~[(1) three station grants to any entity, or~~
21 ~~[(2)]~~ one grant for each station.

22 (c) Grants awarded under this section may not exceed:

23 (1) \$400,000 ~~[\$100,000]~~ for a compressed natural gas
24 station;

25 (2) \$400,000 ~~[\$250,000]~~ for a liquefied natural gas
26 station; or

27 (3) \$600,000 ~~[\$400,000]~~ for a station providing both

1 liquefied and compressed natural gas.

2 (d) Stations funded by grants under this section must be
3 publicly accessible [~~and located not more than three miles from an~~
4 ~~interstate highway system~~]. The commission shall give preference
5 to:

6 (1) stations providing both liquefied natural gas and
7 compressed natural gas at a single location; [~~and~~]

8 (2) stations located not more than one mile from an
9 interstate highway system; and

10 (3) stations located in the triangular area between
11 the Houston, San Antonio, and Dallas-Fort Worth areas.

12 (f-1) An application for a grant under this section must
13 include a certification that the applicant complies with laws,
14 rules, guidelines, and requirements applicable to taxation of fuel
15 provided by the applicant at each fueling facility owned or
16 operated by the applicant. The commission may terminate a grant
17 awarded under this section without further obligation to the grant
18 recipient if the commission determines that the recipient did not
19 comply with a law, rule, guideline, or requirement described by
20 this subsection. This subsection does not create a cause of action
21 to contest an application or award of a grant.

22 SECTION 24. Section 393.006, Health and Safety Code, as
23 amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature,
24 Regular Session, 2011, is amended to read as follows:

25 Sec. 393.006. AMOUNT OF GRANT. For each eligible facility
26 for which a recipient is awarded a grant under the program, the
27 commission shall award the grant in an amount equal to the lesser

1 of:

2 (1) 50 percent of the sum of the actual eligible costs
3 incurred by the grant recipient within deadlines established by the
4 commission to construct, reconstruct, or acquire the facility; or

5 (2) \$600,000 [~~\$500,000~~].

6 SECTION 25. The following provisions are repealed:

7 (1) Subsection (c), Section 386.051, Health and Safety
8 Code;

9 (2) Subdivision (1), Section 386.151, Health and
10 Safety Code;

11 (3) Section 386.154, Health and Safety Code;

12 (4) Subsection (a), Section 386.161, Health and Safety
13 Code;

14 (5) Sections 386.201, 386.202, and 386.203, Health and
15 Safety Code;

16 (6) Section 386.204, Health and Safety Code;

17 (7) Subsection (a), Section 386.252, Health and Safety
18 Code, as amended by Chapters 589 (Senate Bill No. 20) and 892
19 (Senate Bill No. 385), Acts of the 82nd Legislature, Regular
20 Session, 2011;

21 (8) Subsection (f), Section 386.252, Health and Safety
22 Code, as added by Chapter 589 (Senate Bill No. 20), Acts of the 82nd
23 Legislature, Regular Session, 2011; and

24 (9) Chapters 393 and 394, Health and Safety Code, as
25 amended by Chapter 589 (Senate Bill No. 20), Acts of the 82nd
26 Legislature, Regular Session, 2011.

27 SECTION 26. This Act takes effect immediately if it

S.B. No. 1727

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1727 passed the Senate on May 2, 2013, by the following vote: Yeas 29, Nays 1, one present not voting; and that the Senate concurred in House amendments on May 25, 2013, by the following vote: Yeas 28, Nays 2, one present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 1727 passed the House, with amendments, on May 21, 2013, by the following vote: Yeas 107, Nays 39, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor