

By: Deuell, et al.  
(Isaac, Reynolds, Harless)

S.B. No. 1727

A BILL TO BE ENTITLED

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)(16);

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;

19 (15) the energy efficiency grant program established  
20 under Subchapter E; and

21 (16) the drayage truck incentive program established  
22 under Subchapter D-1 [~~386.252(a)(9)~~].

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

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

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

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

22 (3) replacement, repower, or retrofit of heavy-duty  
23 on-road vehicles, medium-duty passenger vehicles, and non-road  
24 equipment to change from using gasoline or diesel fuel to engines or  
25 conversion systems certified under the United States Environmental  
26 Protection Agency's heavy-duty on-road or non-road engine emission  
27 or light-duty vehicle engine emission certification programs to

1 using cleaner alternative fuels, either dedicated or in conjunction  
2 with regular fuel, and, particularly, alternative fuels produced in  
3 Texas.

4 SECTION 2. Section 386.106, Health and Safety Code, is  
5 amended to read as follows:

6 Sec. 386.106. COST-EFFECTIVENESS CRITERIA; DETERMINATION  
7 OF GRANT AMOUNT. (a) Except as otherwise provided by statute, the  
8 ~~[as provided by Section 386.107 and except for infrastructure~~  
9 ~~projects and infrastructure purchases that are part of a broader~~  
10 ~~retrofit, repower, replacement, or add-on equipment project, the~~  
11 ~~commission may not award a grant for a proposed project the~~  
12 ~~cost-effectiveness of which, calculated in accordance with Section~~  
13 ~~386.105 and criteria developed under that section, exceeds \$15,000~~  
14 ~~per ton of oxides of nitrogen emissions reduced in the~~  
15 ~~nonattainment area or affected county for which the project is~~  
16 ~~proposed. This subsection does not restrict commission authority~~  
17 ~~under other law to require emissions reductions with a~~  
18 ~~cost-effectiveness that exceeds \$15,000 per ton.~~

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

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

25 (c) ~~[(d)]~~ In determining the amount of a grant under this  
26 subchapter, the commission shall reduce the incremental cost of a  
27 proposed new purchase, lease, retrofit, repower, or add-on

1 equipment project by the value of any existing financial incentive  
2 that directly reduces the cost of the proposed project, including  
3 tax credits or deductions, other grants, or any other public  
4 financial assistance.

5 SECTION 3. Sections 386.152 and 386.153, Health and Safety  
6 Code, are amended to read as follows:

7 Sec. 386.152. [~~COMPTROLLER AND~~] COMMISSION DUTIES  
8 REGARDING LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE  
9 PROGRAM. (a) The [~~comptroller and the~~] commission shall develop a  
10 purchase or lease incentive program for new light-duty motor  
11 vehicles and shall adopt rules necessary to implement the program.

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

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

27 Sec. 386.153. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE

1 INCENTIVE REQUIREMENTS [SCHEDULE]. (a) A new light-duty motor  
2 vehicle powered by compressed natural gas or liquefied petroleum  
3 gas is eligible for a \$2,500 incentive if the vehicle:

4 (1) has four wheels;

5 (2) was originally manufactured to comply with and has  
6 been certified by an original equipment manufacturer or  
7 intermediate or final state vehicle manufacturer as complying with,  
8 or has been altered to comply with, federal motor vehicle safety  
9 standards, state emissions regulations, and any additional state  
10 regulations applicable to vehicles powered by compressed natural  
11 gas or liquefied petroleum gas;

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

14 (4) is rated at not more than 9,600 pounds unloaded  
15 gross vehicle weight;

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

20 (6) has, as applicable, a:

21 (A) compressed natural gas fuel system that  
22 complies with the:

23 (i) 2013 NFPA 52 Vehicular Gaseous Fuel  
24 Systems Code; and

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

1                    (B) liquefied petroleum gas fuel system that  
2 complies with:

3                    (i) the 2011 NFPA 58 Liquefied Petroleum  
4 Gas Code; and

5                    (ii) Section VII of the 2013 ASME Boiler and  
6 Pressure Vessel Code; and

7                    (7) was acquired on or after September 1, 2013, by the  
8 person applying for the incentive under this subsection and for use  
9 or lease by that person and not for resale.

10                  (b) If the commission determines that an updated version of  
11 a code or standard described by Subdivision (a)(6) is more  
12 stringent than the version of the code or standard described by  
13 Subdivision (a)(6), the commission by rule may provide that a  
14 vehicle for which a person applies for an incentive under  
15 Subsection (a) is eligible for the incentive only if the vehicle  
16 complies with the updated version of the code or standard.

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

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

21                    (1) has four wheels;

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

24                    (3) has not been modified from the original  
25 manufacturer's specifications;

26                    (4) is rated at not more than 8,500 pounds unloaded  
27 gross vehicle weight;

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

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

5                   (A) has a capacity of not less than four kilowatt  
6 hours; and

7                   (B) is capable of being recharged from an  
8 external source of electricity; and

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

13           (d) The incentive under Subsection (c) is limited to 2,000  
14 vehicles for the state fiscal biennium beginning September 1, 2013.

15 ~~[A new light-duty motor vehicle is eligible for an incentive~~  
16 ~~according to the following schedule:~~

17           ~~[Incentive emissions standard and incentive amount~~

18                                   ~~[Model year 2003-2007~~

19   ~~[Bin 4 — \$1,250~~

20   ~~[Bin 3 — \$2,225~~

21   ~~[Bin 2 — \$3,750~~

22   ~~[Bin 1 — \$5,000]~~

23           SECTION 4. Section 386.156, Health and Safety Code, is  
24 amended to read as follows:

25           Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On  
26 August 1 each year the commission shall publish ~~[and provide to the~~  
27 ~~comptroller]~~ a list of ~~[the]~~ new model motor vehicles eligible for



1 inclusion in an incentive under this subchapter [~~as listed for the~~  
2 ~~commission under Section 386.155~~]. The commission shall publish  
3 [~~and provide to the comptroller~~] supplements to that list as  
4 necessary to include additional new vehicle models [~~listed in a~~  
5 ~~supplement to the original list provided by a manufacturer under~~  
6 ~~Section 386.155~~].

7 (b) The commission [~~comptroller~~] shall publish [~~distribute~~]  
8 the list of eligible motor vehicles on the commission's Internet  
9 website [~~to all new motor vehicle dealers and leasing agents in this~~  
10 ~~state~~].

11 SECTION 5. Subsection (a), Section 386.158, Health and  
12 Safety Code, is amended to read as follows:

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

17 SECTION 6. Subchapter D, Chapter 386, Health and Safety  
18 Code, is amended by adding Section 386.162 to read as follows:

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

21 SECTION 7. Chapter 386, Health and Safety Code, is amended  
22 by adding Subchapter D-1 to read as follows:

23 SUBCHAPTER D-1. DRAYAGE TRUCK INCENTIVE PROGRAM

24 Sec. 386.181. DEFINITION. In this subchapter, "drayage  
25 truck" means a truck that transports a load to or from a port,  
26 distribution center, or rail yard.

27 Sec. 386.182. COMMISSION DUTIES. (a) The commission shall

1 develop a purchase incentive program to encourage owners to replace  
2 drayage trucks with pre-2007 model year engines with newer drayage  
3 trucks and shall adopt guidelines necessary to implement the  
4 program.

5 (b) The commission by rule shall establish criteria for the  
6 models of drayage trucks that are eligible for inclusion in an  
7 incentive program under this subchapter. The guidelines must  
8 provide that a drayage truck owner is not eligible for an incentive  
9 payment under this subchapter unless the truck being replaced  
10 contains a pre-2007 model year engine and the replacement truck's  
11 engine is from model year 2010 or later and that the truck operates  
12 at a port, distribution center, or rail yard.

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

15 (1) purchase a replacement drayage truck that under  
16 the guidelines adopted by the commission under Section 386.182 is  
17 eligible for inclusion in the program for an incentive under this  
18 subchapter; and

19 (2) agree to:

20 (A) register the truck in this state;

21 (B) operate the truck in and within a maximum  
22 distance established by the commission of a port, distribution  
23 center, or rail yard in a nonattainment area or affected county of  
24 this state for not less than 50 percent of the vehicle's annual  
25 mileage or hours of operation, as determined by the commission; and

26 (C) permanently remove a pre-2007 drayage truck  
27 containing a pre-2007 engine owned by the person from operation in a

1 nonattainment area or affected county of this state by destroying  
2 the engine and scrapping the truck after the purchase of the new  
3 truck in accordance with guidelines established by the commission.

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

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

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

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

15 (1) has operated in a port, distribution center, or  
16 rail yard and owned or leased the drayage truck to be replaced for  
17 at least two years prior to receiving the grant; and

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

22 (f) The commission may modify this program to improve its  
23 effectiveness or further the goals of Subchapter B.

24 SECTION 8. Sections 386.201, 386.202, 386.203, and 386.205,  
25 Health and Safety Code, are amended to read as follows:

26 Sec. 386.201. DEFINITION [~~DEFINITIONS~~]. In this  
27 subchapter, "governmental entity" has the meaning assigned by

1 Section 2265.001(a), Government Code~~[+~~

2 ~~[(1) "Electric cooperative" has the meaning assigned~~  
3 ~~by Section 11.003, Utilities Code].~~

4 ~~[(2) "Electric utility" has the meaning assigned by~~  
5 ~~Section 31.002, Utilities Code.~~

6 ~~[(3) "Municipally owned utility" has the meaning~~  
7 ~~assigned by Section 11.003, Utilities Code.]~~

8 Sec. 386.202. GRANT PROGRAM. (a) The ~~[utility]~~  
9 commission, in cooperation with the comptroller, shall develop an  
10 energy efficiency grant program for energy efficiency projects in  
11 governmental entity buildings and facilities ~~[using program~~  
12 ~~templates that are consistent with rules of the utility commission~~  
13 ~~adopted under Section 39.905, Utilities Code].~~

14 (b) Energy efficiency projects awarded a grant ~~[Programs~~  
15 ~~approved]~~ under this subchapter ~~[and other energy efficiency~~  
16 ~~programs administered by the utility commission]~~ must include  
17 energy conservation projects that improve the operational energy  
18 efficiency of buildings or facilities or that retire ~~[programs for~~  
19 ~~the retirement of]~~ materials and appliances that contribute to  
20 energy consumption or peak energy demand to ensure the reduction of  
21 energy consumption, energy demand, or peak loads, and associated  
22 emissions of air contaminants.

23 Sec. 386.203. ADMINISTRATION OF GRANTS. Money allocated by  
24 the ~~[utility]~~ commission under the grant program developed under  
25 this subchapter shall be administered by the commission, in  
26 cooperation with the comptroller ~~[electric utilities, electric~~  
27 ~~cooperatives, and municipally owned utilities. A participating~~

1 ~~electric utility, electric cooperative, or municipally owned~~  
2 ~~utility shall be reimbursed from the fund for costs incurred by the~~  
3 ~~utility in administering the energy efficiency grant program~~  
4 ~~established under this subchapter. Reimbursable administrative~~  
5 ~~costs of a participating entity may not exceed 10 percent of the~~  
6 ~~entity's total program budget before January 1, 2003, and may not~~  
7 ~~exceed five percent of the entity's total program budget on or after~~  
8 ~~that date].~~

9       Sec. 386.205. EVALUATION OF STATE ENERGY EFFICIENCY  
10 PROGRAMS. In cooperation with the laboratory, the comptroller's  
11 state energy conservation office, in coordination with the utility  
12 commission, shall provide an annual report to the commission that,  
13 by county, quantifies the reductions of energy demand, peak loads,  
14 and associated emissions of air contaminants achieved from the  
15 projects awarded a grant [~~programs implemented~~] under this  
16 subchapter and from those implemented under Section 39.905,  
17 Utilities Code.

18       SECTION 9. Subsection (a), Section 386.252, Health and  
19 Safety Code, as amended by Chapter 28 (S.B. 527), Acts of the 82nd  
20 Legislature, Regular Session, 2011, is amended to read as follows:

21       (a) Money in the fund may be used only to implement and  
22 administer programs established under the plan. Money appropriated  
23 to the commission to be used for the programs under Section  
24 386.051(b) [~~and the total appropriation~~] shall be allocated as  
25 follows:

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

1           (2) not more than three percent [~~not more than 10~~  
2 ~~percent may be used for on-road diesel purchase or lease~~  
3 ~~incentives,~~

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

8           (3) [~~(4)~~] five percent shall be used for the clean  
9 fleet program under Chapter 392;

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

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

22           (6) two percent shall be used for the energy  
23 efficiency grant program under Subchapter E, including the  
24 performance contracting provisions;

25           (7) not more than five percent may be used to provide  
26 grants for natural gas fueling stations under the clean  
27 transportation triangle program under Section 394.010;

1           (8) not more than five percent may be used for the  
2 Texas alternative fueling facilities program under Chapter 393;

3           (9) a specified amount may be used ~~[is to be allocated]~~  
4 each year to support research related to air quality as provided by  
5 Chapter 387;

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

8           (11) ~~[(8) up to]~~ \$500,000 is to be deposited in the  
9 state treasury to the credit of the clean air account created under  
10 Section 382.0622 to supplement funding for air quality planning  
11 activities in affected counties;

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

15           (13) at least two percent and up to five percent of the  
16 fund is to be used by the commission for the drayage truck incentive  
17 program established under Chapter D-1;

18           (14) not more than 5 percent may be used for the  
19 light-duty motor vehicle purchase or lease incentive program  
20 established under Subchapter D;

21           (15) ~~[(9)]~~ not more than \$216,000 is allocated to the  
22 commission to contract with the Energy Systems Laboratory at the  
23 Texas Engineering Experiment Station annually for the development  
24 and annual computation of creditable statewide emissions  
25 reductions obtained through wind and other renewable energy  
26 resources for the state implementation plan;

27           (16) ~~[(10) not more than \$3,400,000 is allocated to~~

1 ~~the commission for administrative costs incurred by the commission,~~

2           ~~[(11)]~~ 1.5 percent of the money in the fund is  
3 allocated for administrative costs incurred by the laboratory; and

4           (17) ~~[(12)]~~ the balance is to be used by ~~[is allocated~~  
5 ~~to]~~ the commission for the diesel emissions reduction incentive  
6 program under Subchapter C as determined by the commission.

7           SECTION 10. Section 386.252, Health and Safety Code, is  
8 amended by amending Subsections (b), (c), (d), and (e) and adding  
9 Subsection (e-1) to read as follows:

10           (b) The commission may allocate unexpended money designated  
11 for the clean fleet program under Chapter 392 to other programs  
12 described under Subsection (a) after the commission allocates money  
13 to recipients under the clean fleet program.

14           (c) The commission may allocate unexpended money designated  
15 for the Texas alternative fueling facilities program under Chapter  
16 393 to other programs described under Subsection (a) after the  
17 commission allocates money to recipients under the alternative  
18 fueling facilities program.

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

22               (1) the commission, in consultation with the governor  
23 and the advisory board, determines that the use of the money in the  
24 fund for that program will cause the state to be in noncompliance  
25 with the state implementation plan to the extent that federal  
26 action is likely; and

27               (2) the commission finds that the reallocation of some



1 or all of the funding for the program would resolve the  
2 noncompliance.

3 (e) Under Subsection (d), the commission may not reallocate  
4 more than the minimum amount of money necessary to resolve the  
5 noncompliance.

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

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

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

14 [~~(2) the amount of money deposited to the credit of the~~  
15 ~~fund in a state fiscal year exceeds the amount the comptroller's~~  
16 ~~biennial revenue estimate shows as the comptroller's estimated~~  
17 ~~amount to be deposited to the credit of the fund in that year.~~

18 [~~(d) The commission may allocate unexpended money~~  
19 ~~designated for the clean fleet program to other programs described~~  
20 ~~under Subsection (a) after the commission allocates money to~~  
21 ~~recipients under the clean fleet program.~~

22 [~~(e) The commission may allocate unexpended money~~  
23 ~~designated for the Texas alternative fueling facilities program to~~  
24 ~~other programs described under Subsection (a) after the commission~~  
25 ~~allocates money to recipients under the alternative fueling~~  
26 ~~facilities program.]~~

27 SECTION 11. Subsection (f), Section 386.252, Health and

1 Safety Code, as added by Chapter 892 (S.B. 385), Acts of the 82nd  
2 Legislature, Regular Session, 2011, is amended to read as follows:

3 (f) Money in the fund may be used by the commission for  
4 programs under Sections 386.051(b)(13), (b)(14), and (b-1) as may  
5 be appropriated for those programs [~~Notwithstanding Subsection~~  
6 ~~(a), the commission may reallocate money in the fund if:~~

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

12 [~~(2) the commission finds that the reallocation of~~  
13 ~~some or all of the funding for the program established under Chapter~~  
14 ~~394 would resolve the noncompliance]~~.

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

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

26 (h) Subject to the limitations outlined in this section and  
27 any additional limitations placed on the use of the appropriated

1 funds, money allocated under this section to a particular program  
2 may be used for another program under the plan as determined by the  
3 commission.

4 SECTION 13. Section 391.002, Health and Safety Code, is  
5 amended to read as follows:

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

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

17 (1) advanced clean energy projects, as defined by  
18 Section 382.003;

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

22 (3) electricity storage projects related to renewable  
23 energy.

24 SECTION 14. Subsection (a), Section 392.007, Health and  
25 Safety Code, is amended to read as follows:

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

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

4                   ~~[(A) manufactured prior to implementation of~~  
5 ~~federal or California emission standards, and~~

6                   ~~[(B) not certified to meet a specific emission~~  
7 ~~level by either the United States Environmental Protection Agency~~  
8 ~~or the California Air Resources Board,~~

9           ~~[(2) 70 percent of the incremental cost for~~  
10 ~~replacement of a heavy-duty diesel engine certified to meet the~~  
11 ~~federal emission standards applicable to engines manufactured in~~  
12 ~~1990 through 1997,~~

13           ~~[(3) 60 percent of the incremental cost for~~  
14 ~~replacement of a heavy-duty diesel engine certified to meet the~~  
15 ~~federal emission standards applicable to engines manufactured in~~  
16 ~~1998 through 2003,~~

17           ~~[(4) 50 percent of the incremental cost for~~  
18 ~~replacement of a heavy-duty diesel engine certified to meet the~~  
19 ~~federal emission standards applicable to engines manufactured in~~  
20 ~~2004 and later,~~

21           ~~[(5) 80 percent of the incremental cost for~~  
22 ~~replacement of a light-duty diesel vehicle:~~

23                   ~~[(A) manufactured prior to the implementation of~~  
24 ~~certification requirements, and~~

25                   ~~[(B) not certified to meet either mandatory or~~  
26 ~~voluntary emission certification standards,~~

27           ~~[(6) 70 percent of the incremental cost for~~

1 ~~replacement of a light-duty diesel vehicle certified to meet~~  
2 ~~federal Tier 1 emission standards phased in between 1994 and 1997,~~  
3 ~~and~~

4 ~~[(7) 60 percent of the incremental cost for~~  
5 ~~replacement of a light-duty diesel vehicle certified to meet~~  
6 ~~federal Tier 2 emission standards phased in between 2004 and 2009].~~

7 SECTION 15. Subsection (a), Section 394.007, Health and  
8 Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd  
9 Legislature, Regular Session, 2011, is amended to read as follows:

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

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

14 (2) is based on:

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

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

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

21 SECTION 16. Subsections (a), (b), (c), and (d), Section  
22 394.010, Health and Safety Code, as amended by Chapter 892 (S.B.  
23 385), Acts of the 82nd Legislature, Regular Session, 2011, are  
24 amended to read as follows:

25 (a) To ensure that natural gas vehicles purchased, leased,  
26 or otherwise commercially financed or repowered under the program  
27 have access to fuel, and to build the foundation for a

1 self-sustaining market for natural gas vehicles in Texas, the  
2 commission shall award grants to support the development of a  
3 network of natural gas vehicle fueling stations along the  
4 interstate highways connecting Houston, San Antonio, Dallas, and  
5 Fort Worth, and in nonattainment areas and affected counties of the  
6 state. In awarding the grants, the commission shall provide for:

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

12 (2) grants to be dispersed through a competitive  
13 bidding process to offset a portion of the cost of installation of  
14 the natural gas dispensing equipment;

15 (3) contracts that require the recipient stations to  
16 meet operational, maintenance, and reporting requirements as  
17 specified by the commission; and

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

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

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

26 (1) \$400,000 ~~[\$100,000]~~ for a compressed natural gas  
27 station;

1           (2) \$400,000 [~~\$250,000~~] for a liquefied natural gas  
2 station; or

3           (3) \$600,000 [~~\$400,000~~] for a station providing both  
4 liquefied and compressed natural gas.

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

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

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

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

15           SECTION 17. Section 393.006, Health and Safety Code, as  
16 amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature,  
17 Regular Session, 2011, is amended to read as follows:

18           Sec. 393.006. AMOUNT OF GRANT. For each eligible facility  
19 for which a recipient is awarded a grant under the program, the  
20 commission shall award the grant in an amount equal to the lesser  
21 of:

22           (1) 50 percent of the sum of the actual eligible costs  
23 incurred by the grant recipient within deadlines established by the  
24 commission to construct, reconstruct, or acquire the facility; or

25           (2) \$600,000 [~~\$500,000~~].

26           SECTION 18. The following provisions are repealed:

27           (1) Subdivision (1), Section 386.151, Health and

1 Safety Code;

2 (2) Sections 386.154 and 386.155, Health and Safety  
3 Code;

4 (3) Section 386.204, Health and Safety Code;

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

9 (5) Subsection (f), Section 386.252, Health and Safety  
10 Code, as added by Chapter 589 (Senate Bill No. 20), Acts of the 82nd  
11 Legislature, Regular Session, 2011; and

12 (6) Chapters 393 and 394, Health and Safety Code, as  
13 amended by Chapter 589 (Senate Bill No. 20), Acts of the 82nd  
14 Legislature, Regular Session, 2011.

15 SECTION 19. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2013.