

1-1 By: Deuell S.B. No. 1727
 1-2 (In the Senate - Filed March 8, 2013; March 25, 2013, read
 1-3 first time and referred to Committee on Natural Resources;
 1-4 April 15, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0, 1 present not
 1-6 voting; April 15, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9				X
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1727 By: Deuell

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the use of the Texas emissions reduction plan fund.
 1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-25 SECTION 1. Section 386.051, Health and Safety Code, is
 1-26 amended by amending Subsection (b) and adding Subsection (b-1) to
 1-27 read as follows:
 1-28 (b) Under the plan, the commission and the comptroller shall
 1-29 provide grants or other funding for:
 1-30 (1) the diesel emissions reduction incentive program
 1-31 established under Subchapter C, including for infrastructure
 1-32 projects established under that subchapter;
 1-33 (2) the motor vehicle purchase or lease incentive
 1-34 program established under Subchapter D;
 1-35 (3) the air quality research support program
 1-36 established under Chapter 387;
 1-37 (4) the clean school bus program established under
 1-38 Chapter 390;
 1-39 (5) the new technology implementation grant program
 1-40 established under Chapter 391;
 1-41 (6) the regional air monitoring program established
 1-42 under Section 386.252(a) [~~386.252(a)(5)~~];
 1-43 (7) a health effects study as provided by Section
 1-44 386.252(a) [~~386.252(a)(7)~~];
 1-45 (8) air quality planning activities as provided by
 1-46 Section 386.252(a) [~~386.252(a)(8)~~]; [~~and~~]
 1-47 (9) a contract with the Energy Systems Laboratory at
 1-48 the Texas Engineering Experiment Station for computation of
 1-49 creditable statewide emissions reductions as provided by Section
 1-50 386.252(a)(16);
 1-51 (10) the clean fleet program established under Chapter
 1-52 392;
 1-53 (11) the alternative fueling facilities program
 1-54 established under Chapter 393;
 1-55 (12) the natural gas vehicle grant program and clean
 1-56 transportation triangle program established under Chapter 394;
 1-57 (13) other programs the commission may develop that
 1-58 lead to reduced emissions of nitrogen oxides, particulate matter,
 1-59 or volatile organic compounds in a nonattainment area or affected
 1-60 county;

2-1 (14) other programs the commission may develop that
 2-2 support congestion mitigation to reduce mobile source ozone
 2-3 precursor emissions;

2-4 (15) the emissions-free generation grant program
 2-5 established under Subchapter G;

2-6 (16) the energy efficiency grant program established
 2-7 under Subchapter E; and

2-8 (17) the drayage truck incentive program established
 2-9 under Subchapter D-1 [386.252(a)(9)].

2-10 (b-1) Under the plan, the commission may establish and
 2-11 administer other programs, including other grants or funding
 2-12 programs, as determined by the commission to be necessary or
 2-13 effective in fulfilling its duties and achieving the objectives
 2-14 described under Section 386.052. The commission may apply the
 2-15 criteria and requirements applicable to the programs under
 2-16 Subsection (b) to programs established under this subsection, or
 2-17 the commission may establish separate criteria and requirements as
 2-18 necessary to achieve the commission's objectives. The additional
 2-19 programs shall be consistent with and comply with all applicable
 2-20 laws, regulations, and guidelines pertaining to the use of state
 2-21 funds, the awarding and administration of grants and contracts, and
 2-22 achieving reductions in ozone precursors or particulate matter.
 2-23 Under this subsection, the commission may place a priority on
 2-24 programs that address the following goals:

2-25 (1) reduction of emissions of oxides of nitrogen or
 2-26 particulate matter from heavy-duty on-road vehicles and non-road
 2-27 equipment, including drayage vehicles, locomotives, and marine
 2-28 vessels, at port facilities or servicing port facilities in
 2-29 nonattainment areas;

2-30 (2) reduction of emissions from the operation of
 2-31 drilling and related heavy-duty on-road vehicles or non-road
 2-32 equipment in oil and gas production fields where the commission
 2-33 determines that the programs can help prevent that area or an
 2-34 adjacent area from being in violation of national ambient air
 2-35 quality standards; and

2-36 (3) replacement, repower, or retrofit of heavy-duty
 2-37 on-road vehicles, medium-duty passenger vehicles, and non-road
 2-38 equipment to change from using gasoline or diesel fuel to engines or
 2-39 conversion systems certified under the United States Environmental
 2-40 Protection Agency's heavy-duty on-road or non-road engine emission
 2-41 or light-duty vehicle engine emission certification programs to
 2-42 using cleaner alternative fuels, either dedicated or in conjunction
 2-43 with regular fuel, and, particularly, alternative fuels produced in
 2-44 Texas.

2-45 SECTION 2. Section 386.106, Health and Safety Code, is
 2-46 amended to read as follows:

2-47 Sec. 386.106. COST-EFFECTIVENESS CRITERIA; DETERMINATION
 2-48 OF GRANT AMOUNT. (a) Except as otherwise provided by statute, the
 2-49 [as provided by Section 386.107 and except for infrastructure
 2-50 projects and infrastructure purchases that are part of a broader
 2-51 retrofit, repower, replacement, or add-on equipment project, the
 2-52 commission may not award a grant for a proposed project the
 2-53 cost-effectiveness of which, calculated in accordance with Section
 2-54 386.105 and criteria developed under that section, exceeds \$15,000
 2-55 per ton of oxides of nitrogen emissions reduced in the
 2-56 nonattainment area or affected county for which the project is
 2-57 proposed. This subsection does not restrict commission authority
 2-58 under other law to require emissions reductions with a
 2-59 cost-effectiveness that exceeds \$15,000 per ton.

2-60 [(b) The] commission may not award a grant that, net of
 2-61 taxes, provides an amount that exceeds the incremental cost of the
 2-62 proposed project.

2-63 (b) [(c)] The commission shall adopt guidelines for
 2-64 capitalizing incremental lease costs so those costs may be offset
 2-65 by a grant under this subchapter.

2-66 (c) [(d)] In determining the amount of a grant under this
 2-67 subchapter, the commission shall reduce the incremental cost of a
 2-68 proposed new purchase, lease, retrofit, repower, or add-on
 2-69 equipment project by the value of any existing financial incentive

3-1 that directly reduces the cost of the proposed project, including
3-2 tax credits or deductions, other grants, or any other public
3-3 financial assistance.

3-4 (d) In determining the amount of a grant under this
3-5 subchapter, the commission shall award an incentive grant of at
3-6 least 60 percent of the replacement cost of a non-road diesel,
3-7 excluding locomotives and marine vessels. The commission shall
3-8 award incentive grants of at least 75 percent of engine repower
3-9 costs.

3-10 SECTION 3. Sections 386.152 and 386.153, Health and Safety
3-11 Code, are amended to read as follows:

3-12 Sec. 386.152. [~~COMPTROLLER AND~~] COMMISSION DUTIES
3-13 REGARDING LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE
3-14 PROGRAM. (a) The [~~comptroller and the~~] commission shall develop a
3-15 purchase or lease incentive program for new light-duty motor
3-16 vehicles and shall adopt rules necessary to implement the program.

3-17 (b) The program shall authorize statewide incentives for
3-18 the purchase or lease [~~, according to the schedule provided by~~
3-19 ~~Section 386.153,~~] of new light-duty motor vehicles powered by
3-20 compressed natural gas, liquefied petroleum gas, or electric drives
3-21 [that are certified by the United States Environmental Protection
3-22 Agency to meet an emissions standard that is at least as stringent
3-23 as those provided by Section 386.153] for a purchaser or lessee who
3-24 agrees to register [the vehicle in this state] and [to] operate the
3-25 vehicle in this state for a minimum period of time to be established
3-26 by the commission [not less than 75 percent of the vehicle's annual
3-27 mileage].

3-28 (c) Only one incentive will be provided for each new
3-29 light-duty motor vehicle. The incentive shall be provided to the
3-30 lessee and not to the purchaser if the motor vehicle is purchased
3-31 for the purpose of leasing the vehicle to another person.

3-32 Sec. 386.153. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE
3-33 INCENTIVE REQUIREMENTS [~~SCHEDULE~~]. (a) A new light-duty motor
3-34 vehicle powered by compressed natural gas or liquefied petroleum
3-35 gas is eligible for a \$2,500 incentive if the vehicle:

3-36 (1) has four wheels;

3-37 (2) was originally manufactured to comply with and has
3-38 been certified by an original equipment manufacturer or
3-39 intermediate or final state vehicle manufacturer as complying with,
3-40 or has been altered to comply with, federal motor vehicle safety
3-41 standards, state emissions regulations, and any additional state
3-42 regulations applicable to vehicles powered by compressed natural
3-43 gas or liquefied petroleum gas;

3-44 (3) was manufactured for use primarily on public
3-45 streets, roads, and highways;

3-46 (4) is rated at not more than 9,600 pounds unloaded
3-47 gross vehicle weight;

3-48 (5) has a dedicated or bi-fuel compressed natural gas
3-49 or liquefied petroleum gas fuel system with a range of at least 125
3-50 miles as estimated, published, and updated by the United States
3-51 Environmental Protection Agency;

3-52 (6) has, as applicable, a:

3-53 (A) compressed natural gas fuel system that
3-54 complies with the:

3-55 (i) 2013 NFPA 52 Vehicular Gaseous Fuel
3-56 Systems Code; and

3-57 (ii) American National Standard for Basic
3-58 Requirements for Compressed Natural Gas Vehicle (NGV) Fuel
3-59 Containers, commonly cited as "ANSI/CSA NGV2"; or

3-60 (B) liquefied petroleum gas fuel system that
3-61 complies with:

3-62 (i) the 2011 NFPA 58 Liquefied Petroleum
3-63 Gas Code; and

3-64 (ii) Section VII of the 2013 ASME Boiler and
3-65 Pressure Vessel Code; and

3-66 (7) was acquired on or after September 1, 2013, by the
3-67 person applying for the incentive under this subsection and for use
3-68 or lease by that person and not for resale.

3-69 (b) If the commission determines that an updated version of

4-1 a code or standard described by Subdivision (a)(6) is more
4-2 stringent than the version of the code or standard described by
4-3 Subdivision (a)(6), the commission by rule may provide that a
4-4 vehicle for which a person applies for an incentive under
4-5 Subsection (a) is eligible for the incentive only if the vehicle
4-6 complies with the updated version of the code or standard.

4-7 (b-1) The incentive under Subsection (a) is limited to 2,000
4-8 vehicles for the state fiscal biennium beginning September 1, 2013.

4-9 (c) A new light-duty motor vehicle powered by electric drive
4-10 is eligible for a \$2,500 incentive if the vehicle:

4-11 (1) has four wheels;

4-12 (2) was manufactured for use primarily on public
4-13 streets, roads, and highways;

4-14 (3) has not been modified from the original
4-15 manufacturer's specifications;

4-16 (4) is rated at not more than 8,500 pounds unloaded
4-17 gross vehicle weight;

4-18 (5) has a maximum speed capability of at least 55 miles
4-19 per hour;

4-20 (6) is propelled to a significant extent by an
4-21 electric motor that draws electricity from a battery that:

4-22 (A) has a capacity of not less than four kilowatt
4-23 hours; and

4-24 (B) is capable of being recharged from an
4-25 external source of electricity; and

4-26 (7) was acquired on or after September 1, 2013, or a
4-27 later date as established by the commission, by the person applying
4-28 for the incentive under this subsection and for use or lease by that
4-29 person and not for resale.

4-30 (d) The incentive under Subsection (c) is limited to 2,000
4-31 vehicles for the state fiscal biennium beginning September 1, 2013.
4-32 ~~[A new light-duty motor vehicle is eligible for an incentive~~
4-33 ~~according to the following schedule:~~

4-34	[Incentive emissions standard and incentive amount
4-35	[Model year 2003-2007
4-36	[Bin 4 \$1,250
4-37	[Bin 3 \$2,225
4-38	[Bin 2 \$3,750
4-39	[Bin 1 \$5,000]

4-40 SECTION 4. Section 386.156, Health and Safety Code, is
4-41 amended to read as follows:

4-42 Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On
4-43 August 1 each year the commission shall publish ~~[and provide to the~~
4-44 ~~comptroller]~~ a list of ~~[the]~~ new model motor vehicles eligible for
4-45 inclusion in an incentive under this subchapter ~~[as listed for the~~
4-46 ~~commission under Section 386.155]~~. The commission shall publish
4-47 ~~[and provide to the comptroller]~~ supplements to that list as
4-48 necessary to include additional new vehicle models ~~[listed in a~~
4-49 ~~supplement to the original list provided by a manufacturer under~~
4-50 ~~Section 386.155]~~.

4-51 (b) The commission ~~[comptroller]~~ shall publish ~~[distribute]~~
4-52 the list of eligible motor vehicles on the commission's Internet
4-53 website ~~[to all new motor vehicle dealers and leasing agents in this~~
4-54 ~~state]~~.

4-55 SECTION 5. Subsection (a), Section 386.158, Health and
4-56 Safety Code, is amended to read as follows:

4-57 (a) A person who purchases or leases a new light-duty motor
4-58 vehicle described by Section 386.153 and ~~[that has been]~~ listed
4-59 under Section 386.156(a) ~~[386.155]~~ is eligible to apply for an
4-60 incentive under this subchapter.

4-61 SECTION 6. Subchapter D, Chapter 386, Health and Safety
4-62 Code, is amended by adding Section 386.162 to read as follows:

4-63 Sec. 386.162. EXPIRATION. This subchapter expires August
4-64 31, 2015.

4-65 SECTION 7. Chapter 386, Health and Safety Code, is amended
4-66 by adding Subchapter D-1 to read as follows:

4-67 SUBCHAPTER D-1. DRAYAGE TRUCK INCENTIVE PROGRAM

4-68 Sec. 386.181. DEFINITION. In this subchapter, "drayage
4-69 truck" means a truck that transports a load to or from a port,

5-1 distribution center, or rail yard.

5-2 Sec. 386.182. COMMISSION DUTIES. (a) The commission
 5-3 shall develop a purchase incentive program to encourage owners to
 5-4 replace drayage trucks with pre-2007 model year engines with newer
 5-5 drayage trucks and shall adopt guidelines necessary to implement
 5-6 the program.

5-7 (b) The commission by rule shall establish criteria for the
 5-8 models of drayage trucks that are eligible for inclusion in an
 5-9 incentive program under this subchapter. The guidelines must
 5-10 provide that a drayage truck owner is not eligible for an incentive
 5-11 payment under this subchapter unless the truck being replaced
 5-12 contains a pre-2007 model year engine and the replacement truck's
 5-13 engine is from model year 2010 or later and that the truck operates
 5-14 at a port, distribution center, or rail yard.

5-15 Sec. 386.183. DRAYAGE TRUCK PURCHASE INCENTIVE. (a) To be
 5-16 eligible for an incentive under this subchapter, a person must:

5-17 (1) purchase a replacement drayage truck that under
 5-18 the guidelines adopted by the commission under Section 386.182 is
 5-19 eligible for inclusion in the program for an incentive under this
 5-20 subchapter; and

5-21 (2) agree to:

5-22 (A) register the truck in this state;

5-23 (B) operate the truck in and within a maximum
 5-24 distance established by the commission of a port, distribution
 5-25 center, or rail yard in a nonattainment area or affected county of
 5-26 this state for not less than 50 percent of the vehicle's annual
 5-27 mileage or hours of operation, as determined by the commission; and

5-28 (C) permanently remove a pre-2007 drayage truck
 5-29 containing a pre-2007 engine owned by the person from operation in a
 5-30 nonattainment area or affected county of this state by destroying
 5-31 the engine and scrapping the truck after the purchase of the new
 5-32 truck in accordance with guidelines established by the commission.

5-33 (b) To receive money under an incentive program provided by
 5-34 this subchapter, the purchaser of a drayage truck eligible for
 5-35 inclusion in the program must apply for the incentive in the manner
 5-36 provided by law, rule, or guideline of the commission.

5-37 (c) Not more than one incentive may be provided for each
 5-38 drayage truck purchased.

5-39 (d) An incentive provided under this subchapter may be used
 5-40 to fund not more than 80 percent of the purchase price of the
 5-41 drayage truck.

5-42 (e) The commission shall establish procedures to verify
 5-43 that a person who receives an incentive:

5-44 (1) has operated in a port, distribution center, or
 5-45 rail yard and owned or leased the drayage truck to be replaced for
 5-46 at least two years prior to receiving the grant; and

5-47 (2) permanently destroys the engine and scraps the
 5-48 drayage truck that contained the pre-2007 engine owned or leased by
 5-49 the person, in accordance with guidelines established by the
 5-50 commission, after the purchase of the new truck.

5-51 (f) The commission may modify this program to improve its
 5-52 effectiveness or further the goals of Subchapter B.

5-53 SECTION 8. Sections 386.201, 386.202, 386.203, and 386.205,
 5-54 Health and Safety Code, are amended to read as follows:

5-55 Sec. 386.201. DEFINITION [DEFINITIONS]. In this
 5-56 subchapter, "governmental entity" has the meaning assigned by
 5-57 Section 2265.001(a), Government Code[+]

5-58 [~~(1) "Electric cooperative" has the meaning assigned~~
 5-59 ~~by Section 11.003, Utilities Code].~~

5-60 [~~(2) "Electric utility" has the meaning assigned by~~
 5-61 ~~Section 31.002, Utilities Code.~~

5-62 [~~(3) "Municipally owned utility" has the meaning~~
 5-63 ~~assigned by Section 11.003, Utilities Code.]~~

5-64 Sec. 386.202. GRANT PROGRAM. (a) The [utility]
 5-65 commission, in cooperation with the comptroller, shall develop an
 5-66 energy efficiency grant program for energy efficiency projects in
 5-67 governmental entity buildings and facilities [using program
 5-68 templates that are consistent with rules of the utility commission
 5-69 adopted under Section 39.905, Utilities Code].

6-1 (b) Energy efficiency projects awarded a grant [Programs
 6-2 approved] under this subchapter [and other energy efficiency
 6-3 programs administered by the utility commission] must include
 6-4 energy conservation projects that improve the operational energy
 6-5 efficiency of buildings or facilities or that retire [programs for
 6-6 the retirement of] materials and appliances that contribute to
 6-7 energy consumption or peak energy demand to ensure the reduction of
 6-8 energy consumption, energy demand, or peak loads, and associated
 6-9 emissions of air contaminants.

6-10 Sec. 386.203. ADMINISTRATION OF GRANTS. Money allocated by
 6-11 the [~~utility~~] commission under the grant program developed under
 6-12 this subchapter shall be administered by the commission, in
 6-13 cooperation with the comptroller [electric utilities, electric
 6-14 cooperatives, and municipally owned utilities. A participating
 6-15 electric utility, electric cooperative, or municipally owned
 6-16 utility shall be reimbursed from the fund for costs incurred by the
 6-17 utility in administering the energy efficiency grant program
 6-18 established under this subchapter. Reimbursable administrative
 6-19 costs of a participating entity may not exceed 10 percent of the
 6-20 entity's total program budget before January 1, 2003, and may not
 6-21 exceed five percent of the entity's total program budget on or after
 6-22 that date].

6-23 Sec. 386.205. EVALUATION OF STATE ENERGY EFFICIENCY
 6-24 PROGRAMS. In cooperation with the laboratory, the comptroller's
 6-25 state energy conservation office, in coordination with the utility
 6-26 commission, shall provide an annual report to the commission that,
 6-27 by county, quantifies the reductions of energy demand, peak loads,
 6-28 and associated emissions of air contaminants achieved from the
 6-29 projects awarded a grant [programs implemented] under this
 6-30 subchapter and from those implemented under Section 39.905,
 6-31 Utilities Code.

6-32 SECTION 9. Subsection (a), Section 386.252, Health and
 6-33 Safety Code, as amended by Chapter 28 (S.B. 527), Acts of the 82nd
 6-34 Legislature, Regular Session, 2011, is amended to read as follows:

6-35 (a) Money in the fund may be used only to implement and
 6-36 administer programs established under the plan. Money appropriated
 6-37 to the commission to be used for the programs under Section
 6-38 386.051(b) [and the total appropriation] shall be allocated as
 6-39 follows:

6-40 (1) not more than four percent may be used for the
 6-41 clean school bus program under Chapter 390;

6-42 (2) not more than three percent [not more than 10
 6-43 percent may be used for on-road diesel purchase or lease
 6-44 incentives,

6-45 [~~(3) a specified amount] may be used for the new~~
 6-46 technology implementation grant program under Chapter 391, from
 6-47 which at least \$1 million will [a defined amount may] be set aside
 6-48 for electricity storage projects related to renewable energy;

6-49 (3) [~~(4)] five percent shall be used for the clean~~
 6-50 fleet program under Chapter 392;

6-51 (4) [~~(5)] not more than [\$7 million shall be allocated~~
 6-52 in 2012 and 2013 and not more than] \$3 million may [shall] be used by
 6-53 the commission [allocated in 2014 and in subsequent years] to fund a
 6-54 regional air monitoring program in commission Regions 3 and 4 to be
 6-55 implemented under the commission's oversight, including direction
 6-56 regarding the type, number, location, and operation of, and data
 6-57 validation practices for, monitors funded by the program through a
 6-58 regional nonprofit entity located in North Texas having
 6-59 representation from counties, municipalities, higher education
 6-60 institutions, and private sector interests across the area;

6-61 (5) not less than 16 percent shall be used for the
 6-62 Texas natural gas vehicle grant program under Chapter 394;

6-63 (6) two percent shall be used for the energy
 6-64 efficiency grant program under Subchapter E, including the
 6-65 performance contracting provisions;

6-66 (7) not more than five percent may be used to provide
 6-67 grants for natural gas fueling stations under the clean
 6-68 transportation triangle program under Section 394.010;

6-69 (8) not more than five percent may be used for the

7-1 Texas alternative fueling facilities program under Chapter 393;
 7-2 (9) a specified amount may be used [is to be allocated]
 7-3 each year to support research related to air quality as provided by
 7-4 Chapter 387;
 7-5 (10) not more than [~~(7) up to~~] \$200,000 may be used
 7-6 [is allocated] for a health effects study;
 7-7 (11) [~~(8) up to~~] \$500,000 is to be deposited in the
 7-8 state treasury to the credit of the clean air account created under
 7-9 Section 382.0622 to supplement funding for air quality planning
 7-10 activities in affected counties;
 7-11 (12) at least \$4 million and up to four percent to a
 7-12 maximum of \$7 million, whichever is greater, is allocated to the
 7-13 commission for administrative costs;
 7-14 (13) at least two percent and up to four percent will
 7-15 be allocated to the emissions-free generation grant program
 7-16 established under Subchapter G;
 7-17 (14) at least two percent and up to five percent of the
 7-18 fund is to be used by the commission for the drayage truck incentive
 7-19 program established under Chapter D-1;
 7-20 (15) not more than 5 percent may be used for the
 7-21 light-duty motor vehicle purchase or lease incentive program
 7-22 established under Subchapter D;
 7-23 (16) [~~(9)~~] not more than \$216,000 is allocated to the
 7-24 commission to contract with the Energy Systems Laboratory at the
 7-25 Texas Engineering Experiment Station annually for the development
 7-26 and annual computation of creditable statewide emissions
 7-27 reductions obtained through wind and other renewable energy
 7-28 resources for the state implementation plan;
 7-29 (17) [~~(10) not more than \$3,400,000 is allocated to~~
 7-30 ~~the commission for administrative costs incurred by the commission;~~
 7-31 [~~(11)~~] 1.5 percent of the money in the fund is
 7-32 allocated for administrative costs incurred by the laboratory; and
 7-33 (18) [~~(12)~~] the balance is to be used by [is allocated
 7-34 ~~to~~] the commission for the diesel emissions reduction incentive
 7-35 program under Subchapter C as determined by the commission.
 7-36 SECTION 10. Section 386.252, Health and Safety Code, is
 7-37 amended by amending Subsections (b), (c), (d), and (e) and adding
 7-38 Subsection (e-1) to read as follows:
 7-39 (b) The commission may allocate unexpended money designated
 7-40 for the clean fleet program under Chapter 392 to other programs
 7-41 described under Subsection (a) after the commission allocates money
 7-42 to recipients under the clean fleet program.
 7-43 (c) The commission may allocate unexpended money designated
 7-44 for the Texas alternative fueling facilities program under Chapter
 7-45 393 to other programs described under Subsection (a) after the
 7-46 commission allocates money to recipients under the alternative
 7-47 fueling facilities program.
 7-48 (d) The commission may reallocate money designated for the
 7-49 Texas natural gas vehicle grant program under Chapter 394 to other
 7-50 programs described under Subsection (a) if:
 7-51 (1) the commission, in consultation with the governor
 7-52 and the advisory board, determines that the use of the money in the
 7-53 fund for that program will cause the state to be in noncompliance
 7-54 with the state implementation plan to the extent that federal
 7-55 action is likely; and
 7-56 (2) the commission finds that the reallocation of some
 7-57 or all of the funding for the program would resolve the
 7-58 noncompliance.
 7-59 (e) Under Subsection (d), the commission may not reallocate
 7-60 more than the minimum amount of money necessary to resolve the
 7-61 noncompliance.
 7-62 (e-1) Money [money] allocated under Subsection (a) to a
 7-63 particular program may be used for another program under the plan as
 7-64 determined by the commission.
 7-65 [~~(c)~~ Money in the fund may be allocated to the clean school
 7-66 bus program only if:
 7-67 [~~(1)~~ the money is available for that purpose after
 7-68 money is allocated for the other purposes of the fund as required by
 7-69 the state implementation plan; or

8-1 ~~[(2) the amount of money deposited to the credit of the~~
8-2 ~~fund in a state fiscal year exceeds the amount the comptroller's~~
8-3 ~~biennial revenue estimate shows as the comptroller's estimated~~
8-4 ~~amount to be deposited to the credit of the fund in that year.~~

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

8-9 ~~[(e) The commission may allocate unexpended money~~
8-10 ~~designated for the Texas alternative fueling facilities program to~~
8-11 ~~other programs described under Subsection (a) after the commission~~
8-12 ~~allocates money to recipients under the alternative fueling~~
8-13 ~~facilities program.]~~

8-14 SECTION 11. Subsection (f), Section 386.252, Health and
8-15 Safety Code, as added by Chapter 892 (S.B. 385), Acts of the 82nd
8-16 Legislature, Regular Session, 2011, is amended to read as follows:

8-17 (f) Money in the fund may be used by the commission for
8-18 programs under Sections 386.051(b)(13), (b)(14), and (b-1) as may
8-19 be appropriated for those programs [Notwithstanding Subsection
8-20 (a), the commission may reallocate money in the fund if:

8-21 ~~[(1) the commission, in consultation with the governor~~
8-22 ~~and the advisory board, determines that the use of the money in the~~
8-23 ~~fund for the program established under Chapter 394 will cause the~~
8-24 ~~state to be in noncompliance with the state implementation plan to~~
8-25 ~~the extent that federal action is likely; and~~

8-26 ~~[(2) the commission finds that the reallocation of~~
8-27 ~~some or all of the funding for the program established under Chapter~~
8-28 ~~394 would resolve the noncompliance].~~

8-29 SECTION 12. Section 386.252, Health and Safety Code, is
8-30 amended by amending Subsection (g) and adding Subsection (h) to
8-31 read as follows:

8-32 (g) If the legislature does not specify amounts or
8-33 percentages from the total appropriation to the commission to be
8-34 allocated under Subsection (a) or (f), the commission shall
8-35 determine the amounts of the total appropriation to be allocated
8-36 under each of those subsections, such that the total appropriation
8-37 is expended while maximizing emissions reductions [Under
8-38 Subsection (f), the commission may not reallocate more than the
8-39 minimum amount of money necessary to resolve the noncompliance].

8-40 (h) Subject to the limitations outlined in this section and
8-41 any additional limitations placed on the use of the appropriated
8-42 funds, money allocated under this section to a particular program
8-43 may be used for another program under the plan as determined by the
8-44 commission.

8-45 SECTION 13. Chapter 386, Health and Safety Code, is amended
8-46 by adding Subchapter G to read as follows:

8-47 SUBCHAPTER G. EMISSIONS-FREE GENERATION GRANT PROGRAM

8-48 Sec. 386.301. DEFINITION. In this subchapter,
8-49 "emissions-free generation" means electric generation with a
8-50 capacity of not more than 30 megawatts provided by an electric
8-51 generation technology that has no measurable air emissions.

8-52 Sec. 386.302. GRANT PROGRAM. (a) The commission shall
8-53 establish and administer an emissions-free generation grant
8-54 program using money allocated under Section 386.252 to promote
8-55 projects for the acquisition and installation of emissions-free
8-56 generation systems on land, in a building, or in a parking
8-57 structure.

8-58 (b) A grant received under this section may be used to fund
8-59 not more than 30 percent of the total cost of acquiring and
8-60 installing the emissions-free generation system exclusive of any
8-61 federal incentives.

8-62 (c) An application for a grant must be submitted by the
8-63 entity that owns the emissions-free generation system and, if
8-64 applicable, by a co-applicant who may own the land, building, or
8-65 parking structure.

8-66 (d) The commission by rule shall establish criteria for
8-67 projects eligible to receive a grant under this section and
8-68 procedures for grant applicants that prioritize qualified projects
8-69 based on:

9-1 (1) the lowest possible air emissions during the
 9-2 production of electricity;

9-3 (2) the lowest amount of water used during the
 9-4 production of electricity; and

9-5 (3) the capability to provide energy production to the
 9-6 electric market during times of peak electric consumption.

9-7 (e) The commission shall establish as the initial grant
 9-8 amounts:

9-9 (1) 60 cents per rated direct current watt for
 9-10 installed emissions-free generation for the first 5 megawatts of
 9-11 capacity; and

9-12 (2) 30 cents per rated direct current watt for
 9-13 installed emissions-free generation for the capacity exceeding 5
 9-14 megawatts.

9-15 (f) The commission may limit the number of grants, change
 9-16 the grant amounts, or modify the grant program criteria in this
 9-17 section and Section 386.303 based on rules or guidelines
 9-18 established by the commission.

9-19 Sec. 386.303. ELIGIBILITY. A person is eligible to receive
 9-20 a grant under a program established under this subchapter only for a
 9-21 project to acquire and install an emissions-free generation system
 9-22 on land, in a building, or in a parking structure that is located at
 9-23 a school, university, publicly owned facility, or facility owned or
 9-24 leased by a nonprofit entity in a nonattainment area or affected
 9-25 county, as defined by Section 386.001.

9-26 SECTION 14. Section 391.002, Health and Safety Code, is
 9-27 amended to read as follows:

9-28 Sec. 391.002. GRANT PROGRAM. (a) The commission shall
 9-29 establish and administer a new technology implementation grant
 9-30 program to assist the implementation of new technologies to reduce
 9-31 emissions from facilities and other stationary sources in this
 9-32 state. The commission may establish a minimum capital expenditure
 9-33 threshold for projects under Subsection (b)(2). Under the program,
 9-34 the commission shall provide grants or other financial incentives
 9-35 for eligible projects to offset the incremental cost of emissions
 9-36 reductions.

9-37 (b) Projects that may be considered for a grant under the
 9-38 program include:

9-39 (1) advanced clean energy projects, as defined by
 9-40 Section 382.003;

9-41 (2) new technology projects that reduce emissions of
 9-42 regulated pollutants from point sources [~~and involve capital~~
 9-43 ~~expenditures that exceed \$500 million]; and~~

9-44 (3) electricity storage projects related to renewable
 9-45 energy.

9-46 SECTION 15. Subsection (a), Section 392.007, Health and
 9-47 Safety Code, is amended to read as follows:

9-48 (a) The amount the commission shall award for each vehicle
 9-49 being replaced is up to [+

9-50 ~~(1)] 80 percent, as determined by the commission, of~~
 9-51 the total [~~incremental]~~ cost for replacement of a heavy-duty or
 9-52 light-duty diesel engine [+

9-53 ~~[(A) manufactured prior to implementation of~~
 9-54 ~~federal or California emission standards; and~~

9-55 ~~[(B) not certified to meet a specific emission~~
 9-56 ~~level by either the United States Environmental Protection Agency~~
 9-57 ~~or the California Air Resources Board;~~

9-58 ~~[(2) 70 percent of the incremental cost for~~
 9-59 ~~replacement of a heavy-duty diesel engine certified to meet the~~
 9-60 ~~federal emission standards applicable to engines manufactured in~~
 9-61 ~~1990 through 1997;~~

9-62 ~~[(3) 60 percent of the incremental cost for~~
 9-63 ~~replacement of a heavy-duty diesel engine certified to meet the~~
 9-64 ~~federal emission standards applicable to engines manufactured in~~
 9-65 ~~1998 through 2003;~~

9-66 ~~[(4) 50 percent of the incremental cost for~~
 9-67 ~~replacement of a heavy-duty diesel engine certified to meet the~~
 9-68 ~~federal emission standards applicable to engines manufactured in~~
 9-69 ~~2004 and later;~~

10-1 ~~[(5) 80 percent of the incremental cost for~~
 10-2 ~~replacement of a light-duty diesel vehicle;~~
 10-3 ~~[(A) manufactured prior to the implementation of~~
 10-4 ~~certification requirements; and~~
 10-5 ~~[(B) not certified to meet either mandatory or~~
 10-6 ~~voluntary emission certification standards;~~
 10-7 ~~[(6) 70 percent of the incremental cost for~~
 10-8 ~~replacement of a light-duty diesel vehicle certified to meet~~
 10-9 ~~federal Tier 1 emission standards phased in between 1994 and 1997;~~
 10-10 ~~and~~
 10-11 ~~[(7) 60 percent of the incremental cost for~~
 10-12 ~~replacement of a light-duty diesel vehicle certified to meet~~
 10-13 ~~federal Tier 2 emission standards phased in between 2004 and 2009].~~

10-14 SECTION 16. Subsection (a), Section 394.007, Health and
 10-15 Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd
 10-16 Legislature, Regular Session, 2011, is amended to read as follows:

10-17 (a) The commission shall develop a grant schedule that:
 10-18 (1) assigns a standardized grant in an amount up to
 10-19 ~~[between 60 and]~~ 90 percent of the incremental cost of a natural gas
 10-20 vehicle purchase, lease, other commercial finance, or repowering;
 10-21 (2) is based on:
 10-22 (A) the certified emission level of nitrogen
 10-23 oxides, or other pollutants as determined by the commission, of the
 10-24 engine powering the natural gas vehicle; and
 10-25 (B) the usage of the natural gas vehicle; and
 10-26 (3) may take into account the overall emissions
 10-27 reduction achieved by the natural gas vehicle.

10-28 SECTION 17. Subsections (a), (b), (c), and (d), Section
 10-29 394.010, Health and Safety Code, as amended by Chapter 892 (Senate
 10-30 Bill No. 385), Acts of the 82nd Legislature, Regular Session, 2011,
 10-31 are amended to read as follows:

10-32 (a) To ensure that natural gas vehicles purchased, leased,
 10-33 or otherwise commercially financed or repowered under the program
 10-34 have access to fuel, and to build the foundation for a
 10-35 self-sustaining market for natural gas vehicles in Texas, the
 10-36 commission shall award grants to support the development of a
 10-37 network of natural gas vehicle fueling stations along the
 10-38 interstate highways connecting Houston, San Antonio, Dallas, and
 10-39 Fort Worth, and in nonattainment areas and affected counties of the
 10-40 state. In awarding the grants, the commission shall provide for:

10-41 (1) strategically placed natural gas vehicle fueling
 10-42 stations in and between the Houston, San Antonio, and Dallas-Fort
 10-43 Worth areas, and in nonattainment areas and affected counties of
 10-44 the state, to enable a natural gas vehicle to travel in those areas
 10-45 ~~[along that triangular area]~~ relying solely on natural gas fuel;
 10-46 (2) grants to be dispersed through a competitive
 10-47 bidding process to offset a portion of the cost of installation of
 10-48 the natural gas dispensing equipment;
 10-49 (3) contracts that require the recipient stations to
 10-50 meet operational, maintenance, and reporting requirements as
 10-51 specified by the commission; and
 10-52 (4) a listing, to be maintained by the commission and
 10-53 made available to the public online, of all natural gas vehicle
 10-54 fueling stations that have received grant funding, including
 10-55 location and hours of operation.

10-56 (b) The commission may not award more than ~~[+]~~
 10-57 ~~[(1) three station grants to any entity; or~~
 10-58 ~~[(2)]~~ one grant for each station.

10-59 (c) Grants awarded under this section may not exceed:
 10-60 (1) \$400,000 ~~[\$100,000]~~ for a compressed natural gas
 10-61 station;
 10-62 (2) \$400,000 ~~[\$250,000]~~ for a liquefied natural gas
 10-63 station; or
 10-64 (3) \$600,000 ~~[\$400,000]~~ for a station providing both
 10-65 liquefied and compressed natural gas.

10-66 (d) Stations funded by grants under this section must be
 10-67 publicly accessible ~~[and located not more than three miles from an~~
 10-68 ~~interstate highway system]~~. The commission shall give preference
 10-69 to ~~[+]~~

11-1 [~~(1)~~] stations providing both liquefied natural gas
11-2 and compressed natural gas at a single location[~~, and~~
11-3 [~~(2)~~ stations located not more than one mile from an
11-4 interstate highway system].

11-5 SECTION 18. Section 393.006, Health and Safety Code, as
11-6 amended by Chapter 892 (S.B. No. 385), Acts of the 82nd Legislature,
11-7 Regular Session, 2011, is amended to read as follows:

11-8 Sec. 393.006. AMOUNT OF GRANT. For each eligible facility
11-9 for which a recipient is awarded a grant under the program, the
11-10 commission shall award the grant in an amount equal to the lesser
11-11 of:

11-12 (1) 50 percent of the sum of the actual eligible costs
11-13 incurred by the grant recipient within deadlines established by the
11-14 commission to construct, reconstruct, or acquire the facility; or

11-15 (2) \$600,000 [~~\$500,000~~].

11-16 SECTION 19. The following provisions are repealed:

11-17 (1) Subdivision (1), Section 386.151, Health and
11-18 Safety Code;

11-19 (2) Sections 386.154 and 386.155, Health and Safety
11-20 Code;

11-21 (3) Section 386.204, Health and Safety Code;

11-22 (4) Subsection (a), Section 386.252, Health and Safety
11-23 Code, as amended by Chapters 589 (Senate Bill No. 20) and 892
11-24 (Senate Bill No. 385), Acts of the 82nd Legislature, Regular
11-25 Session, 2011;

11-26 (5) Subsection (f), Section 386.252, Health and Safety
11-27 Code, as added by Chapter 589 (Senate Bill No. 20), Acts of the 82nd
11-28 Legislature, Regular Session, 2011; and

11-29 (6) Chapters 393 and 394, Health and Safety Code, as
11-30 amended by Chapter 589 (Senate Bill No. 20), Acts of the 82nd
11-31 Legislature, Regular Session, 2011.

11-32 SECTION 20. This Act takes effect immediately if it
11-33 receives a vote of two-thirds of all the members elected to each
11-34 house, as provided by Section 39, Article III, Texas Constitution.
11-35 If this Act does not receive the vote necessary for immediate
11-36 effect, this Act takes effect September 1, 2013.

11-37 * * * * *