

BILL ANALYSIS

C.S.S.B. 26
By: Estes
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the need to extend the life of the Texas emissions reduction plan and related programs and to make other statutory changes to decrease ozone emissions in Texas. C.S.S.B. 26 seeks to provide for such changes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTIONS 10 and 48 of this bill.

ANALYSIS

C.S.S.B. 26 amends the Government Code to include a motor vehicle that uses hydrogen fuel cells among the types of motor vehicles using alternative fuels that a state agency operating a fleet of more than 15 vehicles, excluding law enforcement and emergency vehicles, is required to purchase or lease, with certain exceptions. The bill sets out provisions relating to alternative fuel fleets that authorize an applicable state agency to prioritize the purchase or lease of new motor vehicles when replacing vehicles or adding vehicles to a fleet, the purchase of new motor vehicles to replace vehicles that have the highest total mileage and do not use certain alternative fuels, and obtaining motor vehicles that use compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

C.S.S.B. 26 amends the Health and Safety Code to revise provisions relating to grants and funding under the Texas emissions reduction plan and under the diesel emissions reduction incentive program to provide for a streamlined application process, to provide for the creation of a separate small business grant program, and to authorize, rather than require, the executive director of the Texas Commission on Environmental Quality (TCEQ) to waive eligibility requirements on a finding of good cause.

C.S.S.B. 26 sets out provisions relating to a motor vehicle purchase or lease incentive program that require TCEQ to develop a purchase or lease incentive program for new light-duty motor vehicles and to adopt rules necessary to implement the program. The bill requires the program to authorize statewide incentives for the purchase or lease of new light-duty motor vehicles powered by compressed natural gas, liquefied petroleum gas, or hydrogen fuel cell or other electric drives for a purchaser or lessee who agrees to register and operate the vehicle in Texas for a minimum period of time to be established by TCEQ. The bill sets out provisions relating to the program, including provisions relating to light-duty motor vehicle purchase or lease incentive requirements.

C.S.S.B. 26 renames and revises the drayage truck incentive program as a seaport and rail yard areas emissions reduction program and makes related changes. The bill requires the annual report of the Public Utility Commission of Texas to TCEQ that quantifies the reductions of energy demand, peak loads, and associated emissions of air contaminants achieved from certain programs to also quantify the reductions in the emissions of each air contaminant subject to the permitting requirements of the Texas Clean Air Act. The bill revises provisions relating to the use of the Texas emissions reduction plan fund by revising the prescribed allocation of money from the fund and making the allocation by TCEQ for certain uses discretionary. The bill includes the replacement of a pre-2007 model year school bus as a project that may be considered for a grant under the clean school bus program and sets out related requirements for such replacement.

C.S.S.B. 26 includes among the projects that may be considered for a grant under the new technology implementation grant program new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through the replacement, repower, or retrofit of stationary compressor engines; the installation of systems to reduce or eliminate the loss of gas, flaring of gas, or burning of gas using other combustion control devices; or the installation of systems that reduce flaring emissions and other site emissions by capturing waste heat to generate electricity solely for on-site service. The bill revises program grant application review procedures, reporting requirements, grant preferences.

C.S.S.B. 26 revises provisions relating to the Texas clean fleet program, including provisions relating to minimum eligibility requirements, the period in which a qualifying vehicle is required to be continuously owned, registered, and operated in Texas by a grant recipient as a condition of receiving a program grant, and the information required to be submitted to supplement a grant application.

C.S.S.B. 26 revises provisions relating to the Texas alternative fueling facilities program to provide for strategically placed fueling facilities for alternative fuel in a clean transportation zone, as defined by the bill, to enable an alternative fuel vehicle to travel in those areas relying solely on the alternative fuel. The bill revises provisions relating to grant applications, the eligibility of a facility for a grant, restrictions on the use of a grant, and the amount of a grant.

C.S.S.B. 26 revises provisions relating to the Texas natural gas vehicle grant program, including provisions relating to qualifying vehicles, use of a grant, grant amount, and grant procedures. The bill revises provisions relating to grant eligibility, including removing the requirement that TCEQ consult with the Texas emissions reduction plan advisory board before reviewing and revising criteria for prioritizing qualifying vehicles eligible to receive grants. The bill includes additional heavy-duty and medium-duty motor vehicles that qualify to be replaced under the program. The bill repeals provisions relating to participating dealers, the clean transportation triangle, and the administration of the program.

C.S.S.B. 26 sets out provisions relating to a governmental alternative fuel fleet grant program that require TCEQ to establish and administer the program to assist an eligible state agency, county, municipality, or political subdivision in purchasing or leasing new motor vehicles that operate primarily on an alternative fuel. The bill includes provisions relating to eligible applicants; motor vehicle requirements; refueling infrastructure, equipment, and services; eligible costs; grant amounts; availability of emissions reduction credits; use of grant money by a county or municipality; grant procedures and criteria; funding; administrative costs; TCEQ rules to implement the program; and a required biennial report.

C.S.S.B. 26 provides for the expiration of provisions relating to the Texas emissions reduction plan, the clean school bus program, new technology implementation for facilities and stationary sources, the Texas clean fleet program, the alternative fueling facilities program, the Texas

natural gas vehicle grant program, and the governmental alternative fuel fleet grant program on the last day of the state fiscal biennium during which the U.S. Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under certain federal law, the agency has, for each applicable designated area, designated the area as attainment or unclassifiable or approved a redesignation substitute making a finding of attainment for the area.

C.S.S.B. 26 amends the Tax Code to provide for the expiration of provisions relating to the Texas emissions reduction plan surcharge on the last day of the state fiscal biennium during which the U.S. Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under certain federal law, the agency has, for each applicable designated area, designated the area as attainment or unclassifiable or approved a redesignation substitute making a finding of attainment for the area.

C.S.S.B. 26 amends the Transportation Code to postpone from August 31, 2019, to August 31, 2021, the expiration of Certificate of Title Act provisions relating to the monthly remittance of certain money by the Texas Department of Transportation to the comptroller of public accounts for deposit to the credit of the Texas emissions reduction plan fund and to revise the amount of such remittance. The bill provides for the expiration of provisions relating to the Texas emissions reduction plan surcharge under vehicle registration provisions and provisions relating to the Texas emissions reduction plan fee under provisions relating to compulsory inspection of vehicles on the last day of the state fiscal biennium during which the U.S. Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under certain federal law, the agency has, for each applicable designated area, designated the area as attainment or unclassifiable or approved a redesignation substitute making a finding of attainment for the area.

C.S.S.B. 26 repeals the following provisions of the Health and Safety Code:

- Section 394.009
- Section 394.010
- Section 394.011

EFFECTIVE DATE

August 30, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 26 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Sections 2158.004(a), (b), (c), and (d), Government Code, are amended.	SECTION 1. Same as engrossed version.
SECTION 2. Subchapter A, Chapter 2158, Government Code, is amended by adding Section 2158.0051 to read as follows: <u>Sec. 2158.0051. ALTERNATIVE FUEL FLEETS. (a) Notwithstanding the</u>	SECTION 2. Subchapter A, Chapter 2158, Government Code, is amended by adding Section 2158.0051 to read as follows: <u>Sec. 2158.0051. ALTERNATIVE FUEL FLEETS. (a) Notwithstanding the</u>

purchase requirements of Section 2158.004:

(1) the vehicle fleet of a state agency that operates a fleet of more than 15 motor vehicles, subject to the availability of funds, may be replaced with motor vehicles that use compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including both fully electric motor vehicles and plug-in hybrid electric motor vehicles;

(2) a county or municipality that operates a vehicle fleet of more than 15 motor vehicles is authorized, but is not required, to replace the fleet with motor vehicles that use compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including both fully electric motor vehicles and plug-in hybrid electric motor vehicles; and

(3) motor vehicles of a state agency, county, or municipality described by Subdivisions (1) and (2) that are capable of using fuels described by those subdivisions be primarily operated with those fuels.

(b) In complying with Subsection (a), a state agency to which this section applies shall prioritize:

(1) the purchase or lease of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel described by Subsection (a)(1), when replacing vehicles or adding vehicles to the fleet;

(2) the purchase of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel described by Subsection (a)(1), to replace vehicles that have the highest total mileage and do not use a fuel described by Subsection (a)(1); and

(3) to the extent feasible, obtaining, whether by purchase, purchase and conversion, or lease, motor vehicles that use compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

(c) Subsection (a)(1) does not apply to law enforcement or emergency vehicles.

SECTION 3. Section 386.001(3), Health and Safety Code, is amended.

SECTION 4. Section 386.002, Health and Safety Code, is amended.

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purchase requirements of Section 2158.004:

(1) the vehicle fleet of a state agency that operates a fleet of more than 15 motor vehicles, subject to the availability of funds, may be replaced with motor vehicles that use compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including both fully electric motor vehicles and plug-in hybrid electric motor vehicles;

(2) a county or municipality that operates a vehicle fleet of more than 15 motor vehicles is authorized, but is not required, to replace the fleet with motor vehicles that use compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including both fully electric motor vehicles and plug-in hybrid electric motor vehicles; and

(3) motor vehicles of a state agency, county, or municipality described by Subdivisions (1) and (2) that are capable of using fuels described by those subdivisions shall be primarily operated with those fuels.

(b) In complying with Subsection (a), a state agency to which this section applies shall prioritize:

(1) the purchase or lease of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel described by Subsection (a)(1), when replacing vehicles or adding vehicles to the fleet;

(2) the purchase of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel described by Subsection (a)(1), to replace vehicles that have the highest total mileage and do not use a fuel described by Subsection (a)(1); and

(3) to the extent feasible, obtaining, whether by purchase, purchase and conversion, or lease, motor vehicles that use compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

(c) Subsection (a)(1) does not apply to law enforcement or emergency vehicles.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.

17.125.709

SECTION 5. Section 386.051(b), Health and Safety Code, is amended 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);

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

(8) air quality planning activities as provided by Section 386.252(d) [~~386.252(a)~~];

(9) a contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station for computation of creditable statewide emissions reductions as provided by Section 386.252(a) [~~386.252(a)(14)~~];

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

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

(12) the natural gas vehicle grant program [~~and clean transportation triangle program~~] established under Chapter 394;

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

(14) other programs the commission may develop that support congestion mitigation to reduce mobile source ozone precursor emissions; [~~and~~]

(15) the drayage truck incentive program established under Subchapter D-1; and

SECTION 5. Section 386.051(b), Health and Safety Code, is amended 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);

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

(8) air quality planning activities as provided by Section 386.252(d) [~~386.252(a)~~];

(9) a contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station for computation of creditable statewide emissions reductions and other reductions of air contaminants subject to the permitting requirements of Chapter 382 as provided by Section 386.252(a) [~~386.252(a)(14)~~];

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

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

(12) the natural gas vehicle grant program [~~and clean transportation triangle program~~] established under Chapter 394;

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

(14) other programs the commission may develop that support congestion mitigation to reduce mobile source ozone precursor emissions; [~~and~~]

(15) the seaport and rail yard areas emissions reduction [~~drayage truck incentive~~] program established under Subchapter D-1;

(16) the governmental alternative fuel fleet grant program established under Chapter 395.

SECTION 6. Sections 386.0515(a) and (c), Health and Safety Code, are amended.

SECTION 7. Section 386.103, Health and Safety Code, is amended.

SECTION 8. Section 386.104(j), Health and Safety Code, is amended.

No equivalent provision.

SECTION 9. Chapter 386, Health and Safety Code, is amended.

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(16) conducting research and other activities associated with making any necessary demonstrations in the state's air quality state implementation plan submitted to the United States Environmental Protection Agency that the excess emissions reported for an area are the result of a foreign emissions source or an exceptional event; and

(17) the governmental alternative fuel fleet grant program established under Chapter 395.

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version.

SECTION 8. Same as engrossed version.

SECTION 9. Sections 386.116(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a) In this section, "small business" means a business owned by a person who:

(1) owns and operates not more than five ~~two~~ vehicles, one of which is:

(A) an on-road diesel ~~[with a pre-1994 engine model]~~; or

(B) a non-road diesel ~~[with an engine with uncontrolled emissions]~~; and

(2) has owned the vehicle described by Subdivision (1)(A) or (B) for more than two years ~~[one year]~~.

(b) The commission ~~[by rule]~~ shall develop a method of providing fast and simple access to grants under this subchapter for a small business. The method must:

(1) create a separate small business grant program; or

(2) require the commission to give special consideration to small businesses when implementing another program established under this subchapter.

(c) The commission shall publicize and promote the availability of grants under this subchapter for small businesses ~~[section]~~ to encourage the use of vehicles that produce fewer emissions.

SECTION 10. Same as engrossed version.

17.125.709

No equivalent provision.

No equivalent provision.

SECTION 10. Section 386.181(a), Health and Safety Code, is amended to read as follows:

(a) In this subchapter,

"drayage truck" means a truck or land-based equipment that transports a load to, ~~or~~ from, or in a seaport or rail yard.

SECTION 11. Section 386.182(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall:

(1) develop a purchase incentive program to encourage owners to replace drayage trucks with pre-2007 model year engines or engines certified to an emission rate equivalent to a pre-2007 model year engine; and

(2) ~~[with newer drayage trucks and shall]~~ adopt guidelines necessary to implement the program described by Subdivision (1).

SECTION 11. The heading to Subchapter D-1, Chapter 386, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D-1. SEAPORT AND RAIL YARD AREAS EMISSIONS REDUCTION ~~[DRAYAGE—TRUCK INCENTIVE]~~ PROGRAM

SECTION 12. The heading to Section 386.181, Health and Safety Code, is amended to read as follows:

Sec. 386.181. DEFINITIONS ~~[DEFINITION]~~; RULES.

SECTION 13. Section 386.181(a), Health and Safety Code, is amended to read as follows:

(a) In this subchapter:

(1) "Cargo handling equipment" means any heavy-duty non-road, self-propelled vehicle or land-based equipment used at a seaport or rail yard to lift or move cargo, such as containerized, bulk, or break-bulk goods.

(2) "Drayage [~~,"drayage]~~ truck" means a heavy-duty on-road or non-road vehicle that is used for drayage activities and that operates in or transgresses through ~~[truck that transports a load to or from]~~ a seaport or rail yard for the purpose of loading, unloading, or transporting cargo, including transporting empty containers and chassis.

SECTION 14. Section 386.182, Health and Safety Code, is amended to read as follows:

Sec. 386.182. COMMISSION DUTIES.

(a) The commission shall:

(1) develop a purchase incentive program to encourage owners to replace older drayage trucks and cargo handling equipment ~~[with pre-2007 model year engines]~~ with newer drayage trucks and cargo handling equipment; and

(2) ~~[shall]~~ adopt guidelines necessary to implement the program described by Subdivision (1).

(b) The commission by rule and guideline shall establish criteria for the models of drayage trucks and cargo handling equipment that are eligible for inclusion in an incentive program under this subchapter. ~~[The guidelines must provide that a drayage truck owner is not eligible for an incentive payment under this~~

~~subchapter unless the truck being replaced contains a pre-2007 model year engine and the replacement truck's engine is from model year 2010 or later as determined by the commission and that the truck operates at a seaport or rail yard.]~~

No equivalent provision.

SECTION 15. The heading to Section 386.183, Health and Safety Code, is amended to read as follows:

Sec. 386.183. DRAYAGE TRUCK AND CARGO HANDLING EQUIPMENT PURCHASE INCENTIVE.

No equivalent provision.

SECTION 16. Section 386.183, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (d), and (e) and adding Subsection (a-1) to read as follows:

(a) To be eligible for an incentive under this subchapter, a person must:

(1) purchase a replacement drayage truck or cargo handling equipment that under Subsection (a-1)(1) and the guidelines adopted by the commission under Section 386.182 is eligible for inclusion in the program for an incentive under this subchapter; and

(2) agree to:

(A) register the drayage truck in this state, if the replacement vehicle is an on-road drayage truck;

(B) operate the drayage truck or cargo handling equipment in and within a maximum distance established by the commission of a seaport or rail yard in a nonattainment area of this state for not less than 50 percent of the truck's or equipment's [vehicle's] annual mileage or hours of operation, as determined by the commission; and

(C) permanently remove the [a pre-2007] drayage truck or cargo handling equipment replaced under the program [containing a pre-2007 engine owned by the person] from operation in a nonattainment area of this state by destroying the engine and scrapping the truck or equipment after the purchase of the replacement [new] truck or equipment in accordance with guidelines established by the commission.

(a-1) To be eligible for purchase under this program a drayage truck or cargo handling equipment must:

(1) be powered by an electric motor or contain an engine certified to the current

federal emissions standards applicable to that type of engine, as determined by the commission; and

(2) emit oxides of nitrogen at a rate that is at least 25 percent less than the rate at which the truck or equipment being replaced under the program emits such pollutants.

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

(c) Not more than one incentive may be provided for each drayage truck or piece of cargo handling equipment purchased.

(d) An incentive provided under this subchapter may be used to fund not more than 80 percent of the purchase price of the drayage truck or cargo handling equipment.

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

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

(2) permanently destroys the engine and scraps the drayage truck or cargo handling equipment replaced under the program [~~that contained the pre-2007 engine owned or leased by the person~~], in accordance with guidelines established by the commission, after the purchase of the replacement [~~new~~] truck or equipment.

No equivalent provision.

SECTION 17. Section 386.205, Health and Safety Code, is amended to read as follows:

Sec. 386.205. EVALUATION OF UTILITY COMMISSION AND COMPTROLLER ENERGY EFFICIENCY PROGRAMS. (a) In cooperation with the laboratory, the utility commission shall provide an annual report to the commission that, by county, quantifies the reductions of energy demand, peak loads, and associated emissions of air contaminants achieved from programs implemented by the state energy conservation office and from programs implemented under Section

SECTION 12. Section 386.252, Health and Safety Code, is amended to read as follows:

Sec. 386.252. USE OF FUND. (a) Money in the fund may be used only to implement and administer programs established under the plan. Subject to the reallocation of funds by the commission under Subsection (g), and with the exception of money appropriated to the commission for the governmental alternative fuel fleet grant program under Subsection (f), money [Money] appropriated to the commission to be used for the programs under Section 386.051(b) shall initially be allocated as follows:

- (1) [~~not more than~~] four percent may be used for the clean school bus program under Chapter 390;
- (2) [~~not more than~~] three percent may be used for the new technology implementation grant program under Chapter 391, from which at least \$1 million will be set aside for electricity storage projects related to renewable energy;
- (3) five percent may [~~shall~~] be used for the clean fleet program under Chapter 392;
- (4) not more than \$3 million may be used by the commission to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;
- (5) [~~not less than~~] 16 percent may [~~shall~~] be used for the Texas natural gas vehicle grant program under Chapter 394;
- (6) 10 [~~not more than five~~] percent may be used [~~to provide grants for natural gas fueling stations under the clean transportation triangle program under Section 394.010;~~]

39.905, Utilities Code.

(b) The report must also quantify the reductions in the emissions of each air contaminant subject to the permitting requirements of Chapter 382.

SECTION 18. Section 386.252, Health and Safety Code, is amended to read as follows:

Sec. 386.252. USE OF FUND. (a) Money in the fund may be used only to implement and administer programs established under the plan. Subject to the reallocation of funds by the commission under Subsection (g), money [Money] appropriated to the commission to be used for the programs under Section 386.051(b) shall initially be allocated as follows:

- (1) [~~not more than~~] four percent may be used for the clean school bus program under Chapter 390;
- (2) [~~not more than~~] three percent may be used for the new technology implementation grant program under Chapter 391, from which at least \$1 million will be set aside for electricity storage projects related to renewable energy;
- (3) five percent may [~~shall~~] be used for the clean fleet program under Chapter 392;
- (4) not more than \$1.5 [~~\$3~~] million may be used by the commission to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;
- (5) 10 [~~not less than 16~~] percent may [~~shall~~] be used for the Texas natural gas vehicle grant program under Chapter 394;
- (6) not more than \$6 million [~~five percent~~] may be used [~~to provide grants for natural gas fueling stations under the clean transportation triangle program under Section 394.010;~~]

~~[(7) not more than five percent may be used]~~ for the Texas alternative fueling facilities program under Chapter 393, of which a specified amount may be used for fueling stations to provide natural gas fuel;

~~(7) [(8)]~~ a specified amount may be used each year to support research related to air quality as provided by Chapter 387;

~~(8) [(9)]~~ not more than \$200,000 may be used for a health effects study[;

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

~~(9) [(11)]~~ at least \$4 million and up to four percent to a maximum of \$7 million, whichever is greater, is allocated to the commission for administrative costs and costs for conducting outreach and education activities to promote participation in the programs funded under this section;

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

~~(11) [(13) not more than]~~ five percent may be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D;

~~(12) [(14)]~~ not more than \$216,000 is allocated to the commission to contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan;

~~[(7) not more than five percent may be used]~~ for the Texas alternative fueling facilities program under Chapter 393, of which a specified amount may be used for fueling stations to provide natural gas fuel, except that money may not be allocated for the Texas alternative fueling facilities program for the state fiscal year ending August 31, 2019;

~~(7) [(8)]~~ not more than \$750,000 ~~[a specified amount]~~ may be used each year to support research related to air quality as provided by Chapter 387;

~~(8) [(9)]~~ not more than \$200,000 may be used for a health effects study[;

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

~~(9) [(11)]~~ at least \$4 million and up to four percent to a maximum of \$8 ~~[\$7]~~ million, whichever is greater, is allocated to the commission for administrative costs, including all direct and indirect costs for administering the plan and costs for conducting outreach and education activities;

~~(10) six [(12) at least two]~~ percent ~~[and up to five percent of the fund]~~ is to be used by the commission for the seaport and rail yard areas emissions reduction [drayage truck incentive] program established under Subchapter D-1;

~~(11) [(13) not more than]~~ five percent may be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D;

~~(12) [(14)]~~ not more than \$216,000 is allocated to the commission to contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station annually for the development and annual computation of creditable statewide emissions reductions and other reductions of air contaminants subject to the permitting requirements of Chapter 382 that are obtained through wind and other renewable energy resources for the state implementation plan;

~~(13)~~ not more than \$500,000 may be used by the commission to conduct research and other activities associated with making any necessary demonstrations in the state's air quality state implementation plan

~~[(15) 1.5 percent of the money in the fund is allocated for administrative costs incurred by the laboratory;] and~~
~~(13) [(16)]~~ the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

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

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

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

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

~~[(2) the commission finds that the reallocation of some or all of the funding for the program would resolve the noncompliance.~~

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

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

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

submitted to the United States Environmental Protection Agency that the excess emissions reported for an area are the result of a foreign emissions source or an exceptional event

~~[(15) 1.5 percent of the money in the fund is allocated for administrative costs incurred by the laboratory]; and~~
~~(14) [(16)]~~ the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

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

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

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

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

~~[(2) the commission finds that the reallocation of some or all of the funding for the program would resolve the noncompliance.~~

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

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

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

(c) [~~(g)~~] If the legislature does not specify amounts or percentages from the total appropriation to the commission to be allocated under Subsection (a) or (b) [~~(f)~~], the commission shall determine the amounts of the total appropriation to be allocated under each of those subsections, such that the total appropriation is expended while maximizing emissions reductions.

(d) To supplement funding for air quality planning activities in affected counties, \$500,000 from the fund is to be deposited annually in the state treasury to the credit of the clean air account created under Section 382.0622.

(e) Money in the fund may be allocated for administrative costs incurred by the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station as may be appropriated by the legislature.

(f) To the extent that money is appropriated from the fund for that purpose, the commission may use that money to award grants under the governmental alternative fuel fleet grant program established under Chapter 395, except that the commission may not use for that purpose more than three percent of the balance of the fund as of September 1 of each state fiscal year of the biennium for the governmental alternative fuel fleet grant program in that fiscal year.

(g) [~~(h)~~] Subject to the limitations outlined in this section and any additional limitations placed on the use of the appropriated funds, money allocated under this section to a particular program may be used for another program under the plan as determined by the commission, based on demand for grants for eligible projects under particular programs after the commission solicits projects to which to award grants according to the initial allocation provisions of this section.

SECTION 13. Section 390.002(b), Health and Safety Code, is amended.

SECTION 14. Section 390.004, Health and Safety Code, is amended.

SECTION 15. Section 390.005, Health and Safety Code, is amended.

(c) [~~(g)~~] If the legislature does not specify amounts or percentages from the total appropriation to the commission to be allocated under Subsection (a) or (b) [~~(f)~~], the commission shall determine the amounts of the total appropriation to be allocated under each of those subsections, such that the total appropriation is expended while maximizing emissions reductions.

(d) To supplement funding for air quality planning activities in affected counties, \$500,000 from the fund is to be deposited annually in the state treasury to the credit of the clean air account created under Section 382.0622.

(e) Money in the fund may be allocated for administrative costs incurred by the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station as may be appropriated by the legislature.

(f) To the extent that money is appropriated from the fund for that purpose, the commission may use that money to award grants under the governmental alternative fuel fleet grant program established under Chapter 395, except that the commission may not use for that purpose more than three percent of the balance of the fund as of September 1 of each state fiscal year of the biennium for the governmental alternative fuel fleet grant program in that fiscal year.

(g) [~~(h)~~] Subject to the limitations outlined in this section and any additional limitations placed on the use of the appropriated funds, money allocated under this section to a particular program may be used for another program under the plan as determined by the commission, based on demand for grants for eligible projects under particular programs after the commission solicits projects to which to award grants according to the initial allocation provisions of this section.

SECTION 19. Same as engrossed version.

SECTION 20. Same as engrossed version.

SECTION 21. Same as engrossed version.

SECTION 16. Section 390.006, Health and Safety Code, is amended.

SECTION 17. Section 391.002(b), Health and Safety Code, is amended to read as follows:

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

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

(2) new technology projects that reduce emissions of regulated pollutants from stationary [point] sources;

(3) new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through:

(A) the replacement, repower, or retrofit of stationary compressor engines;

(B) the installation of systems to reduce or eliminate the loss of gas, flaring of gas, or burning of gas using other combustion control devices; or

(C) the installation of systems that reduce flaring emissions and other site emissions by capturing waste heat to generate electricity; and

(4) [~~3~~] electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use.

SECTION 18. Section 391.102(f), Health and Safety Code, is amended.

SECTION 19. Section 391.104, Health and Safety Code, is amended.

SECTION 20. Section 391.205(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Subsection (c), in awarding grants under this chapter the commission shall give preference to projects that:

(1) involve the transport, use, recovery for use, or prevention of the loss of natural resources originating or produced in this state;

(2) contain an energy efficiency component; [~~or~~]

SECTION 22. Same as engrossed version.

SECTION 23. Section 391.002(b), Health and Safety Code, is amended to read as follows:

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

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

(2) new technology projects that reduce emissions of regulated pollutants from stationary [point] sources;

(3) new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through:

(A) the replacement, repower, or retrofit of stationary compressor engines;

(B) the installation of systems to reduce or eliminate the loss of gas, flaring of gas, or burning of gas using other combustion control devices; or

(C) the installation of systems that reduce flaring emissions and other site emissions by capturing waste heat to generate electricity solely for on-site service; and

(4) [~~3~~] electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use.

SECTION 24. Same as engrossed version.

SECTION 25. Same as engrossed version.

SECTION 26. Section 391.205(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Subsection (c), in awarding grants under this chapter the commission shall give preference to projects that:

(1) involve the transport, use, recovery for use, or prevention of the loss of natural resources originating or produced in this state;

(2) contain an energy efficiency component; [~~or~~]

(3) include the use of solar, wind, or other renewable energy sources; or
(4) recover waste heat from the flaring of natural resources for the purpose of generating electricity.

SECTION 21. Section 391.304, Health and Safety Code, is amended.

SECTION 22. Section 392.001(1), Health and Safety Code, is amended.

No equivalent provision.

SECTION 23. Section 392.003(a), Health and Safety Code, is amended.

SECTION 24. Section 392.004(d), Health and Safety Code, is amended.

SECTION 25. Section 392.005, Health and Safety Code, is amended.

SECTION 26. Section 392.008, Health and Safety Code, is amended.

SECTION 27. Section 393.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (4) to read as follows:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquefied [~~liquified~~] natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(1-a) "Clean transportation zone" means:
(A) counties containing or intersected by a portion of an interstate highway connecting the cities of Houston, San Antonio, Dallas, and Fort Worth;

(3) include the use of solar, wind, or other renewable energy sources; or
(4) recover waste heat from the combustion of natural resources and use the heat to generate electricity.

SECTION 27. Same as engrossed version.

SECTION 28. Same as engrossed version.

SECTION 29. Sections 392.002(b) and (c), Health and Safety Code, are amended to read as follows:

(b) An entity that places 10 [~~20~~] or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

(c) Notwithstanding Subsection (b), an entity that submits a grant application for 10 [~~20~~] or more qualifying vehicles is eligible to participate in the program even if the commission denies approval for one or more of the vehicles during the application process.

SECTION 30. Same as engrossed version.

SECTION 31. Same as engrossed version.

SECTION 32. Same as engrossed version.

SECTION 33. Same as engrossed version.

SECTION 34. Section 393.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquefied [~~liquified~~] natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(1-a) "Clean transportation zone" means:
(A) counties containing or intersected by a portion of an interstate highway connecting the cities of Houston, San Antonio, Dallas, and Fort Worth;

(B) counties located within the area bounded by the interstate highways described by Paragraph (A);

(C) counties containing or intersected by a portion of:

(i) an interstate highway connecting San Antonio to Corpus Christi or Laredo; or

(ii) the most direct route using highways in the state highway system connecting Corpus Christi and Laredo;

(D) counties located within the area bounded by the highways described by Paragraph (C);

(E) counties in this state all or part of which are included in a nonattainment area designated under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407); and

(F) counties designated as affected counties under Section 386.001.

(4) "State highway" means a highway in this state included in the plan providing for a system of state highways prepared by the executive director of the Texas Department of Transportation under Section 201.103, Transportation Code.

SECTION 28. Section 393.002, Health and Safety Code, is amended.

SECTION 29. Section 393.003, Health and Safety Code, is amended.

SECTION 30. Section 393.004, Health and Safety Code, is amended.

SECTION 31. Section 393.005, Health and Safety Code, is amended.

SECTION 32. Section 393.006, Health and Safety Code, is amended.

SECTION 33. Section 393.007, Health and Safety Code, is amended.

SECTION 34. Section 394.001, Health and Safety Code, is amended by amending Subdivisions (1), (4), (5), and (8) and adding Subdivisions (1-a) and (7-a) to read as follows:

(1) "Clean transportation zone" has the meaning assigned by Section 393.001 [~~"Advisory board" means the Texas Emissions Reduction Plan Advisory Board~~].

(B) counties located within the area bounded by the interstate highways described by Paragraph (A);

(C) counties containing or intersected by a portion of:

(i) an interstate highway connecting San Antonio to Corpus Christi or Laredo; or

(ii) the most direct route using highways in the state highway system connecting Corpus Christi and Laredo;

(D) counties located within the area bounded by the highways described by Paragraph (C);

(E) counties in this state all or part of which are included in a nonattainment area designated under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407); and

(F) counties designated as affected counties under Section 386.001.

SECTION 35. Same as engrossed version.

SECTION 36. Same as engrossed version.

SECTION 37. Same as engrossed version.

SECTION 38. Same as engrossed version.

SECTION 39. Same as engrossed version.

SECTION 40. Same as engrossed version.

SECTION 41. Section 394.001, Health and Safety Code, is amended by amending Subdivisions (1), (4), (5), and (8) and adding Subdivisions (1-a) and (7-a) to read as follows:

(1) "Clean transportation zone" has the meaning assigned by Section 393.001 [~~"Advisory board" means the Texas Emissions Reduction Plan Advisory Board~~].

(1-a) "Certified" includes:

(A) new vehicle or new engine certification by the United States Environmental Protection Agency; or

(B) certification or approval by the United States Environmental Protection Agency of a system to convert a vehicle or engine to operate on an alternative fuel and a demonstration by the emissions data used to certify or approve the vehicle or engine, if the commission determines the testing used to obtain the emissions data is consistent with the testing required for approval of an alternative fuel conversion system for new and relatively new vehicles or engines under 40 C.F.R. Part 85.

(4) "Heavy-duty motor vehicle" means a motor vehicle that [with]:

(A) has a gross vehicle weight rating of more than 8,500 pounds; and

(B) is certified to or has an engine certified to the United States Environmental Protection Agency's emissions standards for heavy-duty vehicles or engines.

(5) "Incremental cost" has the meaning assigned by Section 386.001 [~~means the difference between the manufacturer's suggested retail price of a baseline vehicle, the documented dealer price of a baseline vehicle, cost to lease or otherwise commercially finance a baseline vehicle, cost to repower with a baseline engine, or other appropriate baseline cost established by the commission, and the actual cost of the natural gas vehicle purchase, lease, or other commercial financing, or repower~~].

(7-a) "Natural gas engine" means an engine that operates:

(A) solely on compressed or liquefied natural gas; or

(B) on a combination of diesel fuel and compressed or liquefied natural gas and is capable of achieving at least 60 percent displacement of diesel fuel with natural gas.

(8) "Natural gas vehicle" means a motor vehicle that is powered by a natural gas engine [~~receives not less than 75 percent of its power from compressed or liquefied natural gas~~].

SECTION 35. Section 394.003(a), Health and Safety Code, is amended.

(1-a) "Certified" includes:

(A) new vehicle or new engine certification by the United States Environmental Protection Agency; or

(B) certification or approval by the United States Environmental Protection Agency of a system to convert a vehicle or engine to operate on an alternative fuel and a demonstration by the emissions data used to certify or approve the vehicle or engine, if the commission determines the testing used to obtain the emissions data is consistent with the testing required for approval of an alternative fuel conversion system for new and relatively new vehicles or engines under 40 C.F.R. Part 85.

(4) "Heavy-duty motor vehicle" means a motor vehicle that [with]:

(A) has a gross vehicle weight rating of more than 8,500 pounds; and

(B) is certified to or has an engine certified to the United States Environmental Protection Agency's emissions standards for heavy-duty vehicles or engines.

(5) "Incremental cost" has the meaning assigned by Section 386.001 [~~means the difference between the manufacturer's suggested retail price of a baseline vehicle, the documented dealer price of a baseline vehicle, cost to lease or otherwise commercially finance a baseline vehicle, cost to repower with a baseline engine, or other appropriate baseline cost established by the commission, and the actual cost of the natural gas vehicle purchase, lease, or other commercial financing, or repower~~].

(7-a) "Natural gas engine" means an engine that operates:

(A) solely on natural gas, including compressed natural gas, liquefied natural gas, or liquefied petroleum gas; or

(B) on a combination of diesel fuel and natural gas, including compressed natural gas, liquefied natural gas, or liquefied petroleum gas, and is capable of achieving at least 60 percent displacement of diesel fuel with natural gas.

(8) "Natural gas vehicle" means a motor vehicle that is powered by a natural gas engine [~~receives not less than 75 percent of its power from compressed or liquefied natural gas~~].

SECTION 42. Same as engrossed version.

SECTION 36. Section 394.005, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (f), (g), and (i) and adding Subsection (c-1) to read as follows:

(a) The commission [~~by rule~~] shall establish criteria for prioritizing qualifying vehicles eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate [~~after consultation with the advisory board~~].

(b) To be eligible for a grant under the program:

(1) the use of the qualifying vehicle must be projected to result in a reduction in emissions of nitrogen oxides of at least 25 percent as compared to the motor vehicle or engine being replaced, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) the qualifying vehicle must:

(A) replace a heavy-duty or medium-duty motor vehicle that:

(i) is an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(iii) satisfies any minimum percentage of annual usage requirements established by the commission; and

(iv) is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the commission; [~~or~~]

(B) replace a heavy-duty or medium-duty motor vehicle that:

(i) is owned by the applicant;

(ii) is an on-road vehicle that has been:

(a) owned, leased, or otherwise commercially financed and operated in Texas as a fleet vehicle for at least the two years immediately preceding the submission of a grant application; and

(b) registered in a county located in the clean transportation zone for at least the two years immediately preceding the submission of a grant application; and

(iii) otherwise satisfies the mileage, usage, and useful life requirements established

SECTION 43. Section 394.005, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (f), (g), and (i) and adding Subsection (c-1) to read as follows:

(a) The commission [~~by rule~~] shall establish criteria for prioritizing qualifying vehicles eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate [~~after consultation with the advisory board~~].

(b) To be eligible for a grant under the program:

(1) the use of the qualifying vehicle must be projected to result in a reduction in emissions of nitrogen oxides of at least 25 percent as compared to the motor vehicle or engine being replaced, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) the qualifying vehicle must:

(A) replace a heavy-duty or medium-duty motor vehicle that:

(i) is an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(iii) satisfies any minimum percentage of annual usage requirements established by the commission; and

(iv) is in operating condition and has at least four [~~two~~] years of remaining useful life, as determined in accordance with criteria established by the commission; [~~or~~]

(B) replace a heavy-duty or medium-duty motor vehicle that:

(i) is owned by the applicant;

(ii) is an on-road vehicle that has been:

(a) owned, leased, or otherwise commercially financed and operated in Texas as a fleet vehicle for at least the two years immediately preceding the submission of a grant application; and

(b) registered in a county located in the clean transportation zone for at least the two years immediately preceding the submission of a grant application; and

(iii) otherwise satisfies the mileage, usage, and useful life requirements established

under Paragraph (A) as determined by documentation associated with the vehicle;
or

(C) be a heavy-duty or medium-duty motor vehicle repowered with a natural gas engine that:

(i) is installed in an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(iii) satisfies any minimum percentage of annual usage requirements established by the commission; and

(iv) is installed in an on-road vehicle that, at the time of the vehicle's repowering, was in operating condition and had at least ~~two~~ years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, leased, or otherwise commercially financed and registered and operated in the state by the grant recipient until the earlier of the fourth anniversary of the activity start date established by the commission [~~the date of reimbursement of the grant-funded expenses~~] or [~~until~~] the date the vehicle has been in operation for 400,000 miles after the activity start date established by the commission [~~of reimbursement~~]. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the clean transportation zone[-:

~~[(1) the counties any part of which are included in the area described by Section 394.010(a); or~~

~~[(2) counties designated as nonattainment areas within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407)].~~

(c-1) For purposes of Subsection (c), the commission shall establish the activity start date based on the date the commission accepts verification of the disposition of the vehicle or engine.

(f) A heavy-duty or medium-duty motor vehicle replaced under this program must

under Paragraph (A) as determined by documentation associated with the vehicle;
or

(C) be a heavy-duty or medium-duty motor vehicle repowered with a natural gas engine that:

(i) is installed in an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(iii) satisfies any minimum percentage of annual usage requirements established by the commission; and

(iv) is installed in an on-road vehicle that, at the time of the vehicle's repowering, was in operating condition and had at least ~~two~~ four years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, leased, or otherwise commercially financed and registered and operated in the state by the grant recipient until the earlier of the fourth anniversary of the activity start date established by the commission [~~the date of reimbursement of the grant-funded expenses~~] or [~~until~~] the date the vehicle has been in operation for 400,000 miles after the activity start date established by the commission [~~of reimbursement~~]. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the clean transportation zone[-:

~~[(1) the counties any part of which are included in the area described by Section 394.010(a); or~~

~~[(2) counties designated as nonattainment areas within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407)].~~

(c-1) For purposes of Subsection (c), the commission shall establish the activity start date based on the date the commission accepts verification of the disposition of the vehicle or engine.

(f) A heavy-duty or medium-duty motor vehicle replaced under this program must

be rendered permanently inoperable by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by the commission, or be [that] permanently removed [removes the vehicle] from operation in this state. The commission shall establish criteria for ensuring the permanent destruction or permanent removal of the engine or vehicle. The commission shall enforce the destruction and removal requirements. For purposes of this subsection, "permanent removal" means the permanent export of the vehicle or engine to a destination outside of the United States, Canada, or the United Mexican States.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty or medium-duty motor vehicles being replaced or repowered by using the emission certification for the engine or vehicle being replaced. The commission may consider deterioration of the emission performance of the engine of the vehicle being replaced in establishing the baseline emission level. The commission may consider and establish baseline emission rates for additional pollutants of concern~~;~~ as determined by the commission after consultation with the advisory board].

(i) The executive director may [shall] waive the requirements of Subsection (b)(2)(A)(i) or (B)(ii) on a finding of good cause, which may include short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

SECTION 37. Section 394.006, Health and Safety Code, is amended.

SECTION 38. Section 394.007(c), Health and Safety Code, is amended.

SECTION 39. Sections 394.008(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The commission shall establish [adopt] procedures for:

(1) awarding grants under this chapter to reimburse eligible costs; [in the form of

be rendered permanently inoperable by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by the commission, or be [that] permanently removed [removes the vehicle] from operation in this state. The commission shall establish criteria for ensuring the permanent destruction or permanent removal of the engine or vehicle. The commission shall enforce the destruction and removal requirements. For purposes of this subsection, "permanent removal" means the permanent export of the vehicle or engine to a destination outside of the United States, Canada, or the United Mexican States.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty or medium-duty motor vehicles being replaced or repowered by using the emission certification for the engine or vehicle being replaced. The commission may consider deterioration of the emission performance of the engine of the vehicle being replaced in establishing the baseline emission level. The commission may consider and establish baseline emission rates for additional pollutants of concern~~;~~ as determined by the commission after consultation with the advisory board].

(i) The executive director may [shall] waive the requirements of Subsection (b)(2)(A)(i) or (B)(ii) on a finding of good cause, which may include short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

SECTION 44. Same as engrossed version.

SECTION 45. Same as engrossed version.

SECTION 46. Sections 394.008(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The commission shall establish [adopt] procedures for:

(1) awarding grants under this chapter to reimburse eligible costs; [in the form of

rebates; and]

(2) streamlining the grant application, contracting, reimbursement, and reporting process for qualifying natural gas vehicle purchases or repowers; and

(3) preapproving the award of grants to applicants who propose to purchase and replace motor vehicles described by Section 394.005(b)(2)(B).

(b) Procedures established ~~[adopted]~~ under this section must:

(1) provide for the commission to compile and regularly update a listing of potentially eligible ~~[preapproved]~~ natural gas vehicles and engines powered by natural gas that are certified to the appropriate current federal emissions standards as determined by the commission[~~:-~~

~~[(A) powered by natural gas engines certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or~~

~~[(B) certified to the United States Environmental Protection Agency's light-duty Bin 5 standard or better];~~

(2) ~~[if a federal standard for the calculation of emissions reductions exists,]~~ provide a method to calculate the reduction in emissions of nitrogen oxides, volatile organic compounds, carbon monoxide, particulate matter, and sulfur compounds for each replacement or repowering;

(3) assign a standardized grant ~~[rebate]~~ amount for each qualifying vehicle or engine repower under Section 394.007;

(4) allow for processing applications ~~[rebates]~~ on an ongoing first-come, first-served basis;

(5) ~~[provide for contracts between the commission and participating dealers under Section 394.009;~~

~~[(6) allow grant recipients to assign their grant funds to participating dealers to offset the purchase or lease price;~~

~~[(7)]~~ require grant applicants to identify natural gas fueling stations that are available to fuel the qualifying vehicle in the area of its use;

(6) ~~[(8)]~~ provide for payment not later than the 30th day after the date the request for reimbursement for an approved grant is received;

(7) ~~[(9)]~~ provide for application submission and application status checks using procedures established by the

rebates; and]

(2) streamlining the grant application, contracting, reimbursement, and reporting process for qualifying natural gas vehicle purchases or repowers; and

(3) preapproving the award of grants to applicants who propose to purchase and replace motor vehicles described by Section 394.005(b)(2)(B).

(b) Procedures established ~~[adopted]~~ under this section must:

(1) provide for the commission to compile and regularly update a listing of potentially eligible ~~[preapproved]~~ natural gas vehicles and natural gas engines that are certified to the appropriate current federal emissions standards as determined by the commission[~~:-~~

~~[(A) powered by natural gas engines certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or~~

~~[(B) certified to the United States Environmental Protection Agency's light-duty Bin 5 standard or better];~~

(2) ~~[if a federal standard for the calculation of emissions reductions exists,]~~ provide a method to calculate the reduction in emissions of nitrogen oxides, volatile organic compounds, carbon monoxide, particulate matter, and sulfur compounds for each replacement or repowering;

(3) assign a standardized grant ~~[rebate]~~ amount for each qualifying vehicle or engine repower under Section 394.007;

(4) allow for processing applications ~~[rebates]~~ on an ongoing first-come, first-served basis;

(5) ~~[provide for contracts between the commission and participating dealers under Section 394.009;~~

~~[(6) allow grant recipients to assign their grant funds to participating dealers to offset the purchase or lease price;~~

~~[(7)]~~ require grant applicants to identify natural gas fueling stations that are available to fuel the qualifying vehicle in the area of its use;

(6) ~~[(8)]~~ provide for payment not later than the 30th day after the date the request for reimbursement for an approved grant is received;

(7) ~~[(9)]~~ provide for application submission and application status checks using procedures established by the

commission, which may include application submission and status checks to be made over the Internet; and
(8) [(40)] consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting requirements.

SECTION 40. Section 394.012, Health and Safety Code, is amended.

SECTION 41. Subtitle C, Title 5, Health and Safety Code, is amended.

No equivalent provision.

No equivalent provision.

No equivalent provision.

commission, which may include application submission and status checks to be made over the Internet; and
(8) [(40)] consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting requirements.

SECTION 47. Same as engrossed version.

SECTION 48. Same as engrossed version.

SECTION 49. Section 151.0515(d), Tax Code, is amended to read as follows:

(d) This section expires on the last day of the state fiscal biennium during which the United States Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the agency has, for each designated area under that section:

(1) designated the area as attainment or unclassifiable; or

(2) approved a redesignation substitute making a finding of attainment for the area [August 31, 2019].

SECTION 50. Section 152.0215(c), Tax Code, is amended to read as follows:

(c) This section expires on the last day of the state fiscal biennium during which the United States Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the agency has, for each designated area under that section:

(1) designated the area as attainment or unclassifiable; or

(2) approved a redesignation substitute making a finding of attainment for the area [August 31, 2019].

SECTION 51. Sections 501.138(b-1), (b-2), and (b-3), Transportation Code, are amended to read as follows:

(b-1) Fees collected under Subsection (b) to be sent to the comptroller shall be deposited to the credit of the Texas

Mobility Fund[, ~~except that \$5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, shall be deposited to the credit of the Texas emissions reduction plan fund~~].

(b-2) The comptroller shall establish a record of the amount of the fees deposited to the credit of the Texas Mobility Fund under Subsection (b-1) that are attributable to applicants described by Subsection (b)(3)(A). On or before the fifth workday of each month, the Texas Department of Transportation shall remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (b-1) that are attributable to applicants described by Subsection (b)(3)(A) in the preceding month. The Texas Department of Transportation shall use for remittance to the comptroller as required by this subsection money in the state highway fund that is not required to be used for a purpose specified by Section 7-a, Article VIII, Texas Constitution, and may not use for that remittance money received by this state under the congestion mitigation and air quality improvement program established under 23 U.S.C. Section 149.

(b-3) This subsection and Subsection (b-2) expire August 31, 2021 [~~2019~~].

No equivalent provision.

SECTION 52. Section 502.358(c), Transportation Code, is amended to read as follows:

(c) This section expires on the last day of the state fiscal biennium during which the United States Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the agency has, for each designated area under that section:

(1) designated the area as attainment or unclassifiable; or

(2) approved a redesignation substitute making a finding of attainment for the area [~~August 31, 2019~~].

No equivalent provision.

SECTION 53. The heading to Section

548.5055, Transportation Code, is amended to read as follows:
Sec. 548.5055. TEXAS EMISSIONS [~~EMISSION~~] REDUCTION PLAN FEE.

No equivalent provision.

SECTION 54. Sections 548.5055(b) and (c), Transportation Code, are amended to read as follows:

(b) The department shall remit fees collected under this section to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emissions [~~emission~~] reduction plan fund.

(c) This section expires on the last day of the state fiscal biennium during which the United States Environmental Protection Agency publishes in the Federal Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the agency has, for each designated area under that section:

(1) designated the area as attainment or unclassifiable; or

(2) approved a redesignation substitute making a finding of attainment for the area [August 31, 2019].

SECTION 42. Sections 394.009, 394.010, and 394.011, Health and Safety Code, are repealed.

SECTION 55. Same as engrossed version.

SECTION 43. The changes in law made by this Act apply only to a Texas emissions reduction plan grant awarded on or after the effective date of this Act. A grant awarded before the effective date of this Act is governed by the law in effect on the date the award was made, and the former law is continued in effect for that purpose.

SECTION 56. (a) The changes in law made by this Act apply only to a Texas emissions reduction plan grant awarded on or after the effective date of this Act. A grant awarded before the effective date of this Act is governed by the law in effect on the date the award was made, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 501.138, Transportation Code, apply only to a fee collected on or after the effective date of this Act. A fee collected before the effective date of this Act is governed by the law in effect when the fee was collected, and the former law is continued in effect for that purpose.

SECTION 44. This Act takes effect August 30, 2017.

SECTION 57. Same as engrossed version.