

By: Estes, et al.

S.B. No. 26

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan and other related programs and measures to reduce emissions.

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

SECTION 1. Sections 2158.004(a), (b), (c), and (d), Government Code, are amended to read as follows:

(a) A state agency operating a fleet of more than 15 vehicles, excluding law enforcement and emergency vehicles, may not purchase or lease a motor vehicle unless that vehicle uses compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, hydrogen fuel cells, or electricity, including electricity to power a plug-in hybrid electric motor vehicle.

(b) A state agency may obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, hydrogen fuel cells, or electricity, including electricity to power a plug-in hybrid electric motor vehicle:

(1) by purchase or lease as authorized by law;

1 (2) by gift or loan of the equipment or facilities; or

2 (3) by gift or loan of the equipment or facilities or  
3 by another arrangement under a service contract for the supply of  
4 compressed natural gas, liquefied natural gas, liquefied petroleum  
5 gas, methanol or methanol/gasoline blends of 85 percent or greater,  
6 ethanol or ethanol/gasoline blends of 85 percent or greater,  
7 biodiesel or biodiesel/diesel blends of 20 percent or greater,  
8 hydrogen fuel cells, or electricity, including electricity to power  
9 a plug-in hybrid electric motor vehicle.

10 (c) If the equipment or facilities are donated, loaned, or  
11 provided through another arrangement with the supplier of  
12 compressed natural gas, liquefied natural gas, liquefied petroleum  
13 gas, methanol or methanol/gasoline blends of 85 percent or greater,  
14 ethanol or ethanol/gasoline blends of 85 percent or greater,  
15 biodiesel or biodiesel/diesel blends of 20 percent or greater,  
16 hydrogen fuel cells, or electricity, including electricity to power  
17 a plug-in hybrid electric motor vehicle, the supplier is entitled  
18 to recoup its actual cost of donating, loaning, or providing the  
19 equipment or facilities through its fuel charges under the supply  
20 contract.

21 (d) The commission may waive the requirements of this  
22 section for a state agency on receipt of certification supported by  
23 evidence acceptable to the commission that:

24 (1) the agency's vehicles will be operating primarily  
25 in an area in which neither the agency nor a supplier has or can  
26 reasonably be expected to establish adequate refueling for  
27 compressed natural gas, liquefied natural gas, liquefied petroleum

1 gas, methanol or methanol/gasoline blends of 85 percent or greater,  
2 ethanol or ethanol/gasoline blends of 85 percent or greater,  
3 biodiesel or biodiesel/diesel blends of 20 percent or greater,  
4 hydrogen fuel cells, or electricity, including electricity to power  
5 a plug-in hybrid electric motor vehicle; or

6 (2) the agency is unable to obtain equipment or  
7 refueling facilities necessary to operate vehicles using  
8 compressed natural gas, liquefied natural gas, liquefied petroleum  
9 gas, methanol or methanol/gasoline blends of 85 percent or greater,  
10 ethanol or ethanol/gasoline blends of 85 percent or greater,  
11 biodiesel or biodiesel/diesel blends of 20 percent or greater,  
12 hydrogen fuel cells, or electricity, including electricity to power  
13 a plug-in hybrid electric motor vehicle, at a projected cost that is  
14 reasonably expected to be no greater than the net costs of continued  
15 use of conventional gasoline or diesel fuels, measured over the  
16 expected useful life of the equipment or facilities supplied.

17 SECTION 2. Subchapter A, Chapter 2158, Government Code, is  
18 amended by adding Section 2158.0051 to read as follows:

19 Sec. 2158.0051. ALTERNATIVE FUEL FLEETS.

20 (a) Notwithstanding the purchase requirements of Section  
21 2158.004:

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

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

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

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

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

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

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

27           (c) Subsection (a)(1) does not apply to law enforcement or

1 emergency vehicles.

2 SECTION 3. Section 386.001(3), Health and Safety Code, is  
3 amended to read as follows:

4 (3) "Commission" means the Texas [~~Natural Resource~~  
5 ~~Conservation~~] Commission on Environmental Quality.

6 SECTION 4. Section 386.002, Health and Safety Code, is  
7 amended to read as follows:

8 Sec. 386.002. EXPIRATION. This chapter expires on the last  
9 day of the state fiscal biennium during which the United States  
10 Environmental Protection Agency publishes in the Federal Register  
11 certification that, with respect to each national ambient air  
12 quality standard for ozone under 40 C.F.R. Section 81.344, the  
13 agency has, for each designated area under that section:

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

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

18 SECTION 5. Section 386.051(b), Health and Safety Code, is  
19 amended to read as follows:

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

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

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

27 (3) the air quality research support program

- 1 established under Chapter 387;
- 2 (4) the clean school bus program established under  
3 Chapter 390;
- 4 (5) the new technology implementation grant program  
5 established under Chapter 391;
- 6 (6) the regional air monitoring program established  
7 under Section 386.252(a);
- 8 (7) a health effects study as provided by Section  
9 386.252(a);
- 10 (8) air quality planning activities as provided by  
11 Section 386.252(d) [~~386.252(a)~~];
- 12 (9) a contract with the Energy Systems Laboratory at  
13 the Texas A&M Engineering Experiment Station for computation of  
14 creditable statewide emissions reductions as provided by Section  
15 386.252(a) [~~386.252(a)(14)~~];
- 16 (10) the clean fleet program established under Chapter  
17 392;
- 18 (11) the alternative fueling facilities program  
19 established under Chapter 393;
- 20 (12) the natural gas vehicle grant program [~~and clean~~  
21 ~~transportation triangle program~~] established under Chapter 394;
- 22 (13) other programs the commission may develop that  
23 lead to reduced emissions of nitrogen oxides, particulate matter,  
24 or volatile organic compounds in a nonattainment area or affected  
25 county;
- 26 (14) other programs the commission may develop that  
27 support congestion mitigation to reduce mobile source ozone

1 precursor emissions; ~~and~~

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

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

6 SECTION 6. Sections 386.0515(a) and (c), Health and Safety  
7 Code, are amended to read as follows:

8 (a) In this section:

9 (1) "Agricultural~~[, ——— "agricultural]~~ product  
10 transportation" means the transportation of a raw agricultural  
11 product from the place of production using a heavy-duty truck to:

12 (A) ~~[(1)]~~ a nonattainment area;

13 (B) ~~[(2)]~~ an affected county;

14 (C) ~~[(3)]~~ a destination inside the clean  
15 transportation zone ~~[triangle]~~; or

16 (D) ~~[(4)]~~ a county adjacent to a county described  
17 by Paragraph (B) ~~[Subdivision (2)]~~ or that contains an area  
18 described by Paragraph (A) or (C) ~~[Subdivision (1) or (3)]~~.

19 (2) "Clean transportation zone" has the meaning  
20 assigned by Section 393.001.

21 (c) The determining factor for eligibility for  
22 participation in a program established under Chapter 392 or  
23 ~~[Chapter] 394~~ ~~[, — as added by Chapter 892 (Senate Bill No. 385), Acts~~  
24 ~~of the 82nd Legislature, Regular Session, 2011,~~] for a project  
25 relating to agricultural product transportation is the overall  
26 accumulative net reduction in emissions of oxides of nitrogen in a  
27 nonattainment area, an affected county, or the clean transportation

1 zone [~~triangle~~].

2 SECTION 7. Section 386.103, Health and Safety Code, is  
3 amended by adding Subsection (c) to read as follows:

4 (c) To reduce the administrative burden for the commission  
5 and applicants, the commission may streamline the application  
6 process by:

7 (1) reducing data entry and the copying and recopying  
8 of applications; and

9 (2) developing, maintaining, and periodically  
10 updating a system to accept applications electronically through the  
11 commission's Internet website.

12 SECTION 8. Section 386.104(j), Health and Safety Code, is  
13 amended to read as follows:

14 (j) The executive director may [~~shall~~] waive any  
15 eligibility requirements established under this section on a  
16 finding of good cause, which may include a waiver for short lapses  
17 in registration or operation attributable to economic conditions,  
18 seasonal work, or other circumstances.

19 SECTION 9. Chapter 386, Health and Safety Code, is amended  
20 by adding Subchapter D to read as follows:

21 SUBCHAPTER D. MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM

22 Sec. 386.151. DEFINITIONS. In this subchapter:

23 (1) "Light-duty motor vehicle" means a motor vehicle  
24 with a gross vehicle weight rating of less than 10,000 pounds.

25 (2) "Motor vehicle" means a self-propelled device  
26 designed for transporting persons or property on a public highway  
27 that is required to be registered under Chapter 502, Transportation



1 Code.

2 Sec. 386.152. APPLICABILITY. The provisions of this  
3 subchapter relating to a lessee do not apply to a person who rents  
4 or leases a light-duty motor vehicle for a term of 30 days or less.

5 Sec. 386.153. COMMISSION DUTIES REGARDING LIGHT-DUTY MOTOR  
6 VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM. (a) The commission  
7 shall develop a purchase or lease incentive program for new  
8 light-duty motor vehicles and shall adopt rules necessary to  
9 implement the program.

10 (b) The program shall authorize statewide incentives for  
11 the purchase or lease of new light-duty motor vehicles powered by  
12 compressed natural gas, liquefied petroleum gas, or hydrogen fuel  
13 cell or other electric drives for a purchaser or lessee who agrees  
14 to register and operate the vehicle in this state for a minimum  
15 period of time to be established by the commission.

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

20 (d) The commission by rule may revise the standards for the  
21 maximum unloaded vehicle weight rating and gross vehicle weight  
22 rating of an eligible vehicle to ensure that all of the vehicle  
23 weight configurations available under one general vehicle model may  
24 be eligible for an incentive.

25 Sec. 386.154. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE  
26 INCENTIVE REQUIREMENTS. (a) A new light-duty motor vehicle  
27 powered by compressed natural gas or liquefied petroleum gas is

1 eligible for a \$5,000 incentive if the vehicle:

2 (1) has four wheels;

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

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

12 (4) has a dedicated or bi-fuel compressed natural gas  
13 or liquefied petroleum gas fuel system:

14 (A) installed prior to first sale or within 500  
15 miles of operation of the vehicle following first sale; and

16 (B) with a range of at least 125 miles as  
17 estimated, published, and updated by the United States  
18 Environmental Protection Agency;

19 (5) has, as applicable, a:

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

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

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

27 (B) liquefied petroleum gas fuel system that

1 complies with:

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

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

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

10 (b) If the commission determines that an updated version of  
11 a code or standard described by Subdivision (a)(5) is more  
12 stringent than the version of the code or standard described by  
13 Subdivision (a)(5), the commission by rule may provide that a  
14 vehicle for which a person applies for an incentive under  
15 Subsection (a) is eligible for the incentive only if the vehicle  
16 complies with the updated version of the code or standard.

17 (c) The incentive under Subsection (a) is limited to 1,000  
18 vehicles for each state fiscal biennium.

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

21 (1) has four wheels;

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

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

26 (4) has a maximum speed capability of at least 55 miles  
27 per hour;

1           (5) is propelled to a significant extent by an  
2 electric motor that draws electricity from a hydrogen fuel cell or  
3 from a battery that:

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

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

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

12           (e) The incentive under Subsection (d) is limited to 2,000  
13 vehicles for each state fiscal biennium.

14           Sec. 386.155. MANUFACTURER'S REPORT. (a) At the beginning  
15 of but not later than July 1 of each year preceding the vehicle  
16 model year, a manufacturer of motor vehicles, an intermediate or  
17 final state vehicle manufacturer, or a manufacturer of compressed  
18 natural gas or liquefied petroleum gas systems shall provide to the  
19 commission a list of the new vehicle or natural gas or liquefied  
20 petroleum gas systems models that the manufacturer intends to sell  
21 in this state during that model year that meet the incentive  
22 requirements established under Section 386.154. The manufacturer  
23 or installer may supplement the list provided to the commission  
24 under this section as necessary to include additional new vehicle  
25 models the manufacturer intends to sell in this state during the  
26 model year.

27           (b) The commission may supplement the information provided

1 under Subsection (a) with additional information on available  
2 vehicle models, including information provided by manufacturers or  
3 installers of systems to convert new motor vehicles to operate on  
4 natural gas or liquefied petroleum gas before sale as a new vehicle  
5 or within 500 miles of operation of the vehicle following first  
6 sale.

7 Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On  
8 August 1 of each year the commission shall publish a list of new  
9 motor vehicle models eligible for inclusion in an incentive under  
10 this subchapter. The commission shall publish supplements to that  
11 list as necessary to include additional new vehicle models.

12 (b) The commission shall publish the list of eligible motor  
13 vehicle models on the commission's Internet website.

14 Sec. 386.157. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE  
15 INCENTIVE. (a) A person who purchases or leases a new light-duty  
16 motor vehicle described by Section 386.154 and listed under Section  
17 386.156(a) is eligible to apply for an incentive under this  
18 subchapter.

19 (b) A lease incentive for a new light-duty motor vehicle  
20 shall be prorated based on a three-year lease term.

21 (c) To receive money under an incentive program provided by  
22 this subchapter, the purchaser or lessee of a new light-duty motor  
23 vehicle who is eligible to apply for an incentive under this  
24 subchapter shall apply for the incentive in the manner provided by  
25 law or by rule of the commission.

26 Sec. 386.158. COMMISSION TO ACCOUNT FOR MOTOR VEHICLE  
27 PURCHASE OR LEASE INCENTIVES. (a) The commission by rule shall

1 develop a method to administer and account for the motor vehicle  
2 purchase or lease incentives authorized by this subchapter and to  
3 pay incentive money to the purchaser or lessee of a new motor  
4 vehicle, on application of the purchaser or lessee as provided by  
5 this subchapter.

6 (b) The commission shall develop and publish forms and  
7 instructions for the purchaser or lessee of a new motor vehicle to  
8 use in applying to the commission for an incentive payment under  
9 this subchapter. The commission shall make the forms available to  
10 new motor vehicle dealers and leasing agents. Dealers and leasing  
11 agents shall make the forms available to their prospective  
12 purchasers or lessees.

13 (c) The commission may require the submission of forms and  
14 documentation as needed to verify eligibility for an incentive  
15 under this subchapter.

16 Sec. 386.159. PURCHASE OR LEASE INCENTIVES INFORMATION.

17 (a) The commission shall establish a toll-free telephone number  
18 available to motor vehicle dealers and leasing agents for the  
19 dealers and agents to call to verify that incentives are available.  
20 The commission may provide for issuing verification numbers over  
21 the telephone line.

22 (b) Reliance by a dealer or leasing agent on information  
23 provided by the commission is a complete defense to an action  
24 involving or based on eligibility of a vehicle for an incentive or  
25 availability of vehicles eligible for an incentive.

26 Sec. 386.160. RESERVATION OF INCENTIVES. The commission  
27 may provide for dealers and leasing agents to reserve for a limited

1 time period incentives for vehicles that are not readily available  
2 and must be ordered, if the dealer or leasing agent has a purchase  
3 or lease order signed by an identified customer.

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

6 (a) In this subchapter, "drayage truck" means a truck or  
7 land-based equipment that transports a load to, ~~or~~ from, or in a  
8 seaport or rail yard.

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

11 (a) The commission shall:

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

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

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

21 Sec. 386.252. USE OF FUND. (a) Money in the fund may be  
22 used only to implement and administer programs established under  
23 the plan. Subject to the reallocation of funds by the commission  
24 under Subsection (g), and with the exception of money appropriated  
25 to the commission for the governmental alternative fuel fleet grant  
26 program under Subsection (f), money ~~Money~~ appropriated to the  
27 commission to be used for the programs under Section 386.051(b)

1 shall initially be allocated as follows:

2 (1) [~~not more than~~] four percent may be used for the  
3 clean school bus program under Chapter 390;

4 (2) [~~not more than~~] three percent may be used for the  
5 new technology implementation grant program under Chapter 391, from  
6 which at least \$1 million will be set aside for electricity storage  
7 projects related to renewable energy;

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

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

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

21 (6) 10 [~~not more than five~~] percent may be used [~~to~~  
22 ~~provide grants for natural gas fueling stations under the clean~~  
23 ~~transportation triangle program under Section 394.010,~~

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



1           (7) [~~(8)~~] a specified amount may be used each year to  
2 support research related to air quality as provided by Chapter [387](#);

3           (8) [~~(9)~~] not more than \$200,000 may be used for a  
4 health effects study[+]

5           ~~[(10) \$500,000 is to be deposited in the state treasury~~  
6 ~~to the credit of the clean air account created under Section~~  
7 ~~[382.0622](#) to supplement funding for air quality planning activities~~  
8 ~~in affected counties];~~

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

14           (10) [~~(12) at least~~] two percent [~~and up to five~~  
15 ~~percent of the fund~~] is to be used by the commission for the drayage  
16 truck incentive program established under Subchapter D-1;

17           (11) [~~(13) not more than~~] five percent may be used for  
18 the light-duty motor vehicle purchase or lease incentive program  
19 established under Subchapter D;

20           (12) [~~(14)~~] not more than \$216,000 is allocated to the  
21 commission to contract with the Energy Systems Laboratory at the  
22 Texas A&M Engineering Experiment Station annually for the  
23 development and annual computation of creditable statewide  
24 emissions reductions obtained through wind and other renewable  
25 energy resources for the state implementation plan;

26           ~~[(15) 1.5 percent of the money in the fund is allocated~~  
27 ~~for administrative costs incurred by the laboratory,] and~~

1           (13) [~~(16)~~] the balance is to be used by the  
2 commission for the diesel emissions reduction incentive program  
3 under Subchapter C as determined by the commission.

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

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

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

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

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

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

27           [~~(e-1) Money allocated under Subsection (a) to a particular~~

1 ~~program may be used for another program under the plan as determined~~  
2 ~~by the commission.~~

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

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

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

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

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

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

9        SECTION 13. Section 390.002(b), Health and Safety Code, is  
10 amended to read as follows:

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

13            (1) diesel oxidation catalysts for school buses built  
14 before 1994;

15            (2) diesel particulate filters for school buses built  
16 from 1994 to 1998;

17            (3) the purchase and use of emission-reducing add-on  
18 equipment for school buses, including devices that reduce crankcase  
19 emissions;

20            (4) the use of qualifying fuel; ~~and~~

21            (5) other technologies that the commission finds will  
22 bring about significant emissions reductions; and

23            (6) replacement of a pre-2007 model year school bus.

24        SECTION 14. Section 390.004, Health and Safety Code, is  
25 amended by adding Subsections (c) and (d) to read as follows:

26        (c) A school bus proposed for replacement must:

27            (1) be of model year 2006 or earlier;

1           (2) have been owned and operated by the applicant for  
2 at least the two years before submission of the grant application;  
3           (3) be in good operational condition; and  
4           (4) be currently used on a regular, daily route to and  
5 from a school.

6           (d) A school bus proposed for purchase to replace a pre-2007  
7 model year school bus must be of the current model year or the year  
8 before the current model year at the time of submission of the grant  
9 application.

10           SECTION 15. Section 390.005, Health and Safety Code, is  
11 amended to read as follows:

12           Sec. 390.005. RESTRICTION ON USE OF GRANT.     (a) A  
13 recipient of a grant under this chapter shall use the grant to pay  
14 the incremental costs of the project for which the grant is made,  
15 which may include the reasonable and necessary expenses incurred  
16 for the labor needed to install emissions-reducing equipment. The  
17 recipient may not use the grant to pay the recipient's  
18 administrative expenses.

19           (b) A school bus acquired to replace an existing school bus  
20 must be purchased and the grant recipient must agree to own and  
21 operate the school bus on a regular, daily route to and from a  
22 school for at least five years after a start date established by the  
23 commission, based on the date the commission accepts documentation  
24 of the destruction of the school bus being replaced.

25           (c) A school bus replaced under this program must be  
26 rendered permanently inoperable by crushing the bus, by making a  
27 hole in the engine block and permanently destroying the frame of the

1 bus, or by another method approved by the commission, or be  
2 permanently removed from operation in this state. The commission  
3 shall establish criteria for ensuring the permanent destruction or  
4 permanent removal of the engine or bus. The commission shall  
5 enforce the destruction and removal requirements. For purposes of  
6 this subsection, "permanent removal" means the permanent export of  
7 the bus or engine to a destination outside of the United States,  
8 Canada, or the United Mexican States.

9 SECTION 16. Section 390.006, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 390.006. EXPIRATION. This chapter expires on the last  
12 day of the state fiscal biennium during which the United States  
13 Environmental Protection Agency publishes in the Federal Register  
14 certification that, with respect to each national ambient air  
15 quality standard for ozone under 40 C.F.R. Section 81.344, the  
16 agency has, for each designated area under that section:

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

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

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

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

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

27 (2) new technology projects that reduce emissions of

1 regulated pollutants from stationary [~~point~~] sources;

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

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

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

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

14 (4) [~~(3)~~] electricity storage projects related to  
15 renewable energy, including projects to store electricity produced  
16 from wind and solar generation that provide efficient means of  
17 making the stored energy available during periods of peak energy  
18 use.

19 SECTION 18. Section 391.102(f), Health and Safety Code, is  
20 amended to read as follows:

21 (f) In reviewing a grant application under this chapter  
22 [~~coordinating interagency application review procedures~~], the  
23 commission may [~~shall~~]:

24 (1) solicit review and comments from:

25 (A) the comptroller to assess:

26 (i) the financial stability of the  
27 applicant;

1 (ii) the economic benefits and job creation  
2 potential associated with the project; and

3 (iii) any other information related to the  
4 duties of that office;

5 (B) the Public Utility Commission of Texas to  
6 assess:

7 (i) the reliability of the proposed  
8 technology;

9 (ii) the feasibility and  
10 cost-effectiveness of electric transmission associated with the  
11 project; and

12 (iii) any other information related to the  
13 duties of that agency; and

14 (C) the Railroad Commission of Texas to assess:

15 (i) the availability and cost of the fuel  
16 involved with the project; and

17 (ii) any other information related to the  
18 duties of that agency; and

19 (2) consider the comments received under Subdivision  
20 (1) in the commission's grant award decision process~~[, and~~

21 ~~[(3) as part of the report required by Section 391.104,~~  
22 ~~justify awards made to projects that have been negatively reviewed~~  
23 ~~by agencies under Subdivision (1)].~~

24 SECTION 19. Section 391.104, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 391.104. REPORTING REQUIREMENTS. The commission  
27 [~~annually~~] shall include in the biennial plan report required by



1 Section 386.057(b) information [~~prepare a report~~] that summarizes  
2 the applications received and grants awarded in the preceding  
3 biennium [~~year~~]. Preparation of the information for the report may  
4 [~~must~~] include the participation of any [~~the~~] state agency  
5 [~~agencies~~] involved in the review of applications under Section  
6 391.102, if the commission determines participation of the agency  
7 is needed.

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

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

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

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

17 (3) include the use of solar, wind, or other renewable  
18 energy sources; or

19 (4) recover waste heat from the flaring of natural  
20 resources for the purpose of generating electricity.

21 SECTION 21. Section 391.304, Health and Safety Code, is  
22 amended to read as follows:

23 Sec. 391.304. EXPIRATION. This chapter expires on the last  
24 day of the state fiscal biennium during which the United States  
25 Environmental Protection Agency publishes in the Federal Register  
26 certification that, with respect to each national ambient air

1 quality standard for ozone under 40 C.F.R. Section 81.344, the  
2 agency has, for each designated area under that section:

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

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

7 SECTION 22. Section 392.001(1), Health and Safety Code, is  
8 amended to read as follows:

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

13 SECTION 23. Section 392.003(a), Health and Safety Code, is  
14 amended to read as follows:

15 (a) A vehicle is a qualifying vehicle that may be considered  
16 for a grant under the program if during the eligibility period  
17 established by the commission [~~calendar year~~] the entity purchases  
18 a new on-road vehicle that:

19 (1) is certified to the appropriate current federal  
20 emissions standards as determined by the commission;

21 (2) replaces a diesel-powered on-road vehicle of the  
22 same weight classification and use; and

23 (3) is a hybrid vehicle or fueled by an alternative  
24 fuel.

25 SECTION 24. Section 392.004(d), Health and Safety Code, is  
26 amended to read as follows:

27 (d) The commission shall minimize, to the maximum extent

1 possible, the amount of paperwork required for an application. [~~An~~  
2 ~~applicant may be required to submit a photograph or other~~  
3 ~~documentation of a vehicle identification number, registration~~  
4 ~~information, inspection information, tire condition, or engine~~  
5 ~~block identification only if the photograph or documentation is~~  
6 ~~requested by the commission after the commission has decided to~~  
7 ~~award a grant to the applicant under this chapter.]~~

8 SECTION 25. Section 392.005, Health and Safety Code, is  
9 amended by amending Subsections (c) and (i) and adding Subsection  
10 (c-1) to read as follows:

11 (c) As a condition of receiving a grant, the qualifying  
12 vehicle must be continuously owned, registered, and operated in the  
13 state by the grant recipient until the earlier of the fifth  
14 anniversary of the activity start date established by the  
15 commission [~~the date of reimbursement of the grant-funded expenses~~]  
16 or [~~until~~] the date the vehicle has been in operation for 400,000  
17 miles after the activity start date established by the commission  
18 [~~of reimbursement~~]. Not less than 75 percent of the annual use of  
19 the qualifying vehicle, either mileage or fuel use as determined by  
20 the commission, must occur in the state.

21 (c-1) For purposes of Subsection (c), the commission shall  
22 establish the activity start date based on the date the commission  
23 accepts verification of the disposition of the vehicle being  
24 replaced.

25 (i) The executive director may [~~shall~~] waive the  
26 requirements of Subsection (b)(2)(A) on a finding of good cause,  
27 which may include a waiver for short lapses in registration or

1 operation attributable to economic conditions, seasonal work, or  
2 other circumstances.

3 SECTION 26. Section 392.008, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 392.008. EXPIRATION. This chapter expires on the last  
6 day of the state fiscal biennium during which the United States  
7 Environmental Protection Agency publishes in the Federal Register  
8 certification that, with respect to each national ambient air  
9 quality standard for ozone under 40 C.F.R. Section 81.344, the  
10 agency has, for each designated area under that section:

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

13 (2) approved a redesignation substitute making a  
14 finding of attainment for the area [August 31, 2017].

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

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

23 (1-a) "Clean transportation zone" means:

24 (A) counties containing or intersected by a  
25 portion of an interstate highway connecting the cities of Houston,  
26 San Antonio, Dallas, and Fort Worth;

27 (B) counties located within the area bounded by

1 the interstate highways described by Paragraph (A);  
2 (C) counties containing or intersected by a  
3 portion of:  
4 (i) an interstate highway connecting San  
5 Antonio to Corpus Christi or Laredo; or  
6 (ii) the most direct route using highways  
7 in the state highway system connecting Corpus Christi and Laredo;  
8 (D) counties located within the area bounded by  
9 the highways described by Paragraph (C);  
10 (E) counties in this state all or part of which  
11 are included in a nonattainment area designated under Section  
12 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407); and  
13 (F) counties designated as affected counties  
14 under Section 386.001.

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

19 SECTION 28. Section 393.002, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 393.002. PROGRAM. (a) The commission shall establish  
22 and administer the Texas alternative fueling facilities program to  
23 provide fueling facilities for alternative fuel in the clean  
24 transportation zone [~~nonattainment areas~~]. Under the program, the  
25 commission shall provide a grant for each eligible facility to  
26 offset the cost of those facilities.

27 (b) An entity that constructs or[~~7~~] reconstructs[~~7~~]~~or~~

1 ~~acquires~~] an alternative fueling facility is eligible to  
2 participate in the program.

3 (c) To ensure that alternative fuel vehicles have access to  
4 fuel and to build the foundation for a self-sustaining market for  
5 alternative fuels in Texas, the commission shall provide for  
6 strategically placed fueling facilities in the clean  
7 transportation zone to enable an alternative fuel vehicle to travel  
8 in those areas relying solely on the alternative fuel.

9 (d) The commission shall maintain a listing to be made  
10 available to the public online of all vehicle fueling facilities  
11 that have received grant funding, including location and hours of  
12 operation.

13 SECTION 29. Section 393.003, Health and Safety Code, is  
14 amended by amending Subsections (a) and (b) and adding Subsections  
15 (d) and (e) to read as follows:

16 (a) An entity operating in this state that constructs or ~~[7]~~  
17 reconstructs~~[, or acquires]~~ a facility to ~~[store, compress, or]~~  
18 dispense alternative fuels may apply for and receive a grant under  
19 the program.

20 (b) The commission may ~~[adopt guidelines to]~~ allow a  
21 regional planning commission, council of governments, or similar  
22 regional planning agency created under Chapter 391, Local  
23 Government Code, or a private nonprofit organization to apply for  
24 and receive a grant to improve the ability of the program to achieve  
25 its goals.

26 (d) An application for a grant under the program must  
27 include a certification that the applicant complies with laws,

1 rules, guidelines, and requirements applicable to taxation of fuel  
2 provided by the applicant at each fueling facility owned or  
3 operated by the applicant. The commission may terminate a grant  
4 awarded under this section without further obligation to the grant  
5 recipient if the commission determines that the recipient did not  
6 comply with a law, rule, guideline, or requirement described by  
7 this subsection. This subsection does not create a cause of action  
8 to contest an application or award of a grant.

9 (e) The commission shall disburse grants under the program  
10 through a competitive application selection process to offset a  
11 portion of the eligible costs.

12 SECTION 30. Section 393.004, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 393.004. ELIGIBILITY OF FACILITIES FOR GRANTS.

15 (a) In addition to the requirements of this chapter, the  
16 commission shall establish additional eligibility and  
17 prioritization criteria as needed to implement the program [~~The~~  
18 ~~commission by rule shall establish criteria for prioritizing~~  
19 ~~facilities eligible to receive grants under this chapter. The~~  
20 ~~commission shall review and revise the criteria as appropriate~~].

21 (b) The prioritization criteria established under  
22 Subsection (a) must provide that, for each grant round, the  
23 commission may not award a grant to an entity that does not [~~To be~~  
24 ~~eligible for a grant under the program, the entity receiving the~~  
25 ~~grant must~~] agree to make the alternative fueling facility  
26 accessible and available to the public [~~persons not associated with~~  
27 ~~the entity~~] at times designated by the grant contract until each

1 eligible entity that does agree to those terms has been awarded a  
2 grant [agreement].

3 (c) The commission may not award more than one grant for  
4 each facility.

5 (d) The commission may give preference to or otherwise limit  
6 grant selections to:

7 (1) fueling facilities providing specific types of  
8 alternative fuels;

9 (2) fueling facilities in a specified area or  
10 location; and

11 (3) fueling facilities meeting other specified  
12 prioritization criteria established by the commission.

13 (e) For fueling facilities to provide natural gas, the  
14 commission shall give preference to:

15 (1) facilities providing both liquefied natural gas  
16 and compressed natural gas at a single location;

17 (2) facilities located not more than one mile from an  
18 interstate highway system;

19 (3) facilities located in the area in and between the  
20 Houston, San Antonio, and Dallas-Fort Worth areas; and

21 (4) facilities located in the area in and between the  
22 Corpus Christi, Laredo, and San Antonio areas [~~A recipient of a~~  
23 ~~grant under this chapter is not eligible to receive a second grant~~  
24 ~~under this chapter for the same facility].~~

25 SECTION 31. Section 393.005, Health and Safety Code, is  
26 amended to read as follows:

27 Sec. 393.005. RESTRICTION ON USE OF GRANT. (a) A



1 recipient of a grant under this chapter shall use the grant only to  
2 pay the costs of the facility for which the grant is made. The  
3 recipient may not use the grant to pay the recipient's:

4 (1) administrative expenses;

5 (2) expenses for the purchase of land or an interest in  
6 land; or

7 (3) expenses for equipment or facility improvements  
8 that are not directly related to the delivery, storage,  
9 compression, or dispensing of the alternative fuel at the facility.

10 (b) Each grant must be awarded using a contract that  
11 requires the recipient to meet operational, maintenance, and  
12 reporting requirements as specified by the commission.

13 SECTION 32. Section 393.006, Health and Safety Code, is  
14 amended to read as follows:

15 Sec. 393.006. AMOUNT OF GRANT. (a) Grants awarded under  
16 this chapter for a facility to provide alternative fuels other than  
17 natural gas may not exceed [~~For each eligible facility for which a~~  
18 ~~recipient is awarded a grant under the program, the commission~~  
19 ~~shall award the grant in an amount equal to]~~ the lesser of:

20 (1) 50 percent of the sum of the actual eligible costs  
21 incurred by the grant recipient within deadlines established by the  
22 commission [~~to construct, reconstruct, or acquire the facility]; or~~

23 (2) \$600,000.

24 (b) Grants awarded under this chapter for a facility to  
25 provide natural gas may not exceed:

26 (1) \$400,000 for a compressed natural gas facility;

27 (2) \$400,000 for a liquefied natural gas facility; or

1           (3) \$600,000 for a facility providing both liquefied  
2 and compressed natural gas.

3           SECTION 33. Section 393.007, Health and Safety Code, is  
4 amended to read as follows:

5           Sec. 393.007. EXPIRATION. This chapter expires on the last  
6 day of the state fiscal biennium during which the United States  
7 Environmental Protection Agency publishes in the Federal Register  
8 certification that, with respect to each national ambient air  
9 quality standard for ozone under 40 C.F.R. Section 81.344, the  
10 agency has, for each designated area under that section:

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

13           (2) approved a redesignation substitute making a  
14 finding of attainment for the area [August 31, 2018].

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

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

21           (1-a) "Certified" includes:

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

24                   (B) certification or approval by the United  
25 States Environmental Protection Agency of a system to convert a  
26 vehicle or engine to operate on an alternative fuel and a  
27 demonstration by the emissions data used to certify or approve the

1 vehicle or engine, if the commission determines the testing used to  
2 obtain the emissions data is consistent with the testing required  
3 for approval of an alternative fuel conversion system for new and  
4 relatively new vehicles or engines under 40 C.F.R. Part 85.

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

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

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

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

20 (7-a) "Natural gas engine" means an engine that  
21 operates:

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

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

27 (8) "Natural gas vehicle" means a motor vehicle that

1 is powered by a natural gas engine [~~receives not less than 75~~  
2 ~~percent of its power from compressed or liquefied natural gas~~].

3 SECTION 35. Section 394.003(a), Health and Safety Code, is  
4 amended to read as follows:

5 (a) A vehicle is a qualifying vehicle that may be considered  
6 for a grant under the program if during the eligibility period  
7 established by the commission [~~calendar year~~] the entity:

8 (1) purchased, leased, or otherwise commercially  
9 financed the vehicle as a new on-road heavy-duty or medium-duty  
10 motor vehicle that:

11 (A) is a natural gas vehicle;

12 (B) is certified to the appropriate current  
13 federal emissions standards as determined by the commission; and

14 (C) replaces an on-road heavy-duty or  
15 medium-duty motor vehicle of the same weight classification and  
16 use; [~~and~~

17 [~~(D) is powered by an engine certified to:~~

18 [~~(i) emit not more than 0.2 grams of~~  
19 ~~nitrogen oxides per brake horsepower hour, or~~

20 [~~(ii) meet or exceed the United States~~  
21 ~~Environmental Protection Agency's Bin 5 standard for light-duty~~  
22 ~~engines when powering the vehicle,]~~ or

23 (2) repowered the on-road motor vehicle to a natural  
24 gas vehicle powered by a natural gas engine that [+

25 [(A)] is certified to the appropriate current  
26 federal emissions standards as determined by the commission[, and

27 [(B) is:

1                   ~~[(i) a heavy-duty engine that is certified~~  
2 ~~to emit not more than 0.2 grams of nitrogen oxides per brake~~  
3 ~~horsepower hour, or~~

4                   ~~[(ii) certified to meet or exceed the~~  
5 ~~United States Environmental Protection Agency's Bin 5 standard for~~  
6 ~~light-duty engines when powering the vehicle].~~

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

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

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

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

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

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

23                   (2) the qualifying vehicle must:

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

26                                   (i) is an on-road vehicle that has been  
27 owned, leased, or otherwise commercially financed and registered

1 and operated by the applicant in Texas for at least the two years  
2 immediately preceding the submission of a grant application;

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

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

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

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

12 (i) is owned by the applicant;

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

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

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

21 (iii) otherwise satisfies the mileage,  
22 usage, and useful life requirements established under Paragraph (A)  
23 as determined by documentation associated with the vehicle; or

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

26 (i) is installed in an on-road vehicle that  
27 has been owned, leased, or otherwise commercially financed and

1 registered and operated by the applicant in Texas for at least the  
2 two years immediately preceding the submission of a grant  
3 application;

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

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

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

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

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

26 [~~(2) counties designated as nonattainment areas~~  
27 ~~within the meaning of Section 107(d) of the federal Clean Air Act~~

1 ~~(42 U.S.C. Section 7407)]~~.

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

5 (f) A heavy-duty or medium-duty motor vehicle replaced  
6 under this program must be rendered permanently inoperable by  
7 crushing the vehicle, by making a hole in the engine block and  
8 permanently destroying the frame of the vehicle, or by another  
9 method approved by the commission, or be [that] permanently removed  
10 [removes the vehicle] from operation in this state. The commission  
11 shall establish criteria for ensuring the permanent destruction or  
12 permanent removal of the engine or vehicle. The commission shall  
13 enforce the destruction and removal requirements. For purposes of  
14 this subsection, "permanent removal" means the permanent export of  
15 the vehicle or engine to a destination outside of the United States,  
16 Canada, or the United Mexican States.

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

27 (i) The executive director may ~~[shall]~~ waive the



1 requirements of Subsection (b)(2)(A)(i) or (B)(ii) on a finding of  
2 good cause, which may include short lapses in registration or  
3 operation due to economic conditions, seasonal work, or other  
4 circumstances.

5 SECTION 37. Section 394.006, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 394.006. RESTRICTION ON USE OF GRANT. A recipient of a  
8 grant under this chapter shall use the grant to pay the incremental  
9 costs of the replacement or vehicle repower for which the grant is  
10 made, which may include a portion of the initial cost of the natural  
11 gas vehicle or natural gas engine, including the cost of the natural  
12 gas fuel system and installation [~~and the reasonable and necessary~~  
13 ~~expenses incurred for the labor needed to install~~  
14 ~~emissions-reducing equipment~~]. The recipient may not use the  
15 grant to pay the recipient's administrative expenses.

16 SECTION 38. Section 394.007(c), Health and Safety Code, is  
17 amended to read as follows:

18 (c) A person may not receive a grant under this chapter  
19 that, when combined with any other grant, tax credit, or other  
20 governmental incentive, exceeds the incremental cost of the vehicle  
21 or vehicle repower for which the grant is awarded. A person shall  
22 return to the commission the amount of a grant awarded under this  
23 chapter that, when combined with any other grant, tax credit, or  
24 other governmental incentive, exceeds the incremental cost of the  
25 vehicle or vehicle repower for which the grant is awarded.

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

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

2 (1) awarding grants under this chapter to reimburse  
3 eligible costs; [~~in the form of rebates, and~~]

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

7 (3) preapproving the award of grants to applicants who  
8 propose to purchase and replace motor vehicles described by Section  
9 394.005(b)(2)(B).

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

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

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

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

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

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

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

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

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

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

13 (6) [(8)] provide for payment not later than the 30th  
14 day after the date the request for reimbursement for an approved  
15 grant is received;

16 (7) [(9)] provide for application submission and  
17 application status checks using procedures established by the  
18 commission, which may include application submission and status  
19 checks to be made over the Internet; and

20 (8) [(10)] consolidate, simplify, and reduce the  
21 administrative work for applicants and the commission associated  
22 with grant application, contracting, reimbursement, and reporting  
23 requirements.

24 SECTION 40. Section 394.012, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 394.012. EXPIRATION. This chapter expires on the last  
27 day of the state fiscal biennium during which the United States

1 Environmental Protection Agency publishes in the Federal Register  
2 certification that, with respect to each national ambient air  
3 quality standard for ozone under 40 C.F.R. Section 81.344, the  
4 agency has, for each designated area under that section:

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

7 (2) approved a redesignation substitute making a  
8 finding of attainment for the area [August 31, 2017].

9 SECTION 41. Subtitle C, Title 5, Health and Safety Code, is  
10 amended by adding Chapter 395 to read as follows:

11 CHAPTER 395. GOVERNMENTAL ALTERNATIVE FUEL FLEET GRANT PROGRAM

12 Sec. 395.001. DEFINITIONS. In this chapter:

13 (1) "Alternative fuel" means compressed natural gas,  
14 liquefied natural gas, liquefied petroleum gas, hydrogen fuel  
15 cells, or electricity, including electricity to power fully  
16 electric motor vehicles and plug-in hybrid electric motor vehicles.

17 (2) "Commission" means the Texas Commission on  
18 Environmental Quality.

19 (3) "Incremental cost" has the meaning assigned by  
20 Section 386.001.

21 (4) "Motor vehicle" means a self-propelled device  
22 designed for transporting persons or property on a public highway  
23 that is required to be registered under Chapter 502, Transportation  
24 Code.

25 (5) "Political subdivision" means a school district,  
26 junior college district, river authority, water district or other  
27 special district, or other political subdivision created under the

1 constitution or a statute of this state, other than a county or  
2 municipality.

3 (6) "Program" means the governmental alternative fuel  
4 fleet grant program established under this chapter.

5 (7) "State agency" has the meaning assigned by Section  
6 2151.002, Government Code.

7 Sec. 395.002. PROGRAM. (a) The commission shall establish  
8 and administer a governmental alternative fuel fleet grant program  
9 to assist an eligible state agency, county, municipality, or  
10 political subdivision in purchasing or leasing new motor vehicles  
11 that operate primarily on an alternative fuel.

12 (b) The program may provide a grant to a state agency,  
13 county, municipality, or political subdivision to:

14 (1) purchase or lease a new motor vehicle described by  
15 Section 395.004; or

16 (2) purchase, lease, or install refueling  
17 infrastructure or equipment or procure refueling services as  
18 described by Section 395.005 to store and dispense alternative fuel  
19 needed for a motor vehicle described by Subdivision (1) of this  
20 subsection.

21 Sec. 395.003. ELIGIBLE APPLICANTS. (a) A state agency,  
22 county, or municipality is eligible to apply for a grant under the  
23 program if the entity operates a fleet of more than 15 motor  
24 vehicles, excluding motor vehicles that are owned and operated by a  
25 private company or other third party under a contract with the  
26 entity.

27 (b) A mass transit or school transportation provider or

1 other public entity established to provide public or school  
2 transportation services is eligible for a grant under the program.

3 Sec. 395.004. MOTOR VEHICLE REQUIREMENTS. (a) A grant  
4 recipient may purchase or lease with money from a grant under the  
5 program a new motor vehicle that is originally manufactured to  
6 operate using one or more alternative fuels or is converted to  
7 operate using one or more alternative fuels before the first retail  
8 sale of the vehicle, and that:

9 (1) has a dedicated system, dual-fuel system, or  
10 bi-fuel system; and

11 (2) if the motor vehicle is a fully electric motor  
12 vehicle or plug-in hybrid electric motor vehicle, has a United  
13 States Environmental Protection Agency rating of at least 75 miles  
14 per gallon equivalent or a 75-mile combined city and highway range.

15 (b) A grant recipient may not use money from a grant under  
16 the program to replace a motor vehicle, transit bus, or school bus  
17 that operates on an alternative fuel unless the replacement vehicle  
18 produces fewer emissions and has greater fuel efficiency than the  
19 vehicle being replaced.

20 Sec. 395.005. REFUELING INFRASTRUCTURE, EQUIPMENT, AND  
21 SERVICES. A grant recipient may purchase, lease, or install  
22 refueling infrastructure or equipment or procure refueling  
23 services with money from a grant under the program if:

24 (1) the purchase, lease, installation, or procurement  
25 is made in conjunction with the purchase or lease of a motor vehicle  
26 as described by Section 395.004 or the conversion of a motor vehicle  
27 to operate primarily on an alternative fuel;

1           (2) the grant recipient demonstrates that a refueling  
2 station that meets the needs of the recipient is not available  
3 within five miles of the location at which the recipient's vehicles  
4 are stored or primarily used; and

5           (3) for the purchase or installation of refueling  
6 infrastructure or equipment, the infrastructure or equipment will  
7 be owned and operated by the grant recipient, and for the lease of  
8 refueling infrastructure or equipment or the procurement of  
9 refueling services, a third-party service provider engaged by the  
10 grant recipient will provide the infrastructure, equipment, or  
11 services.

12           Sec. 395.006. ELIGIBLE COSTS. (a) A motor vehicle lease  
13 agreement paid for with money from a grant under the program must  
14 have a term of at least three years.

15           (b) Refueling infrastructure or equipment purchased or  
16 installed with money from a grant under the program must be used  
17 specifically to store or dispense alternative fuel, as determined  
18 by the commission.

19           (c) A lease of or service agreement for refueling  
20 infrastructure, equipment, or services paid for with money from a  
21 grant under the program must have a term of at least three years.

22           Sec. 395.007. GRANT AMOUNTS. (a) The commission may  
23 establish standardized grant amounts based on the incremental costs  
24 associated with the purchase or lease of different categories of  
25 motor vehicles, including the type of fuel used, vehicle class, and  
26 other categories the commission considers appropriate.

27           (b) In determining the incremental costs and setting the

1 standardized grant amounts, the commission may consider the  
2 difference in cost between a new motor vehicle operated using  
3 conventional gasoline or diesel fuel and a new motor vehicle  
4 operated using alternative fuel.

5 (c) The amount of a grant for the purchase or lease of a  
6 motor vehicle may not exceed the amount of the incremental cost of  
7 the purchase or lease.

8 (d) The commission may establish grant amounts to reimburse  
9 the full cost of the purchase, lease, installation, or procurement  
10 of refueling infrastructure, equipment, or services or may  
11 establish criteria for reimbursing a percentage of the cost.

12 (e) A grant under the program may be combined with funding  
13 from other sources, including other grant programs, except that a  
14 grant may not be combined with other funding or grants from the  
15 Texas emissions reduction plan. When combined with other funding  
16 sources, a grant may not exceed the total cost to the grant  
17 recipient.

18 (f) In providing a grant for the lease of a motor vehicle  
19 under this chapter, the commission shall establish criteria:

20 (1) to offset incremental costs through an up-front  
21 payment to lower the cost basis of the lease; or

22 (2) if determined appropriate by the commission, to  
23 provide for reimbursement of lease payments over no more than the  
24 period of availability of the contracted funds under applicable  
25 state law and regulation, which may be less than the required  
26 three-year lease term.

27 (g) In providing a grant for the lease of refueling



1 infrastructure, equipment, or services, the commission shall  
2 establish criteria:

3 (1) to offset incremental costs through an up-front  
4 payment to lower the cost basis of the lease; or

5 (2) if determined appropriate by the commission, to  
6 provide for reimbursement of lease payments over no more than the  
7 period of availability of the contracted funds under applicable  
8 state law and regulation, which may be less than the required  
9 three-year lease term.

10 (h) Notwithstanding Subsection (d), the commission is not  
11 obligated to fund the full cost of the purchase, lease,  
12 installation, or procurement of refueling infrastructure,  
13 equipment, or services if those costs cannot be incurred and  
14 reimbursed over the period of availability of the funds under  
15 applicable state law and regulation.

16 Sec. 395.008. AVAILABILITY OF EMISSIONS REDUCTION CREDITS.

17 (a) A project that is funded from a grant under the program and  
18 that would generate marketable emissions reduction credits under a  
19 state or federal emissions reduction credit averaging, banking, or  
20 trading program is not eligible for funding under the program  
21 unless:

22 (1) the project includes the transfer of the credits,  
23 or the reductions that would otherwise be marketable credits, to  
24 the commission and, if applicable, the state implementation plan;  
25 and

26 (2) the credits or reductions, as applicable, are  
27 permanently retired.

1       (b) An emissions reduction generated by a purchase or lease  
2 under this chapter may be used to demonstrate conformity with the  
3 state implementation plan.

4       Sec. 395.009. USE OF GRANT MONEY BY COUNTY OR MUNICIPALITY.  
5 A county or municipality shall prioritize the actions listed in  
6 Section 2158.0051(b), Government Code, when using money from a  
7 grant under the program.

8       Sec. 395.010. GRANT PROCEDURES AND CRITERIA. (a) The  
9 commission shall establish specific criteria and procedures in  
10 order to implement and administer the program, including the  
11 creation and provision of application forms and guidance on the  
12 application process.

13       (b) The commission shall award a grant through a contract  
14 between the commission and the grant recipient.

15       (c) The commission shall provide an online application  
16 process for the submission of all required application documents.

17       (d) The commission may limit funding for a particular period  
18 according to priorities established by the commission, including  
19 limiting the availability of grants to specific entities, for  
20 certain types of vehicles and infrastructure, or to certain  
21 geographic areas to ensure equitable distribution of grant funds  
22 across the state.

23       (e) In awarding grants under the program, the commission  
24 shall prioritize projects that:

25               (1) are proposed by a state agency;

26               (2) are in or near a nonattainment area;

27               (3) are in an affected county, as that term is defined

1 by Section 386.001; and

2 (4) will produce the greatest emissions reductions.

3 (f) In addition to the requirements under Subsection (e), in  
4 awarding grants under the program, the commission shall consider:

5 (1) the effectiveness of a proposed project in  
6 assisting an applicant in complying with Section 2158.0051,  
7 Government Code;

8 (2) the total amount of the emissions reduction that  
9 would be achieved from the project;

10 (3) the type and number of vehicles purchased or  
11 leased;

12 (4) the location of the fleet and the refueling  
13 infrastructure or equipment;

14 (5) the number of vehicles served and the rate at which  
15 vehicles are served by the refueling infrastructure or equipment;

16 (6) the amount of any matching funds committed by the  
17 applicant; and

18 (7) the schedule for project completion.

19 (g) The commission may not award more than 10 percent of the  
20 total amount awarded under the program in any fiscal year for  
21 purchasing, leasing, installing, or procuring refueling  
22 infrastructure, equipment, or services.

23 Sec. 395.011. FUNDING. The legislature may appropriate  
24 money to the commission from the Texas emissions reduction plan  
25 fund established under Section 386.251 to administer the program.

26 Sec. 395.012. ADMINISTRATIVE COSTS. In each fiscal year,  
27 the commission may use up to 1.5 percent of the total amount of

1 money allocated to the program in that fiscal year, but not more  
2 than \$1 million, for the administrative costs of the program.

3 Sec. 395.013. RULES. The commission may adopt rules as  
4 necessary to implement this chapter.

5 Sec. 395.014. REPORT REQUIRED. On or before November 1 of  
6 each even-numbered year, the commission shall submit to the  
7 governor, lieutenant governor, and members of the legislature a  
8 report that includes the following information regarding awards  
9 made under the program during the preceding state fiscal biennium:

- 10 (1) the number of grants awarded under the program;  
11 (2) the recipient of each grant awarded;  
12 (3) the number of vehicles replaced;  
13 (4) the number, type, and location of any refueling  
14 infrastructure, equipment, or services funded under the program;  
15 (5) the total emissions reductions achieved under the  
16 program; and  
17 (6) any other information the commission considers  
18 relevant.

19 Sec. 395.015. EXPIRATION. This chapter expires on the last  
20 day of the state fiscal biennium during which the United States  
21 Environmental Protection Agency publishes in the Federal Register  
22 certification that, with respect to each national ambient air  
23 quality standard for ozone under 40 C.F.R. Section 81.344, the  
24 agency has, for each designated area under that section:

- 25 (1) designated the area as attainment or  
26 unclassifiable; or  
27 (2) approved a redesignation substitute making a

1 finding of attainment for the area.

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

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

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