

Suspending limitations on conference committee  
jurisdiction, S.B. No. 1731

By: Birdwell

S.R. No. 939

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 85th Legislature, Regular Session, 2017, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1731 (the repeal of laws governing certain state entities, including the functions of those entities) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter not included in either the house or senate version of the bill by adding the following text in proposed SECTION 8 of the bill:

SECTION 8. TEXAS EMISSIONS REDUCTION PLAN ADVISORY BOARD.

. . .

(b) To the extent of a conflict between Subsection (a-2) of this section and any change in law made by another provision of this section, the change in law made by the other provision of this section controls.

(b-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.037 to read as follows:

Sec. 382.037. NOTICE IN TEXAS REGISTER REGARDING NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE. (a) This

section applies only if:

(1) with respect to each active or revoked national ambient air quality standard for ozone referenced in 40 C.F.R. Section 81.344, the United States Environmental Protection Agency has, for each designated area referenced in that section:

(A) designated the area as attainment or unclassifiable/attainment; or

(B) approved a redesignation substitute making a finding of attainment for the area; and

(2) for each designated area described by Subdivision (1), with respect to an action of the United States Environmental Protection Agency described by Subdivision (1)(A) or (B):

(A) the action has been fully and finally upheld following judicial review or the limitations period to seek judicial review of the action has expired; and

(B) the rules under which the action was approved by the agency have been fully and finally upheld following judicial review or the limitations period to seek judicial review of those rules has expired.

(b) Not later than the 30th day after the date the conditions described by Subsection (a) have been met, the commission shall publish notice in the Texas Register that, with respect to each active or revoked national ambient air quality standard for ozone referenced in 40 C.F.R. Section 81.344, the United States Environmental Protection Agency has, for each designated area referenced in that section:

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

(2) approved a redesignation substitute making a finding of attainment for the area.

(b-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 386.001(3), Health and Safety Code, is amended to read as follows:

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

(c) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 386.002, Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section 382.037 [~~August 31, 2019~~].

(c-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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 seaport and rail yard areas emissions reduction ~~[drayage truck incentive]~~ program established under Subchapter D-1;

(16) conducting research and other activities associated with making any necessary demonstrations to the United States Environmental Protection Agency to account for the impact of foreign emissions or an exceptional event;

(17) studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected counties as provided by Section 386.252(a); and

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

(c-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Sections 386.0515(a) and (c), Health and Safety Code, are amended to read as follows:

(a) In this section:

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

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

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

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

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

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

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

. . .

(d-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 386.103, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

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

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

(2) developing, maintaining, and periodically updating a system to accept applications electronically through

the commission's Internet website.

(d-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Sections 386.104(f) and (j), Health and Safety Code, are amended to read as follows:

. . .

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

. . .

(e-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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.

(e-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Chapter 386, Health and Safety Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM

Sec. 386.151. DEFINITIONS. In this subchapter:

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

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

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



less.

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

(b) The program shall 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 this state for a minimum period of time to be established by the commission.

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

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

Sec. 386.154. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE REQUIREMENTS. (a) A new light-duty motor vehicle powered by compressed natural gas or liquefied petroleum gas is eligible for a \$5,000 incentive if the vehicle:

(1) has four wheels;

(2) was originally manufactured to comply with and

has been certified by an original equipment manufacturer or intermediate or final state vehicle manufacturer as complying with, or has been altered to comply with, federal motor vehicle safety standards, state emissions regulations, and any additional federal or state regulations applicable to vehicles powered by compressed natural gas or liquefied petroleum gas;

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

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

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

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

(5) has, as applicable, a:

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

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

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

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

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

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

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

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

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

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

(1) has four wheels;

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

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

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

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

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

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

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

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

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

(b) The commission may supplement the information provided under Subsection (a) with additional information on available vehicle models, including information provided by manufacturers or installers of systems to convert new motor

vehicles to operate on natural gas or liquefied petroleum gas before sale as a new vehicle or within 500 miles of operation of the vehicle following first sale.

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

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

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

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

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

Sec. 386.158. COMMISSION TO ACCOUNT FOR MOTOR VEHICLE PURCHASE OR LEASE INCENTIVES. (a) The commission by rule shall develop a method to administer and account for the motor vehicle purchase or lease incentives authorized by this subchapter and to pay incentive money to the purchaser or lessee of a new motor

vehicle, on application of the purchaser or lessee as provided by this subchapter.

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

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

Sec. 386.159. PURCHASE OR LEASE INCENTIVES INFORMATION.

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

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

Sec. 386.160. RESERVATION OF INCENTIVES. The commission may provide for dealers and leasing agents to reserve for a limited time period incentives for vehicles that are not readily available and must be ordered, if the dealer or leasing agent has a purchase or lease order signed by an identified customer.

(f) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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

(f-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, the heading to Section 386.181, Health and Safety Code, is amended to read as follows:

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

(f-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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.

(3) "Repower" means to replace an old engine

powering a vehicle with a new engine, a used engine, a remanufactured engine, or electric motors, drives, or fuel cells.

(g) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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:

(A) replace older drayage trucks and cargo handling equipment ~~[with pre-2007 model year engines]~~ with newer drayage trucks and cargo handling equipment; or

(B) repower 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 engines and 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.]~~

(g-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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.

(g-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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, piece of cargo handling equipment, or engine that under Subsection (a-1)(1)(A) or (2)(A), as applicable, 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 or repowered vehicle is an on-road drayage truck;

(B) operate the replacement or repowered 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, cargo handling equipment, or engine 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 in accordance with guidelines established by the commission and, if the incentive is for a replacement drayage truck or cargo handling equipment, 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:

(1) a drayage truck or cargo handling equipment must:

(A) 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

(B) 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; and

(2) an engine repowering a drayage truck or cargo handling equipment must:

(A) be an electric motor or an engine certified to the current federal emissions standards applicable

to that type of engine, as determined by the commission; and

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

(b) To receive money under an incentive program provided by this subchapter, the purchaser of a drayage truck, piece of cargo handling equipment, or engine 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 or repowered.

(d) An incentive provided under this subchapter may be used to fund not more than 80 percent of, as applicable, the purchase price of:

(1) the drayage truck or cargo handling equipment;  
or

(2) the engine and any other eligible costs associated with repowering the drayage truck or cargo handling equipment, as determined by the commission.

(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 or repowered for at least two years prior to receiving the grant; and

(2) as applicable:

(A) after purchase of the replacement drayage truck or cargo handling equipment, permanently destroys the engine and scraps the ~~[drayage]~~ truck or 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; or

(B) after repowering the drayage truck or cargo handling equipment, permanently destroys the engine that was contained in the truck or equipment in accordance with guidelines established by the commission~~[, after the purchase of the new truck]~~.

(h) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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 (h), 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) 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, 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 \$6 ~~[\$4]~~ million but not more than \$8 ~~[and up to four percent to a maximum of \$7]~~ million~~+~~ ~~whichever is greater,~~ is allocated to the commission for administrative costs, including all direct and indirect costs for administering the plan, costs for conducting outreach and education activities, and costs attributable to the review or approval of applications for marketable emissions reduction credits;

(10) six ~~[(12) at least two]~~ percent may ~~[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 obtained through wind and other renewable energy resources for the state implementation plan;

(13) not more than \$500,000 may be used for studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected counties to encourage cargo movement that reduces emissions of nitrogen oxides and particulate matter ~~[(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.]~~

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

~~[(c-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, not more than \$2.5 million may be used by the commission to conduct research and other activities associated with making any necessary demonstrations to the United States Environmental Protection Agency to account for the impact of foreign emissions or an exceptional event.

(g) 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.

(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.

(h-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 390.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas Commission on

Environmental Quality.

(1-a) "Diesel exhaust" means one or more of the air pollutants emitted from an engine by the combustion of diesel fuel, including particulate matter, nitrogen oxides, volatile organic compounds, air toxics, and carbon monoxide.

(h-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 390.002(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) diesel oxidation catalysts for school buses built before 1994;

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

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

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

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

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

(i) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 390.004, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A school bus proposed for replacement must:

- (1) be of model year 2006 or earlier;
- (2) have been owned and operated by the applicant for at least the two years before submission of the grant application;
- (3) be in good operational condition; and
- (4) be currently used on a regular, daily route to and from a school.

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

(i-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 390.005, Health and Safety Code, is amended to read as follows:

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

(b) A school bus acquired to replace an existing school bus must be purchased and the grant recipient must agree to own and operate the school bus on a regular, daily route to and from a school for at least five years after a start date established by the commission, based on the date the commission accepts

documentation of the permanent destruction or permanent removal of the school bus being replaced.

(c) A school bus replaced under this program must be rendered permanently inoperable by crushing the bus, by making a hole in the engine block and permanently destroying the frame of the bus, or by another method approved by the commission, or be permanently removed from operation in this state. The commission shall establish criteria for ensuring the permanent destruction or permanent removal of the engine or bus. The commission shall enforce the destruction and removal requirements.

(d) In this section, "permanent removal" means the permanent export of a school bus or the engine of a school bus to a destination outside of the United States, Canada, or the United Mexican States.

(i-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 390.006, Health and Safety Code, is amended to read as follows:

Sec. 390.006. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section 382.037 ~~[August 31, 2019]~~.

(j) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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.

(j-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 391.102(f), Health and Safety Code, is amended to read as follows:

(f) In reviewing a grant application under this chapter

~~[coordinating interagency application review procedures]~~, the commission may ~~[shall]~~:

(1) solicit review and comments from:

(A) the comptroller to assess:

(i) the financial stability of the applicant;

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

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

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

(i) the reliability of the proposed technology;

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

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

(C) the Railroad Commission of Texas to assess:

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

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

(2) consider the comments received under Subdivision (1) in the commission's grant award decision

process[ ~~and~~

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

(j-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 391.104, Health and Safety Code, is amended to read as follows:

Sec. 391.104. REPORTING REQUIREMENTS. The commission [~~annually~~] shall include in the biennial plan report required by Section 386.057(b) information [~~prepare a report~~] that summarizes the applications received and grants awarded in the preceding biennium [~~year~~]. Preparation of the information for the report may [~~must~~] include the participation of any [~~the~~] state agency [~~agencies~~] involved in the review of applications under Section 391.102, if the commission determines participation of the agency is needed.

(k) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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 combustion of natural resources and use the heat to generate electricity.

(k-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 391.304, Health and Safety Code, is amended to read as follows:

Sec. 391.304. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section 382.037 ~~[August 31, 2019]~~.

(k-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 392.001(1), Health and Safety Code, is amended to read as follows:

(1) "Alternative fuel" means a fuel other than gasoline or diesel 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) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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.

(1-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 392.003(a), Health and Safety Code, is amended to read as follows:

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

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

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

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

(1-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 392.004(d), Health and Safety Code, is amended to read as follows:

(d) The commission shall minimize, to the maximum extent possible, the amount of paperwork required for an application.

~~[An applicant may be required to submit a photograph or other documentation of a vehicle identification number, registration information, inspection information, tire condition, or engine block identification only if the photograph or documentation is requested by the commission after the commission has decided to award a grant to the applicant under this chapter.]~~

(m) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 392.005, Health and Safety Code, is amended by amending Subsections (c) and (i) and adding Subsection (c-1) to read as follows:

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient until the earlier of the fifth 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 state.

(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 being replaced.

(i) The executive director may ~~[shall]~~ waive the requirements of Subsection (b)(2)(A) on a finding of good cause,

which may include a waiver for short lapses in registration or operation attributable to economic conditions, seasonal work, or other circumstances.

(m-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 392.008, Health and Safety Code, is amended to read as follows:

Sec. 392.008. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section 382.037 ~~[August 31, 2017]~~.

(m-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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;

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

(iii) a highway corridor connecting Corpus Christi and Houston;

(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.

(n) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 393.002, Health and Safety Code, is amended to read as follows:

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

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

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

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

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

(n-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 393.003, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

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

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

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

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

(n-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 393.004, Health and Safety Code, is amended to read as follows:

Sec. 393.004. ELIGIBILITY OF FACILITIES FOR GRANTS.

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

(b) The prioritization criteria established under Subsection (a) must provide that, for each grant round, the commission may not award a grant to an entity that does not ~~[To be~~

~~eligible for a grant under the program, the entity receiving the grant must]~~ agree to make the alternative fueling facility accessible and available to the public ~~[persons not associated with the entity]~~ at times designated by the grant contract until each eligible entity that does agree to those terms has been awarded a grant ~~[agreement]~~.

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

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

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

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

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

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

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

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

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

(4) facilities located in the area in and between the Corpus Christi, Laredo, and San Antonio areas ~~[A recipient of a grant under this chapter is not eligible to receive a second~~

~~grant under this chapter for the same facility].~~

(o) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 393.005, Health and Safety Code, is amended to read as follows:

Sec. 393.005. RESTRICTION ON USE OF GRANT. (a) A recipient of a grant under this chapter shall use the grant only to pay the costs of the facility for which the grant is made. The recipient may not use the grant to pay the recipient's:

(1) administrative expenses;

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

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

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

(o-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 393.006, Health and Safety Code, is amended to read as follows:

Sec. 393.006. AMOUNT OF GRANT. (a) Grants awarded under this chapter for a facility to provide alternative fuels other than natural gas may not exceed ~~[For each eligible facility for which a recipient is awarded a grant under the program, the~~



~~commission shall award the grant in an amount equal to]~~ the lesser of:

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

(2) \$600,000.

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

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

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

or

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

(o-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 393.007, Health and Safety Code, is amended to read as follows:

Sec. 393.007. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section 382.037 ~~[August 31, 2018]~~.

(p) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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) "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 [~~"Advisory board" means the Texas Emissions Reduction Plan Advisory Board~~].

(1-a) "Clean transportation zone" has the meaning assigned by Section 393.001.

(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]~~.

(p-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 394.003(a), Health and Safety Code, is amended to read as follows:

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

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

(A) is a natural gas vehicle;

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

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

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

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

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

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

~~[(A)]~~ is certified to the appropriate current federal emissions standards as determined by the commission~~+~~ and

~~[(B) is:~~

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

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

(p-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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 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 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 . . . .~~

(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.

(q) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 394.006, Health and Safety Code, is amended to read as follows:

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

(q-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section 394.007(c), Health and Safety Code, is amended to read as follows:

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

(q-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, 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 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) ~~[(10)]~~ consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and

reporting requirements.

(r) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Section [394.012](#), Health and Safety Code, is amended to read as follows:

Sec. 394.012. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section [382.037](#) [August 31, 2017].

(r-1) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 395 to read as follows:

CHAPTER 395. GOVERNMENTAL ALTERNATIVE FUEL FLEET GRANT PROGRAM

Sec. 395.001. DEFINITIONS. In this chapter:

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

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

(3) "Incremental cost" has the meaning assigned by Section [386.001](#).

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

(5) "Plug-in hybrid motor vehicle" has the meaning assigned by Section 2158.001, Government Code.

(6) "Political subdivision" means a county, municipality, school district, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state.

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

(8) "State agency" has the meaning assigned by Section 2151.002, Government Code, and includes the commission.

Sec. 395.002. PROGRAM. (a) The commission shall establish and administer a governmental alternative fuel fleet grant program to assist an eligible applicant described by Section 395.003 in purchasing or leasing new motor vehicles that operate primarily on an alternative fuel.

(b) The program may provide a grant to an applicant described by Section 395.003 to:

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

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

Sec. 395.003. ELIGIBLE APPLICANTS. (a) A state agency or political subdivision is eligible to apply for a grant under

the program if the entity operates a fleet of more than 15 motor vehicles, excluding motor vehicles that are owned and operated by a private company or other third party under a contract with the entity.

(b) A mass transit or school transportation provider or other public entity established to provide public or school transportation services is eligible for a grant under the program.

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

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

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

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

Sec. 395.005. REFUELING INFRASTRUCTURE, EQUIPMENT, AND SERVICES. A grant recipient may purchase, lease, or install

refueling infrastructure or equipment or procure refueling services with money from a grant under the program if:

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

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

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

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

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

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

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

(b) In determining the incremental costs and setting the standardized grant amounts, the commission may consider the difference in cost between a new motor vehicle operated using conventional gasoline or diesel fuel and a new motor vehicle operated using alternative fuel.

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

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

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

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



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

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

(g) In providing a grant for the lease of refueling infrastructure, equipment, or services, the commission shall establish criteria:

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

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

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

Sec. 395.008. AVAILABILITY OF EMISSIONS REDUCTION CREDITS. (a) A project that is funded from a grant under the program and that would generate marketable emissions reduction credits under a state or federal emissions reduction credit

averaging, banking, or trading program is not eligible for funding under the program unless:

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

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

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

Sec. 395.009. USE OF GRANT MONEY. A grant recipient when using money from a grant under the program shall prioritize:

(1) the purchase or lease of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel, 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, to replace vehicles that have the highest total mileage and do not use an alternative fuel; 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.

Sec. 395.010. GRANT PROCEDURES AND CRITERIA. (a) The commission shall establish specific criteria and procedures in

order to implement and administer the program, including the creation and provision of application forms and guidance on the application process.

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

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

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

(e) In awarding grants under the program, the commission shall prioritize projects in the following order:

(1) projects that are proposed by a state agency;

(2) projects that are in or near a nonattainment area;

(3) projects that are in an affected county, as that term is defined by Section [386.001](#); and

(4) projects that will produce the greatest emissions reductions.

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

(1) the total amount of the emissions reduction that

would be achieved from the project;

(2) the type and number of vehicles purchased or leased;

(3) the location of the fleet and the refueling infrastructure or equipment;

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

(5) the amount of any matching funds committed by the applicant; and

(6) the schedule for project completion.

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

Sec. 395.011. FUNDING. The legislature may appropriate money to the commission from the Texas emissions reduction plan fund established under Section [386.251](#) to administer the program.

Sec. 395.012. ADMINISTRATIVE COSTS. In each fiscal year, the commission may use up to 1.5 percent of the total amount of money allocated to the program in that fiscal year, but not more than \$1 million, for the administrative costs of the program.

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

Sec. 395.014. REPORT REQUIRED. On or before November 1

of each even-numbered year, the commission shall submit to the governor, lieutenant governor, and members of the legislature a report that includes the following information regarding awards made under the program during the preceding state fiscal biennium:

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

Sec. 395.015. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section 382.037.

(r-2) Effective on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section, the following provisions of the Health and Safety Code are repealed:

. . .

- (4) Section 394.009;
- (5) Section 394.010; and
- (6) Section 394.011.

(s) This subsection takes effect on the date that the

Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section. As soon as practicable after the effective date of this subsection, the Texas Commission on Environmental Quality shall implement the online application process required by Section 395.010(c), Health and Safety Code, as added by this section. Prior to the implementation of the online application process, the commission may accept applications for a grant under Chapter 395, Health and Safety Code, as added by this section, in any manner provided by the commission.

(s-1) This subsection takes effect on the date that the Texas Emissions Reduction Plan Advisory Board is abolished under Subsection (a) of this section. The changes in law made by this section apply only to a Texas emissions reduction plan grant awarded on or after the effective date of this section. A grant awarded before the effective date of this section 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.

(t) This section takes effect August 30, 2017.

Explanation: The addition of text is necessary to ensure that the Texas Commission on Environmental Quality is able to carry out the commission's duties, responsibilities, and functions in the implementation of the Texas Emissions Reduction Plan after the abolishment of the Texas Emissions Reduction Plan Advisory Board.

(2) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text which is not in

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disagreement in proposed SECTION 18 of the bill, the effective date provision of the bill, to read as follows:

SECTION 18. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

Explanation: The change in the effective date provision is necessary to provide an exception for provisions of the bill that take effect on a date other than September 1, 2017.

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President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 28, 2017, by the following vote: Yeas 28, Nays 3.

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Secretary of the Senate