

1-1 By: Landgraf, Bell of Montgomery H.B. No. 4472  
 1-2 (Senate Sponsor - Birdwell)  
 1-3 (In the Senate - Received from the House May 17, 2021;  
 1-4 May 17, 2021, read first time and referred to Committee on Natural  
 1-5 Resources & Economic Development; May 24, 2021, reported  
 1-6 adversely, with favorable Committee Substitute by the following  
 1-7 vote: Yeas 9, Nays 0; May 24, 2021, sent to printer.)

1-8 COMMITTEE VOTE

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

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 4472 By: Birdwell

1-20 A BILL TO BE ENTITLED  
 1-21 AN ACT

1-22 relating to the Texas emissions reduction plan.  
 1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-24 SECTION 1. Section 386.051(b), Health and Safety Code, is  
 1-25 amended to read as follows:  
 1-26 (b) Under the plan, the commission and the comptroller shall  
 1-27 provide grants or other funding for:  
 1-28 (1) the diesel emissions reduction incentive program  
 1-29 established under Subchapter C, including for infrastructure  
 1-30 projects established under that subchapter;  
 1-31 (2) the motor vehicle purchase or lease incentive  
 1-32 program established under Subchapter D;  
 1-33 (3) the air quality research support program  
 1-34 established under Chapter 387;  
 1-35 (4) the clean school bus program established under  
 1-36 Chapter 390;  
 1-37 (5) the new technology implementation grant program  
 1-38 established under Chapter 391;  
 1-39 (6) the regional air monitoring program established  
 1-40 under Section 386.252(a);  
 1-41 (7) a health effects study as provided by Section  
 1-42 386.252(a);  
 1-43 (8) air quality planning activities as provided by  
 1-44 Section 386.252(d);  
 1-45 (9) a contract with the Energy Systems Laboratory at  
 1-46 the Texas A&M Engineering Experiment Station for computation of  
 1-47 creditable statewide emissions reductions as provided by Section  
 1-48 386.252(a);  
 1-49 (10) the Texas clean fleet program established under  
 1-50 Chapter 392;  
 1-51 (11) the Texas alternative fueling facilities program  
 1-52 established under Chapter 393;  
 1-53 (12) the Texas natural gas vehicle grant program  
 1-54 established under Chapter 394;  
 1-55 (13) other programs the commission may develop that  
 1-56 lead to reduced emissions of nitrogen oxides, particulate matter,  
 1-57 or volatile organic compounds in a nonattainment area or affected  
 1-58 county;  
 1-59 (14) other programs the commission may develop that  
 1-60 support congestion mitigation to reduce mobile source ozone

2-1 precursor emissions;  
 2-2 (15) the seaport and rail yard areas emissions  
 2-3 reduction program established under Subchapter D-1;  
 2-4 (16) conducting research and other activities  
 2-5 associated with making any necessary demonstrations to the United  
 2-6 States Environmental Protection Agency to account for the impact of  
 2-7 foreign emissions or an exceptional event;  
 2-8 (17) studies of or pilot programs for incentives for  
 2-9 port authorities located in nonattainment areas or affected  
 2-10 counties as provided by Section 386.252(a); ~~and~~  
 2-11 (18) the governmental alternative fuel fleet grant  
 2-12 program established under Chapter 395; and  
 2-13 (19) remittance of funds to the state highway fund for  
 2-14 use by the Texas Department of Transportation for congestion  
 2-15 mitigation and air quality improvement projects in nonattainment  
 2-16 areas and affected counties.

2-17 SECTION 2. Section 386.057, Health and Safety Code, is  
 2-18 amended by adding Subsection (e) to read as follows:

2-19 (e) Not later than October 1 of each year, the Texas  
 2-20 Department of Transportation shall report to the commission the  
 2-21 following information for all congestion mitigation and air quality  
 2-22 improvement projects in nonattainment areas and affected counties  
 2-23 that are planned to be funded, or received initial funding during  
 2-24 the preceding 10 years, from money received by the department under  
 2-25 this chapter:

2-26 (1) projects to mitigate congestion and improve air  
 2-27 quality that are currently planned;

2-28 (2) projects to mitigate congestion and improve air  
 2-29 quality that have been completed;

2-30 (3) estimated emissions reductions for all planned and  
 2-31 completed congestion mitigation projects; and

2-32 (4) estimated cost per ton analysis of reduced  
 2-33 emissions of nitrogen oxides, particulate matter, or volatile  
 2-34 organic compounds for each congestion mitigation project planned or  
 2-35 completed.

2-36 SECTION 3. Sections 386.104(c) and (c-1), Health and Safety  
 2-37 Code, are amended to read as follows:

2-38 (c) Except as otherwise provided by this subsection, for a  
 2-39 proposed project as described by Section 386.102(b), ~~[other than a~~  
 2-40 ~~project involving a marine vessel or engine,~~] not less than 75  
 2-41 percent of vehicle miles traveled or hours of operation projected  
 2-42 for the five years immediately following the award of a grant must  
 2-43 be projected to take place in a nonattainment area or affected  
 2-44 county of this state. The commission may set the minimum percentage  
 2-45 of vehicle miles traveled or hours of operation required to take  
 2-46 place in a nonattainment area or affected county at a percentage and  
 2-47 for a period that is different from the percentage and period  
 2-48 specified by this subsection, provided that the commission may not  
 2-49 set the minimum percentage at a level that is less than 55 percent.  
 2-50 The commission may allow vehicle travel on highways and roadways,  
 2-51 or portions of a highway or roadway, designated by the commission  
 2-52 and located outside a nonattainment area or affected county to  
 2-53 count towards the percentage of use requirement in this subsection.

2-54 (c-1) For a proposed project involving a marine vessel or  
 2-55 engine, the vessel or engine must be operated in the intercoastal  
 2-56 waterways or bays adjacent to a nonattainment area or affected  
 2-57 county of this state for a sufficient percentage ~~[amount]~~ of time  
 2-58 over the lifetime of the project, as determined by the commission,  
 2-59 to meet the cost-effectiveness requirements of Section 386.105.  
 2-60 The percentage determined by the commission under this subsection  
 2-61 may not be less than 55 percent.

2-62 SECTION 4. Section 386.250(c), Health and Safety Code, as  
 2-63 effective September 1, 2021, is amended to read as follows:

2-64 (c) Not later than the 30th day after the last day of each  
 2-65 state fiscal biennium, the commission shall transfer the  
 2-66 unencumbered balance of the fund remaining on the last day of the  
 2-67 state fiscal biennium to the credit of the state highway fund for  
 2-68 use by the Texas Department of Transportation for projects  
 2-69 described by Section 386.051(b)(19) ~~[Texas emissions reduction~~

3-1 ~~plan account].~~

3-2 SECTION 5. Section 386.251(c), Health and Safety Code, as  
 3-3 effective September 1, 2021, is amended to read as follows:

3-4 (c) The account consists of its accumulated balance [~~and the~~  
 3-5 ~~amount of money transferred to the account under Section~~  
 3-6 ~~386.250(e)].~~

3-7 SECTION 6. Section 386.252, Health and Safety Code, as  
 3-8 effective September 1, 2021, is amended by amending Subsection (a)  
 3-9 and adding Subsection (a-1) to read as follows:

3-10 (a) Money in the fund and account may be used only to  
 3-11 implement and administer programs established under the  
 3-12 plan. Subject to the reallocation of funds by the commission under  
 3-13 Subsection (h) and after remittance to the state highway fund under  
 3-14 Subsection (a-1), money from the fund and account to be used for the  
 3-15 programs under Section 386.051(b) shall initially be allocated as  
 3-16 follows:

3-17 (1) four percent may be used for the clean school bus  
 3-18 program under Chapter 390;

3-19 (2) three percent may be used for the new technology  
 3-20 implementation grant program under Chapter 391, from which at least  
 3-21 \$1 million will be set aside for electricity storage projects  
 3-22 related to renewable energy;

3-23 (3) five percent may be used for the Texas clean fleet  
 3-24 program under Chapter 392;

3-25 (4) not more than \$3 million may be used by the  
 3-26 commission to fund a regional air monitoring program in commission  
 3-27 Regions 3 and 4 to be implemented under the commission's oversight,  
 3-28 including direction regarding the type, number, location, and  
 3-29 operation of, and data validation practices for, monitors funded by  
 3-30 the program through a regional nonprofit entity located in North  
 3-31 Texas having representation from counties, municipalities, higher  
 3-32 education institutions, and private sector interests across the  
 3-33 area;

3-34 (5) 10 percent may be used for the Texas natural gas  
 3-35 vehicle grant program under Chapter 394;

3-36 (6) not more than \$6 million may be used for the Texas  
 3-37 alternative fueling facilities program under Chapter 393, of which  
 3-38 a specified amount may be used for fueling stations to provide  
 3-39 natural gas fuel, except that money may not be allocated for the  
 3-40 Texas alternative fueling facilities program for the state fiscal  
 3-41 year ending August 31, 2019;

3-42 (7) not more than \$750,000 may be used each year to  
 3-43 support research related to air quality as provided by Chapter 387;

3-44 (8) not more than \$200,000 may be used for a health  
 3-45 effects study;

3-46 (9) at least \$6 million but not more than \$16 million  
 3-47 may be used by the commission for administrative costs, including  
 3-48 all direct and indirect costs for administering the plan, costs for  
 3-49 conducting outreach and education activities, and costs  
 3-50 attributable to the review or approval of applications for  
 3-51 marketable emissions reduction credits;

3-52 (10) six percent may be used by the commission for the  
 3-53 seaport and rail yard areas emissions reduction program established  
 3-54 under Subchapter D-1;

3-55 (11) five percent may be used for the light-duty motor  
 3-56 vehicle purchase or lease incentive program established under  
 3-57 Subchapter D;

3-58 (12) not more than \$216,000 may be used by the  
 3-59 commission to contract with the Energy Systems Laboratory at the  
 3-60 Texas A&M Engineering Experiment Station annually for the  
 3-61 development and annual computation of creditable statewide  
 3-62 emissions reductions obtained through wind and other renewable  
 3-63 energy resources for the state implementation plan;

3-64 (13) not more than \$500,000 may be used for studies of  
 3-65 or pilot programs for incentives for port authorities located in  
 3-66 nonattainment areas or affected counties to encourage cargo  
 3-67 movement that reduces emissions of nitrogen oxides and particulate  
 3-68 matter; and

3-69 (14) the balance is to be used by the commission for

4-1 the diesel emissions reduction incentive program under Subchapter C  
4-2 as determined by the commission.

4-3 (a-1) The commission shall remit not less than 35 percent of  
4-4 the amount deposited to the credit of the fund to the state highway  
4-5 fund for use by the Texas Department of Transportation for projects  
4-6 described by Section 386.051(b)(19).

4-7 SECTION 7. Section 391.002(b), Health and Safety Code, is  
4-8 amended to read as follows:

4-9 (b) Projects that may be considered for a grant under the  
4-10 program include:

4-11 (1) advanced clean energy projects, as defined by  
4-12 Section 382.003;

4-13 (2) new technology projects that reduce emissions of  
4-14 regulated pollutants from stationary sources;

4-15 (3) new technology projects that reduce emissions from  
4-16 upstream and midstream oil and gas production, completions,  
4-17 gathering, storage, processing, and transmission activities  
4-18 through:

4-19 (A) the replacement, repower, or retrofit of  
4-20 stationary compressor engines;

4-21 (B) the installation of systems to reduce or  
4-22 eliminate the loss of gas, flaring of gas, or burning of gas using  
4-23 other combustion control devices; or

4-24 (C) the installation of systems that reduce  
4-25 flaring emissions and other site emissions [~~by capturing waste heat~~  
4-26 ~~to generate electricity solely for on-site service]; and~~

4-27 (4) electricity storage projects related to renewable  
4-28 energy, including projects to store electricity produced from wind  
4-29 and solar generation that provide efficient means of making the  
4-30 stored energy available during periods of peak energy use.

4-31 SECTION 8. Section 391.205(a), Health and Safety Code, is  
4-32 amended to read as follows:

4-33 (a) Except as provided by Subsection (c), in awarding grants  
4-34 under this chapter the commission shall give preference to projects  
4-35 that:

4-36 (1) involve the transport, use, recovery for use, or  
4-37 prevention of the loss of natural resources originating or produced  
4-38 in this state;

4-39 (2) contain an energy efficiency component;

4-40 (3) include the use of solar, wind, or other renewable  
4-41 energy sources; [~~or~~]

4-42 (4) recover waste heat from the combustion of natural  
4-43 resources and use the heat to generate electricity; or

4-44 (5) reduce flaring emissions and other site emissions.

4-45 SECTION 9. Section 391.301, Health and Safety Code, is  
4-46 amended to read as follows:

4-47 Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a  
4-48 grant under this chapter must use the grant to pay the incremental  
4-49 costs of the purchase, lease, or [~~and~~] installation of the project  
4-50 for which the grant is made, which may include reasonable and  
4-51 necessary expenses for the labor needed to install  
4-52 emissions-reducing equipment. The recipient may [~~not~~] use the  
4-53 grant for the costs of operating and maintaining the  
4-54 emissions-reducing equipment.

4-55 SECTION 10. Section 501.138, Transportation Code, is  
4-56 amended by amending Subsections (b-1), (b-2), and (b-3) and adding  
4-57 Subsection (b-4) to read as follows:

4-58 (b-1) Except as provided by Subsection (b-4), fees [~~Fees~~]  
4-59 collected under Subsection (b) to be sent to the comptroller shall  
4-60 be deposited to the credit of the Texas [~~Mobility Fund, except that~~  
4-61 ~~\$5 of each fee imposed under Subsection (a)(1) and deposited on or~~  
4-62 ~~after September 1, 2008, and before September 1, 2015, shall be~~  
4-63 ~~deposited to the credit of the Texas] emissions reduction plan  
4-64 fund.~~

4-65 (b-2) The comptroller shall establish a record of the amount  
4-66 of the fees deposited to the credit of the Texas emissions reduction  
4-67 plan fund [~~Mobility Fund~~] under Subsection (b-1). On or before the  
4-68 fifth workday of each month, the Texas Department of Transportation  
4-69 shall remit to the comptroller for deposit to the credit of the

5-1 Texas Mobility Fund [~~emissions reduction plan fund~~] an amount of  
5-2 money equal to the amount of the fees deposited by the comptroller  
5-3 to the credit of the Texas emissions reduction plan fund [~~Mobility~~  
5-4 ~~Fund~~] under Subsection (b-1) in the preceding month. The Texas  
5-5 Department of Transportation shall use for remittance to the  
5-6 comptroller as required by this subsection money in the state  
5-7 highway fund that is not required to be used for a purpose specified  
5-8 by Section 7-a, Article VIII, Texas Constitution, and may not use  
5-9 for that remittance money received by this state under the  
5-10 congestion mitigation and air quality improvement program  
5-11 established under 23 U.S.C. Section 149.

5-12 (b-3) This subsection and Subsections (b-1) and  
5-13 [~~Subsection~~] (b-2) expire on the last day of the state fiscal  
5-14 biennium during which the Texas Commission on Environmental Quality  
5-15 publishes in the Texas Register the notice required by Section  
5-16 382.037, Health and Safety Code.

5-17 (b-4) Fees collected under Subsection (b) to be sent to the  
5-18 comptroller shall be deposited to the credit of the Texas Mobility  
5-19 Fund if the fees are collected on or after the last day of the state  
5-20 fiscal biennium during which the Texas Commission on Environmental  
5-21 Quality publishes in the Texas Register the notice required by  
5-22 Section 382.037, Health and Safety Code.

5-23 SECTION 11. The changes in law made by this Act apply only  
5-24 to a Texas emissions reduction plan grant awarded on or after the  
5-25 effective date of this Act. A grant awarded before the effective  
5-26 date of this Act is governed by the law in effect on the date the  
5-27 award was made, and the former law is continued in effect for that  
5-28 purpose.

5-29 SECTION 12. The change in law made by this Act to Section  
5-30 501.138, Transportation Code, applies only to a fee collected on or  
5-31 after the effective date of this Act. A fee collected before the  
5-32 effective date of this Act is governed by the law in effect when the  
5-33 fee was collected, and the former law is continued in effect for  
5-34 that purpose.

5-35 SECTION 13. This Act takes effect September 1, 2021.

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