SENATE AMENDMENTS

2nd Printing

By: Landgraf, Bell of Montgomery H.B. No. 4472

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan.

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

SECTION 1. 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);

(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);

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

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

(12) the Texas natural gas vehicle grant 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;

(15) the seaport and rail yard areas emissions reduction 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;

(19) the purchase, maintenance, upgrade, and operation of air monitoring equipment as provided by Section 386.252(a);

(20) fee-based contracts entered into under the program established under Section 386.058;

(21) the energy efficiency loan guarantee program established under Section 388.013; and

(22) remittance of funds to the state highway fund for use by the Texas Department of Transportation for congestion mitigation and air quality improvement projects in nonattainment areas.

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

(e) Not later than October 1 of each year, the Texas Department of Transportation shall report to the commission the following information for all congestion mitigation and air quality improvement projects in nonattainment areas that are planned to be funded, or received initial funding during the preceding 10 years, from money received by the department under Section 386.250:

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

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

(3) estimated emissions reductions for all planned and completed congestion mitigation projects; and

(4) estimated cost per ton analysis of reduced

emissions of nitrogen oxides, particulate matter, or volatile organic compounds for each congestion mitigation project planned or completed.

SECTION 3. Subchapter B, Chapter 386, Health and Safety Code, is amended by adding Section 386.058 to read as follows:

Sec. 386.058. FEE-BASED CONTRACTS FOR PURCHASE OF REDUCTIONS IN EMISSIONS OF NITROGEN OXIDES. (a) The commission by rule shall establish a program authorizing the commission to enter into fee-based contracts for the purchase of reductions in emissions of nitrogen oxides.

(b) The program established under this section must:

(1) specify the types of projects that are eligible for fee-based contracts under the program, such as marine emission capture systems;

(2) measure nitrogen oxides emissions input and output on a continuous basis;

(3) require nitrogen oxides emissions reduced under the contract to be verified and certified by the commission;

(4) assign a dollar per ton fee based solely on the dollar per ton cost of the reduction in emissions of nitrogen oxides;

(5) require payments under the contract to be made only for actual reductions in nitrogen oxides emissions that are verified by the commission; and

(6) authorize the commission to enter into multiyear contracts under the program.

(c) Notwithstanding Section 386.055:

(1) the commission may enter into a fee-based contract under the program established under this section for a project involving a new emissions reduction measure that would otherwise generate marketable credits under a state or federal emissions reduction credit averaging, banking, or trading program if, during the term of the contract, the project is not used for credit under any state or federal emissions reduction credit averaging, banking, or trading program; and

(2) a project that was subject to a fee-based contract under the program established under this section may be used for credit under a state or federal emissions reduction credit averaging, banking, or trading program if:

(A) the contract has expired or otherwise terminated and the project is not subject to any other fee-based contract entered into under the program established under this section; and

(B) the project otherwise meets the requirements of the applicable state or federal emissions reduction credit averaging, banking, or trading program.

SECTION 4. Sections 386.104(c) and (c-1), Health and Safety Code, are amended to read as follows:

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

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

SECTION 5. Section 386.154, Health and Safety Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

<u>(f) A new light-duty motor vehicle powered by an electric drive is eligible for a $750 incentive if the vehicle:</u>

<u>(1) is a motorcycle as defined by Section 541.201, Transportation Code;</u>

<u>(2) satisfies the requirements of Subsections (d)(2)-(5);</u>

<u>(3) was acquired on or after September 1, 2013, or a</u>

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; and

(4) is not a motor-assisted scooter or pocket bike or minimotorbike as those terms are defined by Section 551.351, Transportation Code.

(g) The incentive under Subsection (f) is limited to 500 vehicles for each state fiscal biennium.

(h) Notwithstanding Subsections (c) and (e) and subject to Section 386.252(a)(11), at the beginning of the second state fiscal year of the biennium, the commission may adjust the initial vehicle limitations provided under Subsections (c) and (e) based on demand for incentives under this section during the preceding state fiscal year.

SECTION 6. Section 386.250, Health and Safety Code, as effective September 1, 2021, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commission may not remit more than 40 percent of the amount deposited to the credit of the fund to the state highway fund for use by the Texas Department of Transportation for projects described by Section 386.051(b)(22).

(d) Not later than the 30th day after the last day of each state fiscal biennium, the commission shall transfer the unencumbered balance of the fund remaining on the last day of the state fiscal biennium to the credit of a separate account established in the fund for use by the commission for funding research at the Texas A&M Transportation Institute to determine:

(1) the cost-effectiveness of existing emissions reduction programs under the plan; and

(2) cost-effective programs that are not currently authorized to receive funding under the plan that would improve the emissions reduction capabilities of the plan [~~the Texas emissions reduction plan account~~].

SECTION 7. Sections 386.252(a), (f), and (h), Health and Safety Code, as effective September 1, 2021, are amended to read as follows:

(a) Money in the fund and account 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 from the fund and account to be used for the programs under Section 386.051(b) shall initially be allocated per state fiscal year as follows:

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

(2) six [~~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 be used for the Texas 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 percent may be used for the Texas natural gas vehicle grant program under Chapter 394;

(6) not more than $6 million 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) not more than <u>$1 million</u> [~~$750,000~~] may be used each year to support research related to air quality as provided by Chapter 387;

(8) not more than $200,000 may be used for a health effects study;

(9) at least $6 million but not more than $16 million may be used by 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 percent may be used by the commission for the seaport and rail yard areas emissions reduction program established under Subchapter D-1;

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

(12) not less [~~more~~] than $216,000 and not more than $1 million may be used by the commission to contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station annually for:

(A) the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan; and

(B) the annual computation of creditable statewide emissions reductions attributable to energy efficiency programs;

(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; [~~and~~]

(14) not more than $10 million may be used by the commission for the purchase, maintenance, upgrade, and operation of air monitoring equipment, including data analysis, to be used in nonattainment areas and affected counties;

(15) not more than $10 million may be used by the commission for fee-based contracts entered into under the program established under Section 386.058;

(16) not more than $5 million may be allocated for the

energy efficiency loan guarantee program established under Section 388.013; and

(17) the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

(f) Not more than $5 [~~$2.5~~] million from the fund and account 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.

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

SECTION 8. Chapter 388, Health and Safety Code, is amended by adding Section 388.013 to read as follows:

Sec. 388.013. ENERGY EFFICIENCY LOAN GUARANTEE PROGRAM. (a) The comptroller and the State Energy Conservation Office by rule shall establish and administer a program that issues or guarantees loans to be used for improvements that increase the energy efficiency of residences that are not newly constructed.

(b) Rules adopted under this section must establish eligibility requirements for receipt of a loan issued or guaranteed under this section, including emissions reduction cost-effectiveness criteria with preference given to nonattainment areas or affected counties.

(c) The State Energy Conservation Office annually shall submit to the commission and the laboratory a report that:

(1) evaluates the effectiveness of the program established under this section; and

(2) quantifies energy savings and emissions reductions as a result of this program for consideration in the state implementation plan for emissions reduction credit.

SECTION 9. Section 389.002, Health and Safety Code, is amended to read as follows:

Sec. 389.002. USE OF CERTAIN INFORMATION FOR FEDERAL RECOGNITION OF EMISSIONS REDUCTIONS. The commission, using information derived from the reports to the commission under Sections 386.205, 388.003(e), [~~and~~] 388.006, and 388.013, shall take all appropriate and necessary actions so that emissions reductions achieved by means of activities under Chapters 386 and 388 are credited by the United States Environmental Protection Agency to the appropriate emissions reduction objectives in the state implementation plan.

SECTION 10. 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 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) electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use.

SECTION 11. 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;

(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; or

(5) reduce flaring emissions and other site emissions.

SECTION 12. Section 391.301, Health and Safety Code, is amended to read as follows:

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

SECTION 13. Section 394.003, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) 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 the entity:

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

(A) is a new natural gas vehicle or, subject to Subsection (c), a used 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; or

(2) repowered the on-road motor vehicle to a natural gas vehicle powered by a natural gas engine that is certified to the appropriate current federal emissions standards as determined by the commission.

(c) A used natural gas vehicle that is proposed to replace an on-road heavy-duty or medium-duty motor vehicle must be of model year 2017 or later, provided that the model year may not be more than six years older than the current model year at the time of the submission of the grant application.

SECTION 14. Section 394.005(b), Health and Safety Code, is amended to read as follows:

(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 qualifying [~~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;

(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.

SECTION 15. Section 501.138, Transportation Code, is amended by amending Subsections (b-1), (b-2), and (b-3) and adding Subsection (b-4) to read as follows:

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

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

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

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

SECTION 16. The changes in law made by this Act apply only to a Texas emissions reduction plan grant awarded on or after the effective date of this Act. A grant awarded before the effective date of this Act is governed by the law in effect on the date the award was made, and the former law is continued in effect for that purpose.

SECTION 17. The change in law made by this Act to Section 501.138, Transportation Code, applies only to a fee collected on or after the effective date of this Act. A fee collected before the effective date of this Act is governed by the law in effect when the fee was collected, and the former law is continued in effect for that purpose.

SECTION 18. This Act takes effect September 1, 2021.

ADOPTED

MAY 25 2021

Patsy Spaw
Secretary of the Senate

By: Brian Birdwell

H.B. No. 4472

Substitute the following for H.B. No. 4472:

By: Brian Birdwell

C.S.H.B. No. 4472

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan.

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

SECTION 1. 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);

(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);

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

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

(12) the Texas natural gas vehicle grant 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;

(15) the seaport and rail yard areas emissions reduction 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; and

(19) remittance of funds to the state highway fund for use by the Texas Department of Transportation for congestion mitigation and air quality improvement projects in nonattainment areas and affected counties.

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

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

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

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

(3) estimated emissions reductions for all planned and completed congestion mitigation projects; and

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

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

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

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

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

(c) Not later than the 30th day after the last day of each state fiscal biennium, the commission shall transfer the unencumbered balance of the fund remaining on the last day of the state fiscal biennium to the credit of the state highway fund for use by the Texas Department of Transportation for projects described by Section 386.051(b)(19) [~~Texas emissions reduction plan account~~].

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

(c) The account consists of its accumulated balance [~~and the amount of money transferred to the account under Section 386.250(c)~~].

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

(a) Money in the fund and account 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) and after remittance to the state highway fund under Subsection (a-1), money from the fund and account to be used for the programs under Section 386.051(b) shall initially be allocated as follows:

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

(2) 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 be used for the Texas 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 percent may be used for the Texas natural gas vehicle grant program under Chapter 394;

(6) not more than $6 million 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) not more than $750,000 may be used each year to support research related to air quality as provided by Chapter 387;

(8) not more than $200,000 may be used for a health effects study;

(9) at least $6 million but not more than $16 million may be used by 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 percent may be used by the commission for the seaport and rail yard areas emissions reduction program established under Subchapter D-1;

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

(12) not more than $216,000 may be used by 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; and

(14) the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

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

SECTION 7. 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 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) electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use.

SECTION 8. 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;

(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; or

(5) reduce flaring emissions and other site emissions.

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

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

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

(b-1) Except as provided by Subsection (b-4), fees [~~Fees~~] collected under Subsection (b) to be sent to the comptroller shall be deposited to the credit of the Texas [~~Mobility Fund, except that $5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, shall be~~

~~deposited to the credit of the Texas~~] emissions reduction plan fund.

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

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

(b-4) Fees collected under Subsection (b) to be sent to the comptroller shall be deposited to the credit of the Texas Mobility Fund if the fees are collected on or after the last day of the state fiscal biennium during which the Texas Commission on Environmental

Quality publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

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

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

SECTION 13. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4472 by Landgraf (Relating to the Texas emissions reduction plan.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4472, As Passed 2nd House : an impact of $0 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to *General Revenue Related Funds***
2022	$0
2023	$0
2024	$0
2025	$0
2026	$0

All Funds, Five-Year Impact:

Fiscal Year	**Probable Revenue Gain/(Loss) from *Texas Emissions Reduction Plan Fund***	**Probable Revenue Gain/(Loss) from *State Highway Fund* 6**
2022	($90,390,000)	$90,390,000
2023	($91,809,000)	$91,809,000
2024	($93,226,000)	$93,226,000
2025	($94,667,000)	$94,667,000
2026	($96,129,000)	$96,129,000

Fiscal Analysis

The bill would amend the Health and Safety Code to broaden use of Texas Emissions Reduction Program funds within the Texas Emissions Reduction Plan Fund (TERP Fund) by the Texas Commission on Environmental Quality (TCEQ) for air monitoring equipment operations, fee-based contracts, the energy efficiency loan guarantee program, and for remitting to the State Highway Fund (SHF) for use by the Texas Department of Transportation (TxDOT) on congestion mitigation and air quality improvement projects in nonattainment areas. The bill would require TCEQ to remit to TxDOT for such projects at least 35 percent of the amount deposited to the credit of the TERP Fund.

The bill would require TxDOT to provide a report to TCEQ no later than October 1st of each year information as provided in the bill on all congestion mitigation and air quality improvement projects in nonattainment areas that are planned to be funded or have received funding during the preceding 10 years.

The bill would require the unencumbered balance remaining in the TERP Fund after each biennium be transferred to the SHF. Under current law that balance would be transferred to General Revenue-Dedicated Texas Emissions Reduction Plan No. 5071.

The bill would require TCEQ to include projects that reduce flair emissions and other site emissions among those to which it gives preference, and would permit lease costs as an allowable expense for a grant project concerning installation of emissions-reducing equipment.

The bill would require projects involving marine vessels or engines that have received a grant through the Diesel Emission Reduction Incentive program be required to operate in an intercoastal waterway or bay adjacent to a nonattainment area or affected county at least 55 percent of the time over the lifetime of the project.

The bill would amend the Transportation Code to change deposit of remitted title fees from the Texas Mobility Fund (TMF) to the Texas Emission Reduction Plan Fund and the bill would direct the Texas Department of Transportation to transfer an equal amount from the SHF to the TMF.

Methodology

Under the provisions of the bill, at least 35 percent of TERP revenues would be transferred to the SHF for use by TxDOT on projects that reduce congestion and improve air quality. This would result in revenue deposited to the credit of the TERP Fund located outside of the Treasury under current law that would, instead, be deposited to the credit of the SHF. Based on the analysis of the Comptroller of Public Accounts, this estimate assumes an estimated $90,390,000 in fiscal year 2022, $91,809,000 in fiscal year 2023, $93,226,000 in fiscal year 2024, $94,667,000 in fiscal year 2025, and $96,129,000 in fiscal year 2026 would be directed from the TERP Fund to the SHF.

The projected ending balance of the TERP Fund that would be transferred to the SHF is unknown; therefore, the fiscal implications of provisions requiring transfer of that unexpended balance cannot be determined.

This estimate assumes other changes to the allocation of TERP funds or programs identified in the bill that are eligible to receive funding from the TERP fund located outside of the Treasury or the General Revenue–Dedicated Texas Emissions Reduction Plan No. 5071 account would have no revenue implications.

The bill would have no net fiscal effect between the TMF, SHF, and TERP fund. Under current law, beginning September 1, 2021, title fees are deposited to the TMF, and the TERP Fund located outside of the treasury is credited, through legislative appropriation, an equal amount from the SHF each month. This estimate assumes motor vehicle title fees would be deposited directly to the TERP Fund outside the treasury and the transfer from the SHF to TMF would remain entirely within the treasury. Since the bill would just adjust transfers that are pre-existing, no significant fiscal impact to the state is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas A&M Eng Expr Station, 727 Texas A&M Transportation Institute

LBB Staff: JMc, CMA, AJL, MW, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB4472** by Landgraf (Relating to the Texas emissions reduction plan.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4472, Committee Report 2nd House, Substituted : an impact of $0 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds***
2022	$0
2023	$0
2024	$0
2025	$0
2026	$0

All Funds, Five-Year Impact:

Fiscal Year	**Probable Revenue Gain/(Loss) from** ***Texas Emissions Reduction Plan Fund***	**Probable Revenue Gain/(Loss) from** ***State Highway Fund*** **6**
2022	($90,390,000)	$90,390,000
2023	($91,809,000)	$91,809,000
2024	($93,226,000)	$93,226,000
2025	($94,667,000)	$94,667,000
2026	($96,129,000)	$96,129,000

Fiscal Analysis

The bill would amend the Health and Safety Code to broaden use of Texas Emissions Reduction Program funds within the Texas Emissions Reduction Plan Fund (TERP Fund) by the Texas Commission on Environmental Quality (TCEQ) for air monitoring equipment operations, fee-based contracts, the energy efficiency loan guarantee program, and for remitting to the State Highway Fund (SHF) for use by the Texas Department of Transportation (TxDOT) on congestion mitigation and air quality improvement projects in nonattainment areas. The bill would require TCEQ to remit to TxDOT for such projects at least 35 percent of the amount deposited to the credit of the TERP Fund.

The bill would require TxDOT to provide a report to TCEQ no later than October 1st of each year information as provided in the bill on all congestion mitigation and air quality improvement projects in nonattainment areas that are planned to be funded or have received funding during the preceding 10 years.

The bill would require the unencumbered balance remaining in the TERP Fund after each biennium be transferred to the SHF. Under current law that balance would be transferred to General Revenue-Dedicated Texas Emissions Reduction Plan No. 5071.

The bill would require TCEQ to include projects that reduce flair emissions and other site emissions among those to which it gives preference, and would permit lease costs as an allowable expense for a grant project concerning installation of emissions-reducing equipment.

The bill would require projects involving marine vessels or engines that have received a grant through the Diesel Emission Reduction Incentive program be required to operate in an intercoastal waterway or bay adjacent to a nonattainment area or affected county at least 55 percent of the time over the lifetime of the project.

The bill would amend the Transportation Code to change deposit of remitted title fees from the Texas Mobility Fund (TMF) to the Texas Emission Reduction Plan Fund and the bill would direct the Texas Department of Transportation to transfer an equal amount from the SHF to the TMF.

Methodology

Under the provisions of the bill, at least 35 percent of TERP revenues would be transferred to the SHF for use by TxDOT on projects that reduce congestion and improve air quality. This would result in revenue deposited to the credit of the TERP Fund located outside of the Treasury under current law that would, instead, be deposited to the credit of the SHF. Based on the analysis of the Comptroller of Public Accounts, this estimate assumes an estimated $90,390,000 in fiscal year 2022, $91,809,000 in fiscal year 2023, $93,226,000 in fiscal year 2024, $94,667,000 in fiscal year 2025, and $96,129,000 in fiscal year 2026 would be directed from the TERP Fund to the SHF.

The projected ending balance of the TERP Fund that would be transferred to the SHF is unknown; therefore, the fiscal implications of provisions requiring transfer of that unexpended balance cannot be determined.

This estimate assumes other changes to the allocation of TERP funds or programs identified in the bill that are eligible to receive funding from the TERP fund located outside of the Treasury or the General Revenue–Dedicated Texas Emissions Reduction Plan No. 5071 account would have no revenue implications.

The bill would have no net fiscal effect between the TMF, SHF, and TERP fund. Under current law, beginning September 1, 2021, title fees are deposited to the TMF, and the TERP Fund located outside of the treasury is credited, through legislative appropriation, an equal amount from the SHF each month. This estimate assumes motor vehicle title fees would be deposited directly to the TERP Fund outside the treasury and the transfer from the SHF to TMF would remain entirely within the treasury. Since the bill would just adjust transfers that are pre-existing, no significant fiscal impact to the state is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas A&M Eng Expr Station, 727 Texas A&M Transportation Institute

LBB Staff: JMc, AJL, MW, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4472 by Landgraf (Relating to the Texas emissions reduction plan.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4472, As Engrossed : a negative impact of ($1,158,000) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds***
2022	($579,000)
2023	($579,000)
2024	($579,000)
2025	($579,000)
2026	($579,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***General Revenue Fund*** **1**	**Probable Savings/(Cost) from** ***Texas Emissions Reduction Plan*** **5071**	*Change in Number of State Employees from FY 2021*
2022	($579,000)	($258,217)	1.0
2023	($579,000)	($115,753)	1.0
2024	($579,000)	($118,069)	1.0
2025	($579,000)	($120,430)	1.0
2026	($579,000)	($122,840)	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code to broaden use of Texas Emissions Reduction Program funds within the Texas Emissions Reduction Plan Fund (TERP Fund) by the Texas Commission on Environmental Quality (TCEQ) for air monitoring equipment operations, fee-based contracts, the energy efficiency loan guarantee program, and for remitting to the State Highway Fund (SHF) for use by the Texas Department of Transportation (TxDOT) on congestion mitigation and air quality improvement projects in nonattainment areas. The bill would limit the amount that TCEQ could remit to TxDOT for such projects to no more than 40 percent of the amount deposited to the credit of the TERP Fund.

The bill would require TxDOT to provide a report to TCEQ no later than October 1st of each year information as provided in the bill on all congestion mitigation and air quality improvement projects in nonattainment areas that are planned to be funded or have received funding during the preceding 10 years.

The bill would make electric motorcycles that meet certain criteria eligible for a $750 incentive from TERP and would stipulate the criteria a natural gas vehicle is required to meet to be eligible for a grant from TERP.

The bill would amend the Health and Safety Code to change the allocation per year for the new technology implementation grant program from 3 to 6 percent and air quality research from $750,000 to $1 million. The bill would also add an allocation of $10 million for air monitoring grants, $10 million for fee-based contracts and $5 million for the energy efficiency loan guarantee program.

The bill would add an additional program eligible for TERP funding for research at the Texas A&M Transportation Institute (TTI) to determine the cost effectiveness of existing emissions reduction programs and cost effectiveness of programs not currently funded that would improve the emissions reduction capabilities. This new program would be funded through available balances of the TERP Fund after distribution of all statutorily required allocations. The bill would require these unexpended balances be transferred at the end of the fiscal year to a subaccount established by the bill within General Revenue–Dedicated Texas Emissions Reduction Plan No. 5071 for use by the agency in providing funding to TTI.

The bill would require the Comptroller and State Energy Conservation Office (SECO) to establish and administer the Energy Efficiency Loan Guarantee Program that issues or guarantees loans to be used for improvements that increase the energy efficiency of residences that are not newly constructed. The bill would require SECO to submit an annual report to TCEQ and the Texas A&M Engineering Experiment Station that evaluates the effectiveness of the program and quantifies energy and emissions reductions for consideration in the state implementation plan for emissions reduction credit.

The bill would amend the Health and Safety Code to establish a program allowing TCEQ to enter into fee-based contracts for the purchase of reductions in emissions of nitrogen oxides. The bill identifies program requirements that includes the types of projects that are eligible, that projects must measure nitrogen oxide emissions, requires TCEQ to verify nitrogen oxide emissions, assigns a dollar per ton fee based on the cost of the nitrogen oxide reduction, and requires payments to be made for actual reductions verified by TCEQ.

The bill would amend the Health and Safety Code to require projects involving marine vessels or engines that have received a grant through the Diesel Emission Reduction Incentive program be required to operate in an intercoastal waterway or bay adjacent to a nonattainment area or affected county at least 55 percent of the time over the lifetime of the project.

The bill would amend the Transportation Code to change deposit of remitted title fees from the Texas Mobility Fund (TMF) to the Texas Emission Reduction Plan Fund and the bill would direct the Texas Department of Transportation to transfer an equal amount from the SHF to the TMF.

Methodology

Based on the analysis of the Comptroller of Public Accounts, this estimate assumes the agency would need an additional 1.0 FTE for a Program Specialist IV ($79,000 in General Revenue each fiscal year) to administer the Energy Efficiency Loan Guarantee Program and $500,000 in General Revenue each fiscal year for contracting with a lending institution to act as a loan administrator.

Under the provisions of the bill, up to 40 percent of TERP revenues could be transferred to the SHF for use by TxDOT on projects that reduce congestion and improve air quality; however, as the bill does not specify an amount or percentage of those revenues to be transferred, the fiscal implications of this provision cannot be determined. For illustrative purposes, a transfer of 40 percent of TERP revenues in fiscal year 2022 would result in a transfer to the SHF of approximately $103,303,000.

This estimate assumes other changes to the allocation of TERP funds or programs identified in the bill that are eligible to receive funding from the TERP fund located outside of the Treasury or the General Revenue–Dedicated Texas Emissions Reduction Plan No. 5071 account would have no revenue implications.

Under the provisions of the bill, the Texas A&M Transportation Institute (TTI) would be eligible to receive a grant through the TERP program drawn from available balances within the TERP Fund located outside of the Treasury following distribution for all necessary statutory allocations. The bill requires this unexpended balance be deposited by TCEQ into a subaccount established by the bill within General Revenue–Dedicated Texas Emissions Reduction Plan No. 5071. TCEQ is also authorized to use remaining balances to provide grants through the Diesel Emission Reduction Incentive (DERI) grant program. As the amount that the agency would allocate to the DERI program cannot be determined, the amount that could be allocated to TTI from this same remaining balance also cannot be estimated.

Under current law, the Energy Systems Laboratory (ESL) at the Texas A&M Engineering Experiment Stations is allocated $216,000 each fiscal year for the development and annual computation of creditable statewide emissions reductions for the State Implementation Plan. In addition, the agency has historically been appropriated funding from General Revenue–Dedicated Texas Emissions Reduction Plan Account No. 5071 by the Legislature to cover administrative costs associated with these responsibilities. Under the bill's provisions, ESL would be required to incorporate emissions data from the energy efficiency loan guarantee program in its analysis of nitrogen oxide reductions. Based on the analysis of ESL, this estimate assumes the agency would require an additional $258,217 in fiscal year 2022, $115,753 in fiscal year 2023, $118,069 in fiscal year 2024, $120,430 in fiscal year 2025, and $122,840 in fiscal year 2026 in General Revenue–Dedicated Texas Emission Reduction Plan No. 5071 funding for costs associated with reviewing and processing information from this program for inclusion in its annual report of creditable nitrogen oxide emissions reduction.

The bill would have no net fiscal effect between the TMF, SHF, and TERP fund. Under current law, beginning September 1, 2021, title fees are deposited to the TMF, and the TERP Fund located outside of the treasury is credited, through legislative appropriation, an equal amount from the SHF each month. This estimate assumes motor vehicle title fees would be deposited directly to the TERP fund outside the treasury and the transfer from the SHF to TMF would remain entirely within the treasury. Since the bill would just adjust transfers that are pre-existing, no significant fiscal impact to the state is anticipated. For informational purposes, the Comptroller's Biennial Revenue Estimate anticipates that title fees will generate $154,946,000 in FY 2022 and $157,270,000 in FY 2023.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas A&M Eng Expr Station, 727 Texas A&M Transportation Institute

LBB Staff: JMc, AJL, MW, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 4, 2021

TO: Honorable Brooks Landgraf, Chair, House Committee on Environmental Regulation

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4472 by Landgraf (Relating to the Texas emissions reduction plan.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4472, Committee Report 1st House, Substituted : a negative impact of ($1,158,000) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to** ***General Revenue Related Funds***
2022	($579,000)
2023	($579,000)
2024	($579,000)
2025	($579,000)
2026	($579,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** ***General Revenue Fund*** **1**	**Probable Savings/(Cost) from** ***Texas Emissions Reduction Plan*** **5071**	*Change in Number of State Employees from FY 2021*
2022	($579,000)	($258,217)	1.0
2023	($579,000)	($115,753)	1.0
2024	($579,000)	($118,069)	1.0
2025	($579,000)	($120,430)	1.0
2026	($579,000)	($122,840)	1.0

Fiscal Analysis

The bill would amend the Health and Safety and Transportation Codes to make several changes to the Texas Emissions Reduction Plan (TERP).

The bill would amend the Health and Safety Code to broaden use of TERP funds deposited to the credit of the Texas Emissions Reduction Plan Fund (TERP Fund) account located outside of the Treasury and administered by the Texas Commission on Environmental Quality (TCEQ) for air monitoring equipment operations, fee-based contracts, and the energy efficiency loan guarantee program.

The bill would make electric motorcycles that meet certain criteria eligible for a $750 incentive from TERP and would stipulate the criteria a natural gas vehicle is required to meet to be eligible for a grant from TERP.

The bill would amend the Health and Safety Code to change the allocation per year for clean school bus program from 4 percent to $3 million per year, new technology implementation grant program from 3 percent to $5 million, clean fleet program from 5 percent to $4 million, natural gas vehicle grant program from 10 percent to $8 million, air quality research from $750,000 to $1 million, seaport and rail yard areas emissions reduction from 6 percent to $5 million, and light duty vehicle program from 5 percent to $4 million. The bill would also add an allocation of $10 million for air monitoring grants, $10 million for fee-based contracts, $5 million for the energy efficiency loan guarantee program, and adds an additional program for funding research at the Texas A&M Transportation Institute (TTI) to determine the cost effectiveness of existing emissions reduction programs and cost effectiveness of programs not currently funded that would improve the emissions reduction capabilities. This new program would be funded through available balances of the TERP Fund after distribution of all statutorily required allocations.

The bill would require the Comptroller and State Energy Conservation Office (SECO) to establish and administer the Energy Efficiency Loan Guarantee Program that issues or guarantees loans to be used for improvements that increase the energy efficiency of residences that are not newly constructed. The bill would require SECO to submit an annual report to TCEQ and the Texas A&M Engineering Experiment Station which evaluates the effectiveness of the program and quantifies energy and emissions reductions for consideration in the state implementation plan for emissions reduction credit.

The bill would amend the Health and Safety Code to establish a program allowing TCEQ to enter into fee-based contracts for the purchase of reductions in emissions of nitrogen oxides. The bill identifies program requirements that includes the types of projects that are eligible, that projects must measure nitrogen oxide emissions, requires TCEQ to verify nitrogen oxide emissions, assigns a dollar per ton fee based on the cost of the nitrogen oxide reduction, and requires payments to be made for actual reductions verified by TCEQ.

The bill would amend the Health and Safety Code to require projects involving marine vessels or engines that have received a grant through the Diesel Emission Reduction Incentive (DERI) program be required to operate in an intercoastal waterway or bay adjacent to a nonattainment area or affected county at least 55 percent of the time over the lifetime of the project.

The bill would amend the Transportation Code to change deposit of remitted title fees from the Texas Mobility Fund (TMF) to the Texas Emission Reduction Plan Fund and the bill would direct the Texas Department of Transportation to transfer an equal amount from the State Highway Fund (SHF) to the TMF.

The bill would take effect September 1, 2021.

Methodology

Based on the analysis of the Comptroller of Public Accounts, this estimate assumes the agency would need an additional 1.0 FTE for a Program Specialist IV ($79,000 in General Revenue each fiscal year) to administer the Energy Efficiency Loan Guarantee Program and $500,000 in General Revenue each fiscal year for contracting with a lending institution to act as a loan administrator.

Based on the analysis of the Comptroller of Public Accounts, this estimate assumes changes to the allocation of TERP funds or programs eligible to receive funding from either the TERP Fund located outside of the Treasury or the General Revenue–Dedicated Texas Emissions Reduction Plan No. 5071 account would have no revenue implications.

Under the provisions of the bill, the TTI would be eligible to receive a grant through the TERP program drawn from available balances within the TERP Fund located outside of the Treasury following distribution for all necessary statutory allocations. TCEQ is also authorized to use remaining balances to provide grants through the DERI program. As the amount that the agency would allocate to the DERI program cannot be determined, the amount that could be allocated to TTI from this same remaining balance also cannot be estimated. However, this estimate assumes that any costs associated with implementing this provision would be covered by funding from the TERP Fund located outside of the Treasury.

Under current law, the Energy Systems Laboratory (ESL) at the Texas A&M Engineering Experiment Stations is allocated $216,000 each fiscal year for the development and annual computation of creditable statewide emissions reductions for the State Implementation Plan. In addition, the agency has historically been appropriated funding from General Revenue–Dedicated Texas Emissions Reduction Plan Account No. 5071 by the Legislature to cover administrative costs associated with these responsibilities. Under the bill's provisions, ESL would be required to incorporate emissions data from the energy efficiency loan guarantee program in its analysis of nitrogen oxide reductions. Based on the analysis of ESL, this estimate assumes the agency would require an additional $258,217 in fiscal year 2022, $115,753 in fiscal year 2023, $118,069 in fiscal year 2024, $120,430 in fiscal year 2025, and $122,840 in fiscal year 2026 in General Revenue–Dedicated Texas Emission Reduction Plan No. 5071 funding for costs associated with reviewing and processing information from this program for inclusion in its annual report of creditable nitrogen oxide emissions reduction.

The bill would have no net fiscal effect between the TMF, SHF, and TERP fund. Under current law, beginning September 1, 2021, title fees are deposited to the TMF, and the TERP Fund located outside of the treasury is credited, through legislative appropriation, an equal amount from the SHF each month. This estimate assumes motor vehicle title fees would be deposited directly to the TERP fund outside the treasury and the transfer from the SHF to TMF would remain entirely within the treasury. Since the bill would just adjust transfers that are pre-existing, no significant fiscal impact to the state is anticipated. For informational purposes, the Comptroller's Biennial Revenue Estimate anticipates that title fees will generate $154,946,000 in FY 2022 and $157,270,000 in FY 2023.

This estimate assumes remaining provisions of the bill would not have a significant impact to the state.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas A&M Eng Expr Station, 727 Texas A&M Transportation Institute

LBB Staff: JMc, AJL, MW, GDZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 25, 2021

TO: Honorable Brooks Landgraf, Chair, House Committee on Environmental Regulation

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB4472** by Landgraf (Relating to the Texas emissions reduction plan fund and account.), **As Introduced**

No significant fiscal implication to the State is anticipated.

A negative fiscal impact is anticipated to the Texas Emissions Reduction Plan Trust Fund outside the Treasury of $23,225,000 in fiscal year 2022 and $23,922,000 each subsequent fiscal year due to reduced surcharges.

The bill would amend the Transportation Code to change deposit of remitted title fees from the Texas Mobility Fund (TMF) to the Texas Emission Reduction Plan Fund (TERP) and the bill would direct the Texas Department of Transportation to transfer an equal amount from the State Highway Fund (SHF) to the TMF.

Under current law, beginning September 1, 2021, title fees are deposited to the TMF, and the TERP Fund located outside of the treasury is credited, through legislative appropriation, an equal amount from the SHF each month. This estimate assumes motor vehicle title fees would be deposited directly to the TERP fund outside the treasury and the transfer from the SHF to TMF would remain entirely within the treasury. Since the bill would just adjust transfers that are pre-existing, no significant fiscal impact to the state is anticipated.

In addition, the bill would reduce the surcharge imposed on the retail sale, lease, or rental of certain new or used equipment from 1.5 to 1.0 percent of the sale price or the lease of the rental amount. Under current law, revenues from this surcharge would be deposited to the credit of the TERP Fund beginning September 1, 2021, due to the enactment of House Bill 3745, Eighty-sixth Legislature, Regular Session, 2019.

Based on information provided by the Comptroller of Public Accounts, the Comptroller does not have projections for the fiscal impact that the reduction of the surcharge imposed under Section 151.0515 of the Tax Code would have on TERP revenues because those revenues would be deposited to the TERP Fund. Due to this account being held outside the Treasury beginning September 1, 2021, this bill's provisions would not have a significant fiscal impact to the state.

The bill would have no net fiscal effect between the TMF, SHF, and TERP fund.

Based on the analysis of TCEQ, the surcharge reduction would result in an estimated revenue decrease of $23,225,000 in fiscal year 2022 and $23,922,000 in each subsequent fiscal year to the TERP Trust Fund.

For informational purposes, the Comptroller's Biennial Revenue Estimate anticipates that title fees will generate $154,946,000 in FY 2022 and $157,270,000 in FY 2023.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation

LBB Staff: JMc, AJL, MW, GDZ