

## **BILL ANALYSIS**

Senate Research Center  
85R6163 JRR-D

S.B. 26  
By: Estes  
Natural Resources & Economic Development  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Emissions Reduction Plan (TERP) is the state's flagship program for lowering ozone emissions to bring Texas into compliance with the federal Clean Air Act. The Environmental Protection Agency recently tightened its national ozone standards, meaning the state will need every available tool, including TERP, to achieve compliance and remove Texas from the burdensome federal regulations associated with noncompliance. TERP is a composite of 14 different programs: eight offer incentives to convert or replace dirty engines with cleaner ones, three promote energy efficiency, and three fund air quality research and monitoring. Five of the incentive grant programs are designed to encourage the use of vehicles fueled by alternative fuels like natural gas that generally have cleaner tailpipe emissions than conventional gasoline and diesel vehicles. All of these alternative fuel programs will expire in 2017 and 2018 if they are not renewed this session. The remainder of TERP will expire in 2019 if it is not extended.

S.B. 26 extends TERP until the end of the biennium in which Texas attains the national ambient air quality standards for ground-level ozone. In addition to other minor changes, it also: (1) renews the Light Duty Vehicles Incentive Program, which expired on August 31, 2015; (2) expands and renames the Clean Transportation Triangle program and merges it with the Alternative Fueling Facilities Program; (3) authorizes the New Technology Implementation Grant Program to fund projects that are designed to reduce oilfield emissions; (4) creates the Governmental Alternative Fuel Fleet Grant Program to fund the existing requirement that state agencies other than first responders with more than 15 vehicles purchase alternative fuel vehicles when making new purchases; (5) gives the Texas Commission on Environmental Quality (TCEQ) discretion to spend funds allocated to one program on a different program that will result in greater emissions reductions if there are insufficient meritorious grant applications under the first program to award all of the funds that were allocated to it; (6) enables school districts participating in the Clean School Bus Program to replace old busses with new ones instead of simply retrofitting old ones; and (7) codifies existing TCEQ procedure allowing applicants under Chapter 394, Health and Safety Code, to dispose of vehicles outside of the United States, Canada, and Mexico instead of scrapping them.

As proposed, S.B. 26 amends current law relating to the Texas emissions reduction plan and other related programs and measures to reduce emissions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality (TCEQ) in SECTION 9 (Sections 386.153, 386.154, 386.157, and 386.158, Health and Safety Code) and SECTION 39 (Section 395.013, Health and Safety Code) of this bill.

Rulemaking authority previously granted to TCEQ is rescinded in SECTION 28 (Section 393.004, Health and Safety Code) and SECTION 34 (Section 394.005, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 2158.004(a), (b), (c), and (d), Government Code, to include hydrogen fuel cells and electricity to power a plug-in hybrid electric motor vehicle in the list of certain fuel sources to which these subsections apply.

SECTION 2. Amends Subchapter A, Chapter 2158, Government Code, by adding Section 2158.0051, as follows:

Sec. 2158.0051. ALTERNATIVE FUEL FLEETS. (a) Provides that, notwithstanding the purchase requirements of Section 2158.004, it is the intent of this state that:

(1) the vehicle fleet of a state agency that operates a fleet of more than 15 motor vehicles, subject to the availability of funds, shall be replaced with motor vehicles that use certain types of fuel;

(2) a county or municipality that operates a vehicle fleet of more than 15 motor vehicles is authorized, but not required, to replace the fleet with motor vehicles that use certain types of fuel; and

(3) motor vehicles of a state agency, county, or municipality that are capable of using certain fuels be primarily operated with those fuels rather than conventional gasoline or diesel fuels.

(b) Requires a state agency to prioritize the purchase or lease of certain motor vehicles in complying with Subsection (a).

(c) Exempts law enforcement or emergency vehicles from Subsection (a)(1).

SECTION 3. Amends Section 386.001(3), Health and Safety Code, to redefine "commission" as the Texas Commission on Environmental Quality (TCEQ).

SECTION 4. Amends Section 386.002, Health and Safety Code, as follows:

Sec. 386.002. EXPIRATION. Provides that this chapter (Texas Emissions Reduction Plan) expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the United States Environmental Protection Agency (EPA) has, for each designated area, designated the area as attainment or unclassifiable or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this chapter expires August 31, 2019.

SECTION 5. Amends Section 386.051(b), Health and Safety Code, as follows:

(b) Requires TCEQ and the Texas Comptroller of Public Accounts to provide grants or other funding for:

(1) to (7) makes no changes to these subdivisions;

(8) air quality planning activities as provided by Section 386.252(d), rather than Section 386.252(a)(14);

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

(10) and (11) makes no changes to these subdivisions;

(12) the natural gas vehicle grant program, rather than the natural gas vehicle grant program and clean transportation triangle program, established under Chapter 394 (Texas Natural Gas Vehicle Grant Program);

(13) makes no changes to this subdivision;

(14) and (15) makes nonsubstantive changes; and

(16) the governmental alternative fuel fleet grant program established under Chapter 395 (Governmental Alternative Fuel Fleet Grant Program), Health and Safety Code.

SECTION 6. Amends Sections 386.0515(a) and (c), Health and Safety Code, as follows:

(a) Redefines "agricultural product transportation" and defines "clean transportation zone."

(c) Provides that the determining factor for eligibility for participation in a program established under Chapter 392 (Texas Clean Fleet Program) or 394 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, rather than 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 triangle.

SECTION 7. Amends Section 386.103, Health and Safety Code, by adding Subsection (c), as follows:

(c) Authorizes TCEQ, to reduce the administrative burden for TCEQ and applicants, to streamline the application process by reducing data entry and the copying and recopying of applications; and developing, maintaining, and periodically updating a system to accept applications electronically through TCEQ's Internet website.

SECTION 8. Amends Section 386.104(j), Health and Safety Code, to authorize, rather than require, the executive director of TCEQ (executive director) to waive any eligibility requirements under this section on a finding of good cause.

SECTION 9. Amends Chapter 386, Health and Safety Code, by adding Subchapter D, as follows:

#### SUBCHAPTER D. MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM

Sec. 386.151. DEFINITIONS. Defines "light-duty motor vehicle" and "motor vehicle."

Sec. 386.152. APPLICABILITY. Provides that 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) Requires TCEQ to develop a purchase or lease incentive program for new light-duty motor vehicles and to adopt rules necessary to implement the program.

(b) Requires the program to authorize statewide incentives for the purchase or lease of new light-duty motor vehicles powered by certain fuels 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 TCEQ.

(c) Provides that only one incentive will be provided for each new light-duty motor vehicle. Requires the incentive to 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) Authorizes TCEQ to by rule revise the standards for certain weight ratings 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) Provides that a new light-duty motor vehicle powered by certain fuel is eligible for a \$5,000 incentive if the vehicle meets certain requirements.

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

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

(d) Provides that a new light-duty motor vehicle powered by an electric drive is eligible for a \$2,500 incentive if the vehicle meets certain requirements.

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

Sec. 386.155. MANUFACTURER'S REPORT. (a) Requires certain manufacturers, not later than a certain date, to provide to TCEQ 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 established incentive requirements. Authorizes the manufacturer or installer to supplement the list provided to TCEQ as necessary to include additional new vehicle models the manufacturer intends to sell in this state during the model year.

(b) Authorizes TCEQ to supplement the provided information with certain additional information on available vehicle models.

Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) Requires TCEQ, on August 1 of each year, to publish a list of new motor vehicle models eligible for inclusion in an incentive. Requires TCEQ to publish supplements to that list as necessary to include additional new vehicle models.

(b) Requires TCEQ to publish the list of eligible motor vehicles on TCEQ's website.

Sec. 386.157. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE. (a) Provides that 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) Requires a lease incentive for a new light-duty motor vehicle to be prorated based on a three-year lease term.

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

Sec. 386.158. COMMISSION TO ACCOUNT FOR MOTOR VEHICLE PURCHASE OR LEASE INCENTIVES. (a) Requires TCEQ to by rule develop a method to administer and account for the authorized motor vehicle purchase or lease incentives and to pay incentive money to the purchaser or lessee of a new motor vehicle, on application of the purchaser or lessee as provided.

(b) Requires TCEQ to develop and publish certain forms and instructions for the purchaser or lessee of a new motor vehicle and to make the forms available to new motor vehicle dealers and leasing agents. Requires dealers and leasing agents to make the forms available to their prospective purchasers or lessees.

(c) Authorizes TCEQ to require the submission of forms and documentation as needed to verify eligibility for an incentive.

Sec. 386.159. PURCHASE OR LEASE INCENTIVES INFORMATION. (a) Requires TCEQ to 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. Authorizes TCEQ to provide for issuing verification numbers over the telephone line.

(b) Provides that reliance by a dealer or leasing agent on information provided by TCEQ 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. Authorizes TCEQ to 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.

SECTION 10. Amends Section 386.181(a), Health and Safety Code, to redefine "drayage truck."

SECTION 11. Amends Section 386.182(a), Health and Safety Code, as follows:

(a) Requires TCEQ to:

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

(2) adopt guidelines necessary to implement the program described by Subdivision (1).

SECTION 12. Amends Section 386.252, Health and Safety Code, as follows:

Sec. 386.252. USE OF FUND. (a) Requires that money appropriated to TCEQ, subject to reallocation of funds by TCEQ under Subsection (g), to be used for programs under Section 386.051(b), to initially be allocated as follows:

(1) authorizes four percent, rather than not more than four percent, to be used for the clean school bus program under Chapter 390 (Clean School Bus Program);

(2) authorizes three percent, rather than not more than three percent, to be used for the new technology implementation grant program under Chapter 391 (New Technology Implementation for Facilities and Stationary Sources);

(3) authorizes, rather than requires, five percent to be used for the clean fleet program under Chapter 392 (Texas Clean Fleet Program);

(4) makes no changes to this subdivision;

(5) authorizes 16 percent, rather than requires not less than 16 percent, to be used for the Texas natural gas vehicle grant program under Chapter 394;

(6) authorizes 10 percent to be used for the Texas alternative fueling facilities program under Chapter 393 (Alternative Fueling Facilities Program), of which

a specified amount may be used for fueling stations to provide natural gas fuel, rather than authorizing not more than five percent to be used to provide grants for natural gas fueling stations under the clean transportation triangle program under Section 394.010;

(7) to (8) redesignates existing Subdivisions (8) and (9) as Subdivisions (7) and (8) and makes no further changes;

(9) redesignates existing Subdivision (11) as Subdivision (9). Provides that a certain amount is allocated to TCEQ for administrative costs and costs for conducting outreach and education activities to promote participation in the programs funded under this section;

(10) deletes existing Subdivision (10). Redesignates existing Subdivision (12) as Subdivision (10) and provides that two percent, rather than at least two percent and up to five percent of the Texas Emissions Reduction Plan Fund (fund), is to be used by TCEQ for the drayage truck incentive program established under Subchapter D-1;

(11) redesignates existing Subdivision (13) as Subdivision (11) and authorizes five percent, rather than not more than five percent, to be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D;

(12) redesignates existing Subdivision (14) as Subdivision (12) and changes reference to the Texas Engineering Experiment Station to the Texas A&M Engineering Experiment Station; and

(13) redesignates existing Subdivision (16) as Subdivision (13) and makes no further changes.

Deletes existing Subdivision (15).

(b) Deletes existing Subsection (b) authorizing TCEQ to allocate certain unexpended money to other programs. Redesignates existing Subsection (f) as Subsection (b) and makes no further changes to this subsection.

(c) Deletes existing Subsection (c) authorizing TCEQ to allocate certain unexpended money to other programs. Redesignates existing Subsection (g) as Subsection (c) and makes conforming changes.

(d) Deletes existing Subsection (d) authorizing and setting forth the criteria for TCEQ to allocate money designated for the Texas natural gas vehicle grant program. Provides that, 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) Deletes existing Subsection (e) prohibiting TCEQ from reallocating more than the minimum amount of money necessary to resolve the noncompliance. Authorizes money in the fund to 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.

(e-1) Deletes this subsection.

(f) Authorizes TCEQ, to the extent that money is appropriated from the fund for that purpose, to use that money to award grants under the governmental

alternative fuel fleet grant program established under Chapter 395, except that TCEQ may not use for that purpose more than a certain amount.

(g) Redesignates existing Subsection (h) as Subsection (g). Authorizes money allocated under this section to a particular program to be used for another program under the plan as determined by TCEQ, based on demand for grants for eligible projects under particular programs after TCEQ solicits projects to which to award grants according to the initial allocation provisions.

SECTION 13. Amends Section 390.002(b), Health and Safety Code, to include replacement of a pre-2007 model year school bus in the list of certain projects authorized to be considered for a grant.

SECTION 14. Amends Section 390.004, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Sets forth certain requirements for a school bus proposed for replacement.

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

SECTION 15. Amends Section 390.005, Health and Safety Code, as follows:

Sec. 390.005. RESTRICTION ON USE OF GRANT. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires a school bus acquired to replace an existing school bus to be purchased and requires the grant recipient to agree to own and operate the school bus on a certain regular, daily route for at least five years after a certain start date.

(c) Requires a replaced school bus to be rendered permanently inoperable by certain methods, or be permanently removed from operation in this state. Requires TCEQ to establish criteria for ensuring the permanent destruction or removal of the engine or bus and to enforce the destruction and removal requirements. Defines "permanent removal."

SECTION 16. Amends Section 390.006, Health and Safety Code, as follows:

Sec. 390.006. EXPIRATION. Provides that this chapter expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area, designated the area as attainment or unclassifiable, or has approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this chapter expires August 31, 2019.

SECTION 17. Amends Section 391.002(b), Health and Safety Code, as follows:

(b) Provides that projects that may be considered for a grant include:

(1) makes no changes to this subdivision;

(2) new technology projects that reduce emissions of regulated pollutants from stationary, rather than point, sources;

(3) new technology projects that reduce emissions from certain upstream and midstream oil and gas activities through the replacement, repower, or retrofit of stationary compressor engines, or the installation of systems to reduce or

eliminate the loss, flaring, or burning of gas using other combustion control devices; and

(4) Redesignates existing Subdivision (3) as Subdivision (4). Makes no further changes to this subdivision.

SECTION 18. Amends Section 391.205(a), Health and Safety Code, to require TCEQ to give preference to projects that involve the transport, use, recovery for use, or prevention of the loss of natural resources originating or produced in this state, rather than to give preference to projects that use natural resources originating or produced in this state.

SECTION 19. Amends Section 391.304, Health and Safety Code, as follows:

Sec. 391.304. EXPIRATION. Provides that this chapter expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area, designated the area as attainment or unclassifiable, or has approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this chapter expires August 31, 2019.

SECTION 20. Amends Section 392.001(1), Health and Safety Code, to redefine "alternative fuel."

SECTION 21. Amends Section 392.003(a), Health and Safety Code, as follows:

(a) Provides that a vehicle is a qualifying vehicle that may be considered for a grant if during the eligibility period established by TCEQ, rather than if during the calendar year, the entity purchases a new on-road vehicle that is certified to the appropriate current federal emissions standards as determined by TCEQ, rather than is certified to current federal emissions standards.

SECTION 22. Amends Section 392.004(d), Health and Safety Code, to delete existing text authorizing an applicant to be required to submit a photograph or certain other documentation only if the photograph or documentation is requested by TCEQ after TCEQ has decided to award a grant to the applicant.

SECTION 23. Amends Section 392.005, Health and Safety Code, by amending Subsections (c) and (i) and adding Subsection (c-1), as follows:

(c) Requires the qualifying vehicle, as a condition of receiving a grant, to 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 TCEQ or the date the vehicle has been in operation for 400,000 miles after the activity start date established by TCEQ, rather than the earlier of the fifth anniversary of 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 date of reimbursement.

(c-1) Requires TCEQ, for the purposes of Subsection (c), to establish the activity start date based on the date TCEQ accepts verification of the disposition of the vehicle being replaced.

(i) Authorizes, rather than requires, the executive director to waive the requirements of Subsection (b)(2)(A) (relating to the required replacement of certain on-road vehicles) on a finding of good cause.

SECTION 24. Amends Section 392.008, Health and Safety Code, as follows:

Sec. 392.008. EXPIRATION. Provides that this chapter expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that the EPA has, for certain air quality standards in each designated area, either designated the area as attainment or unclassifiable, or has approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this chapter expires August 31, 2017.

SECTION 25. Amends Section 393.001, Health and Safety Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (4), to redefine "alternative fuel" and define "clean transportation zone" and "state highway."

SECTION 26. Amends Section 393.002, Health and Safety Code, as follows:

Sec. 393.002. PROGRAM. (a) Requires TCEQ to establish and administer the Texas alternative fueling facilities program to provide fueling facilities for alternative fuel in the clean transportation zone, rather than in nonattainment areas.

(b) Provides that an entity that constructs or reconstructs, rather than constructs, reconstructs, or acquires, an alternative fueling facility is eligible to participate in the program.

(c) Requires TCEQ, 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, to 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) Requires TCEQ to 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.

SECTION 27. Amends Section 393.003, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), as follows:

(a) Authorizes an entity operating in this state that constructs or reconstructs a facility to dispense alternative fuels, rather than an entity operating in this state that constructs, reconstructs, or acquires a facility to store, compress, or dispense alternative fuels, to apply for and receive a grant.

(b) Authorizes TCEQ to allow, rather than adopt guidelines to allow, certain government agencies or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(d) Requires an application for a grant to 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. Authorizes TCEQ to terminate an awarded grant without further obligation to the grant recipient if TCEQ determines that the recipient did not comply with the described laws, rules, guidelines, or requirements. Provides that this subsection does not create a cause of action to contest an application or award of a grant.

(e) Requires TCEQ to disperse grants through a competitive application selection process to offset a portion of the eligible costs.

SECTION 28. Amends Section 393.004, Health and Safety Code, as follows:

Sec. 393.004. ELIGIBILITY OF FACILITIES FOR GRANTS. (a) Requires TCEQ, in addition to the requirements of this chapter, to establish additional eligibility and prioritization criteria as needed to implement the program. Deletes existing text requiring TCEQ, by rule, to establish, review, and revise criteria for prioritizing facilities eligible to receive grants.

(b) Requires the prioritization criteria to provide that, for each grant round, TCEQ may not award a grant to an entity that does not agree to make the alternative fueling facility accessible and available to the public at times designated by the grant contract until each eligible entity that does agree to those terms has been awarded a grant, rather than requires the entity receiving the grant, to be eligible for a grant, to agree to make the alternative fueling facility available to persons not associated with the entity at times designated by the grant agreement.

(c) Prohibits TCEQ from awarding more than one grant for each facility.

(d) Authorizes TCEQ to give preference to or otherwise limit grant selections to certain fueling facilities.

(e) Requires TCEQ, for fueling facilities to provide natural gas, to give preference to facilities meeting certain criteria. Deletes existing text providing that a grant recipient is not eligible to receive a second grant for the same facility.

SECTION 29. Amends Section 393.005, Health and Safety Code, as follows:

Sec. 393.005. RESTRICTION ON USE OF GRANT. (a) Creates this subsection from existing text. Prohibits a recipient from using the grant to pay the recipient's administrative expenses; expenses for the purchase of land or an interest in land; or expenses for equipment or facility improvements not directly related to the delivery, storage, compression, or dispensing of the alternative fuel at the facility.

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

SECTION 30. Amends Section 393.006, Health and Safety Code, as follows:

Sec. 393.006. AMOUNT OF GRANT. (a) Prohibits grants awarded for a facility to provide alternative fuels other than natural gas from exceeding the lesser of, rather than requires TCEQ, for each eligible facility for which a recipient is awarded a grant under the program, to award the grant in an amount equal to:

(1) 50 percent of the sum of the actual eligible costs incurred by the grant recipient within deadlines established by TCEQ, rather than within deadlines established by TCEQ to construct, reconstruct, or acquire the facility; or

(2) Makes no changes to this subdivision.

(b) Prohibits awarded grants for a facility to provide natural gas from exceeding \$400,000 for a compressed natural gas facility, \$400,000 for a liquefied natural gas facility, or \$600,000 for a facility providing both liquefied and compressed natural gas.

SECTION 31. Amends Section 393.007, Health and Safety Code, as follows:

Sec. 393.007. EXPIRATION. Provides that this chapter expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that the EPA has, for each designated area, designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this chapter expires August 31, 2018.

SECTION 32. Amends Section 394.001, Health and Safety Code, by amending Subdivisions (1), (4), (5), and (8) to redefine "heavy-duty motor vehicle," "incremental cost," and "natural gas vehicle," to define "clean transportation zone," and to delete the existing definition for "advisory board," and by adding Subdivisions (1-a) and (7-a) to define "certified" and "natural gas engine."

SECTION 33. Amends Section 394.003(a), Health and Safety Code, as follows:

(a) Provides that a vehicle is a qualifying vehicle that may be considered for a grant if during the eligibility period established by TCEQ, rather than during the 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) makes no changes to this paragraph.

(B) is certified to the appropriate current federal emissions standards as determined by TCEQ, rather than is certified to current federal emissions standards;

(C) makes no changes to this paragraph; and

(D) deletes this paragraph.

(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 TCEQ, rather than is certified to current federal emissions standards.

(B) Deletes this paragraph.

SECTION 34. Amends Section 394.005, Health and Safety Code, by amending Subsections (a), (b), (c), (f), (g), and (i) and adding Subsection (c-1), as follows:

(a) Requires TCEQ to establish criteria for prioritizing qualifying vehicles eligible to receive grants and to review and revise the criteria as appropriate, rather than requires TCEQ, by rule, to establish criteria for prioritizing qualifying vehicles eligible to receive grants and to revise and review the criteria as appropriate after consultation with the Texas Emissions Reduction Plan Advisory Board (advisory board).

(b) Provides that to be eligible for a grant the qualifying vehicle is required to replace a heavy-duty or medium-duty motor vehicle that meets certain ownership, registration, and usage requirements.

(c) Requires the qualifying vehicle to meet certain criteria until the earlier of the fourth anniversary of the activity start date established by TCEQ or the date the vehicle has been in operation for 400,000 miles after the activity start date established by TCEQ, rather than the earlier of the fourth anniversary of 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 date of reimbursement. Requires not less than 75 percent of certain annual use of the qualifying vehicle, as determined by TCEQ, to occur in the clean transportation zone.

Deletes existing text requiring not less than 75 percent of certain annual use of the qualifying vehicle, as determined by TCEQ, to occur in certain areas.

(c-1) Requires TCEQ, for purposes of Subsection (c), to establish the activity start date based on the date TCEQ accepts verification of the disposition of the vehicle or engine.

(f) Requires TCEQ to establish criteria for ensuring the permanent destruction or permanent removal of the engine or vehicle. Defines "permanent removal." Makes nonsubstantive changes.

(g) Requires TCEQ to 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. Authorizes TCEQ to consider and establish baseline emission rates for additional pollutants of concern, rather than to consider and establish baseline emission rates for additional pollutants of concern, as determined by TCEQ after consultation with the advisory board.

(i) Authorizes, rather than requires, the executive director to waive the requirements of Subsection (b)(2)(A)(i) or (B)(ii) on a finding of good cause.

SECTION 35. Amends Section 394.006, Health and Safety Code, as follows:

Sec. 394.006. RESTRICTION ON USE OF GRANT. Requires a recipient of a grant to 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 engine, including the cost of the natural gas fuel system and installation, rather than to pay the incremental costs of the replacement for which the grant is made, which may include the initial cost of the natural gas vehicle or engine and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment.

SECTION 36. Amends Section 394.007(c), Health and Safety Code, to include vehicle repower in the incremental costs for which the grant is awarded.

SECTION 37. Amends Sections 394.008(a) and (b), Health and Safety Code, as follows:

(a) Requires TCEQ to establish, rather than adopt, procedures for:

- (1) awarding grants to reimburse eligible costs, rather than awarding grants in the form of rebates;
- (2) makes a nonsubstantive change to this subdivision; 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) Requires established, rather than adopted, procedures to:

- (1) provide for TCEQ to compile and regularly update a listing of potentially eligible, rather than preapproved, natural gas vehicles and engines powered by natural gas that are certified to the appropriate current federal emissions standards as determined by TCEQ, rather than powered by natural gas engines with a certain certification;
- (2) provide a method to calculate the reduction in emissions of certain compounds for each replacement or repowering, rather than if a federal standard for the

calculation of emissions reductions exists, provide a method to calculate the reduction in emissions of certain compounds for each replacement or repowering;

(3) assign a standardized grant, rather than rebate, amount for each qualifying vehicle or engine repower;

(4) allow for processing applications, rather than rebates, on an ongoing first-come, first-served basis;

(5) deletes existing Subdivision (5) and redesignates existing Subdivision (7) as Subdivision (5). Makes no further changes to this subdivision.

(6) deletes existing Subdivision (6) and redesignates existing Subdivision (8) as Subdivision (6). Makes no further changes to this subdivision.

(7) redesignates existing Subdivision (9) as Subdivision (7). Provide for application submission and status checks using procedures established by TCEQ, which may include application submission and status checks to be made over the Internet, rather than provide for application submission and application status checks to be made over the Internet; and

(8) redesignates existing Subdivision (b)(10) as Subdivision (b)(8). Makes no further changes to this subdivision.

**SECTION 38.** Amends Section 394.012, Health and Safety Code, as follows:

Sec. 394.012. EXPIRATION. Provides that this chapter expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the EPA has, for each designated area, designated the area as attainment or unclassifiable, or has approved a redesignation substitute making a finding of attainment for the area. Deletes existing text providing that this chapter expires August 31, 2017.

**SECTION 39.** Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 395, as follows:

#### **CHAPTER 395. GOVERNMENTAL ALTERNATIVE FUEL FLEET GRANT PROGRAM**

Sec. 395.001. DEFINITIONS. Defines "alternative fuel," "commission," "incremental cost," "motor vehicle," "political subdivision," "program," and "state agency."

Sec. 395.002. PROGRAM. (a) Requires TCEQ to establish and administer a governmental alternative fuel fleet grant program (program) to assist an eligible state agency, county, municipality, or political subdivision in purchasing or leasing new motor vehicles that operate primarily on an alternative fuel.

(b) Authorizes the program to provide a grant to a state agency, county, municipality, or political subdivision to purchase or lease a new motor vehicle described by Section 395.004; or purchase, lease, or install certain refueling infrastructure, equipment, or services as described by Section 395.005.

Sec. 395.003. ELIGIBLE APPLICANTS. (a) Provides that a state agency, county, or municipality is eligible to apply for a grant 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) Provides that a mass transit or school transportation provider or other public entity established to provide public or school transportation services is eligible for a grant.

Sec. 395.004. MOTOR VEHICLE REQUIREMENTS. (a) Authorizes a grant recipient to purchase or lease with grant money a new motor vehicle that is originally manufactured or converted to operate using one or more alternative fuels before the first retail sale of the vehicle, and that meets certain other requirements.

(b) Prohibits a grant recipient from using grant money to replace a motor vehicle, transit bus, or school bus that operates on an alternative fuel unless the replacement vehicle meets certain requirements.

Sec. 395.005. REFUELING INFRASTRUCTURE, EQUIPMENT, AND SERVICES. Authorizes and sets forth the requirements for a grant recipient to purchase, lease, or install refueling infrastructure or equipment or procure refueling services with grant money.

Sec. 395.006. ELIGIBLE COSTS. (a) Requires a motor vehicle lease agreement paid for with grant money to have a term of at least three years.

(b) Requires refueling infrastructure or equipment purchased or installed with grant money to be used specifically to store or dispense alternative fuel, as determined by TCEQ.

(c) Requires a lease of or service agreement for refueling infrastructure, equipment, or services paid for with grant money to have a term of at least three years.

Sec. 395.007. GRANT AMOUNTS. (a) Authorizes TCEQ to establish standardized grant amounts based on certain incremental costs associated with the purchase or lease of different categories of motor vehicles.

(b) Authorizes TCEQ, in determining the incremental costs and setting the standardized grant amounts, to 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) Prohibits the amount of a grant for the purchase or lease of a motor vehicle from exceeding the amount of the incremental cost of the purchase or lease.

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

(e) Authorizes a grant to 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. Prohibits a grant, when combined with other funding sources, from exceeding the total cost to the grant recipient.

(f) Requires TCEQ, in providing a grant for the lease of a motor vehicle, to 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 TCEQ, 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) Requires TCEQ, in providing a grant for the lease of refueling infrastructure, equipment, or services, to establish certain criteria.

(h) Provides that, notwithstanding Subsection (d), TCEQ 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) Provides that a project funded from a grant and that would generate marketable emissions reduction credits under certain state or federal emissions reduction credit programs is not eligible for funding unless the project includes the transfer of the credits, or the reductions that would otherwise be marketable credits, to TCEQ, and, if applicable, the state implementation plan (SIP); and the credits or reductions, as applicable, are permanently retired.

(b) Authorizes an emissions reduction generated by a purchase or lease to be used to demonstrate conformity with SIP.

Sec. 395.009. USE OF GRANT MONEY BY COUNTY OR MUNICIPALITY. Requires a county or municipality to prioritize the actions listed in Section 2158.0051(b), Government Code, when using money from a grant.

Sec. 395.010. GRANT PROCEDURES AND CRITERIA. (a) Requires TCEQ to 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) Requires TCEQ to award a grant through a contract between TCEQ and the grant recipient.

(c) Requires TCEQ to provide an online application process for the submission of all required application documents.

(d) Authorizes TCEQ to limit funding for a particular period according to priorities established by TCEQ, 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) Requires TCEQ, in awarding grants, to prioritize certain projects.

(f) Requires TCEQ, in awarding grants, to consider certain additional criteria in addition to the requirements under Subsection (e).

(g) Prohibits TCEQ from awarding more than 10 percent of the total amount awarded in any fiscal year for purchasing, leasing, installing, or procuring refueling infrastructure, equipment, or services.

Sec. 395.011. FUNDING. Authorizes the legislature to appropriate money to TCEQ from the fund established under Section 386.251 to administer the program.

Sec. 395.012. ADMINISTRATIVE COSTS. Authorizes TCEQ, in each fiscal year, to use a certain amount of the total amount of money awarded in that fiscal year for the administrative costs of the program.

Sec. 395.013. RULES. Authorizes TCEQ to adopt rules as necessary to implement this chapter.

Sec. 395.014. REPORT REQUIRED. Requires TCEQ, on or before November 1 of each even-numbered year, to submit to the governor, lieutenant governor, and members of the legislature a report including certain information regarding awards made under the program during the preceding state fiscal biennium.

Sec. 395.015. EXPIRATION. Provides that this chapter expires on the last day of the state fiscal biennium during which TCEQ publishes in the Texas Register certification that EPA has, for certain air quality standards in each designated area, either designated the area as attainment or unclassifiable, or approved a redesignation substitute making a finding of attainment for the area.

SECTION 40. Repealers: Sections 394.009 (Participating Dealers), 394.010 (Clean Transportation Triangle), and 394.011 (Administration of Program), Health and Safety Code.

SECTION 41. Makes application of this Act prospective.

SECTION 42. Effective date: September 1, 2017.