



SIERRA CLUB

LONE STAR CHAPTER

April 20th, 2023

To: The Honorable Brooks Landgraf, Chair

Members, House Committee on Environmental Regulation

From: Cyrus Reed, Conservation Director, Lone Star Chapter, Sierra Club,
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The Sierra Club Supports HB 1351 (Hernandez) To Assure that Drivers Money Goes to the Purpose for Which it Was Collected and Help Clean the Air

In 2001, the Texas Legislature approved House Bill 2134 by then Chairman Warren Chisum (R-Pampa) to improve air quality to improve air quality in areas of the state in non-attainment or near non-attainment of the federal ozone standard. The program provided incentive payments to eligible persons in participating counties to replace or repair higher emission vehicles. Affected counties were authorized to participate in the program, but not required to do so. An auto emissions inspection fee assessed by participating counties funded the program. The Auto Emissions Inspection, On-Board Diagnostic fee was \$2 or \$6 depending on the county and was collected during vehicle registrations. The fees had to be returned to the participating counties through an appropriation to the Texas Commission on Environmental Quality (TCEQ). Counties that participated in the program were Brazoria, Collin, Dallas, Denton, Ellis, Fort Bend, Galveston, Harris, Johnson, Kaufman, Montgomery, Parker, Rockwall, Tarrant, Travis and Williamson.

In 2007, the Legislature expanded the program through SB 12 by Sen Kip Averitt (R-Waco), which added new LIP (Local Initiative Projects) for air quality projects such as improved enforcement of polluting vehicles. Eligible projects include emissions enforcement task forces, transportation improvements such as signal retiming and public transit, and funding local law enforcement efforts to reduce inspection sticker fraud. The program also expanded eligibility for working Texans to gain access to the funds to repair or replace their vehicle.

So What's the Problem?

The programs worked, helping working Texans repair and replace thousands of polluting vehicles in the Dallas, Houston and Austin area. However, the Legislature often used the collections to help certify the budget and not appropriate the money,

Fee collections from the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), also known as the AirCheckTexas program, total an estimated \$176.2 million as of January 2023, are being held by the state instead of being returned to counties.

Prior to the state's 2012-13 biennial budget, appropriations for the LIRAP/AirCheckTexas program and LIPs exceeded the level of fees collected for the program, approximately \$40 million in annual revenue compared to \$50 million in annual appropriations. The program was cut by 87.5% in the 2012-13 budget, and it was funded at this reduced level until the 2016-17 biennial budget, when funding was restored to nearly \$50 million per year. Unfortunately, Governor Abbott [vetoed](#) the funding for LIRAP/ AirCheckTexas in the 2018-19 biennial budget. As a result, all participating counties terminated collection of the fees since July 1, 2018. No funding was appropriated for the program in 2021-22 and there is no funding in TCEQ's budget in HB 1 for these programs.

Given the uncertainty of state funding for the program, a significant portion of unspent fees assessed on vehicle owners in the participating counties remains in the state treasury, specifically \$176.2 million according to TCEQ. Returning

these funds to the affected counties would require action by the 88th legislature, and an appropriation of all or some of the funds so that local counties could use the money for the purpose for which they were collected.

Under the bill, the money that was collected and would be returned to the counties from which they were collected could only be used for the purpose for which they were collected. These include using the monies for:

- (1) the AirCheck Texas Repair and Replacement Assistance Program;
- (2) programs or systems that remotely determine vehicle emissions and notify the vehicle's operator;
- (3) projects to implement the commission's smoking vehicle program;
- (4) projects in consultation with the director of the Department of Public Safety for coordinating with local law enforcement officials to reduce the use of counterfeit registration insignia and vehicle inspection reports by providing local law enforcement officials with funds to identify vehicles with counterfeit registration insignia and vehicle inspection reports and to carry out appropriate actions;
- (5) programs to enhance transportation system improvements; or
- (6) new air control strategies designed to assist local areas in complying with state and federal air quality rules and regulations.

Two sessions ago, the Legislature helped solve the issue of TERP fees being collected but not allocated for their purpose. HB 1351 if approved would finally resolve the long-standing problem of LIRAP. Sierra Club supports the bill.