STATE OF NEW YORK

5268

2021-2022 Regular Sessions

IN SENATE

March 1, 2021

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law and the tax law, in relation to allowing for reimbursement of school districts for the purchase or lease of electric school buses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative Findings. The Legislature hereby finds that New York State has an interest in lessening the effects of climate change, as demonstrated by the passage of the Climate Leadership and Community Protection Act (CLCPA). The Legislature finds that fuel combustion in the transportation sector is the largest contributor (36%) of greenhouse gas emissions in the state. The Legislature further finds that most school buses in use today emit harmful diesel exhaust, contributing to air pollution and its resulting health effects. The Legislature finds that often, the effects of these emissions are felt disproportionately by disadvantaged communities. The Legislature further finds that there are over 300 school districts using bus contractors across the state to transport students. The Legislature further finds that New York school bus contractors transport over two million children a day. The Legislature further finds that the operating and maintenance costs of electric buses are much lower than diesel buses--potentially saving schools thousands of dollars per year. The Legislature hereby declares that there is an interest in electrifying school transportation to garner the many widespread benefits of such action, including local diesel emission reductions, reduced operating and maintenance costs for schools, and the overall reduction of greenhouse gas emissions as required by law and to fight against climate change.

§ 2. Subdivision 1 of section 3623-a of the education law is amended by adding a new paragraph g to read as follows:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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g. All costs incurred as related to the installation of electric vehicle charging stations, including the cost of acquiring such electric vehicle charging infrastructure, and the costs of electricity for charging electric vehicles used for the aidable transportation of pupils.

§ 3. Subparagraph 1 of paragraph b of subdivision 7 of section 3602 of the education law, as amended by section 17 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

(1) For the purposes of this apportionment, approved transportation operating expense shall be the actual expenditure incurred by a school district and approved by the commissioner (i) for those items of transportation operating expense allowable under subdivision one of section thirty-six hundred twenty-three-a of this article for regular aidable transportation of pupils as such terms are defined in sections thirty-six hundred twenty-one and thirty-six hundred twenty-two-a of this article, except that for those items related to the installation of electric vehicle charging stations as set out in paragraph g of subdivision one of section thirty-six hundred twenty-three-a, a school district may apply to the New York state energy research and development authority (NYSERDA) for grants to cover such costs, following rules promulgated by NYSERDA, any such grant money shall not be used for any deduction related to apportionment under this subdivision, and (ii) for those items of transportation operating expense allowable under subdivision one of section thirty-six hundred twenty-three-a of this article for the transportation required or authorized pursuant to article eighty-nine of this chapter, and (iii) for providing monitors on school buses for students with disabilities, and (iv) for transportation operating expenses allowable under section thirty-six hundred twenty-three-a of this article for the transportation of homeless children authorized by paragraph c of subdivision four of section thirty-two hundred nine of this chapter, provided that the total approved cost of such transportation shall not exceed the amount of the total cost of the most cost-effective mode of transportation.

§ 4. Subdivision 7 of section 3602 of the education law is amended by adding a new paragraph f to read as follows:

f. In addition to any other apportionment under this subdivision, for the two thousand twenty-one--two thousand twenty-two school year and every school year thereafter through the two thousand thirty school year, a school district shall be eligible for an incentive apportionment for the purchase or lease of one or more electric school buses or contract with a provider to use electric school buses for transportation of such school district's students. The amount of such incentive apportionment under this paragraph shall be equal to: (i) ten percent of the actual cost for each electric school bus, whether purchased, leased or contracted, for a school district which receives between twenty percent and thirty-five percent of its total revenue from state aid as reported in the most recent fiscal profile produced by the commissioner; (ii) fifteen percent of the actual cost for each electric school bus, whether purchased, leased or contracted, for a school district which receives between thirty-five and sixty percent of its total revenue from state aid as reported in the most recent fiscal profile produced by the commissioner; and (iii) twenty percent of the actual cost for each electric school bus, whether purchased, leased or contracted, for a school district which receives between sixty and ninety percent of its total revenue from state aid as reported in the most recent fiscal profile produced by the commissioner. For the purposes of this subdivision, electric school bus shall mean a school bus that is propelled by elec-

tric motor and associated power electronics which provide acceleration torque to the drive wheels during normal vehicle operations, and that draws electricity from a hydrogen fuel cell or battery.

§ 5. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 46 to read as follows:

(46) Omnibuses, as such term is defined in article one of the vehicle and traffic law that are propelled by an electric motor and associated power electronics which provide acceleration torque to the drive wheels during normal vehicle operations, and that draws electricity from a hydrogen fuel cell or battery provided such omnibuses are outfitted in accordance with subdivision twenty of section three hundred seventy-five of the vehicle and traffic law, and are used to transport school children by a carrier contracted by a New York state school district or operating pursuant to a certificate of authority issued by the New York state commissioner of transportation or by an appropriate agency of the state of New York or the United States. Where receipts from the sale of or consideration given or contracted to be given for the purchase of an omnibus or other property has been exempted under this paragraph, such receipts or consideration shall not also qualify for the refund or credit described in subdivision (b) of section eleven hundred nineteen of this article; where any or all of the tax on receipts from the sale of or consideration given or contracted to be given for the purchase of an omnibus or other property has been refunded or credited under such subdivision (b), no part of such receipts or consideration shall be exempt under this paragraph.

§ 6. Subparagraph i of subdivision 25 of section 1709 of the education law, as added by chapter 472 of the laws of 1998, is amended to read as follows:

i. In addition to the authority granted in paragraph e of this subdivision, the board of education shall be authorized to lease a motor vehicle or vehicles to be used for the transportation of the children of the district from sources other than a school district, board of cooperative educational services or county vocational education and extension board under the conditions specified in this paragraph. No such agreement for the lease of a motor vehicle or vehicles shall be for a term of more than one school year, provided that when authorized by a vote of the qualified voters of the district such lease may have a term of up to five years and up to ten years for electric school buses. Where the board of education enters a lease of a motor vehicle or vehicles pursuant to this paragraph for a term of one school year or less, such board shall not be authorized to enter into another lease of the same or an equivalent replacement vehicle or vehicles, as determined by the commissioner, without obtaining approval of the voters.

§ 7. Subparagraph (ii) of paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk), the electric omnibus exemption provided for in paragraph forty-six of subdivision (a) of section eleven hundred fifteen of this chapter, and the clothing and footwear exemption

provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption**, the electric omnibus exemption provided for in paragraph forty-six of subdivision (a) of section eleven hundred fifteen of this chapter,** or such clothing and footwear exemption.

§ 8. This act shall take effect immediately; provided however, that sections five and seven of this act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section eleven hundred thirty-six of the tax law, beginning at least one hundred twenty days after the date this act shall have become a law and shall apply to sales made on or after such date.