

# STATE OF NEW YORK

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6754

2021-2022 Regular Sessions

## IN ASSEMBLY

March 29, 2021

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Introduced by M. of A. FAHY -- read once and referred 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:

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

22 § 2. Subdivision 1 of section 3623-a of the education law is amended  
23 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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1 g. All costs incurred as related to the installation of electric vehi-  
2 cle charging stations, including the cost of acquiring such electric  
3 vehicle charging infrastructure, and the costs of electricity for charg-  
4 ing electric vehicles used for the aidable transportation of pupils.

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

8 (1) For the purposes of this apportionment, approved transportation  
9 operating expense shall be the actual expenditure incurred by a school  
10 district and approved by the commissioner (i) for those items of trans-  
11 portation operating expense allowable under subdivision one of section  
12 thirty-six hundred twenty-three-a of this article for regular aidable  
13 transportation of pupils as such terms are defined in sections thirty-  
14 six hundred twenty-one and thirty-six hundred twenty-two-a of this arti-  
15 cle, except that for those items related to the installation of electric  
16 vehicle charging stations as set out in paragraph g of subdivision one  
17 of section thirty-six hundred twenty-three-a, a school district may  
18 apply to the New York state energy research and development authority  
19 (NYSERDA) for grants to cover such costs, following rules promulgated by  
20 NYSERDA, any such grant money shall not be used for any deduction  
21 related to apportionment under this subdivision, and (ii) for those  
22 items of transportation operating expense allowable under subdivision  
23 one of section thirty-six hundred twenty-three-a of this article for the  
24 transportation required or authorized pursuant to article eighty-nine of  
25 this chapter, and (iii) for providing monitors on school buses for  
26 students with disabilities, and (iv) for transportation operating  
27 expenses allowable under section thirty-six hundred twenty-three-a of  
28 this article for the transportation of homeless children authorized by  
29 paragraph c of subdivision four of section thirty-two hundred nine of  
30 this chapter, provided that the total approved cost of such transporta-  
31 tion shall not exceed the amount of the total cost of the most cost-ef-  
32 fective mode of transportation.

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

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

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

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

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

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

29 i. In addition to the authority granted in paragraph e of this subdivi-  
30 sion, the board of education shall be authorized to lease a motor  
31 vehicle or vehicles to be used for the transportation of the children of  
32 the district from sources other than a school district, board of cooper-  
33 ative educational services or county vocational education and extension  
34 board under the conditions specified in this paragraph. No such agree-  
35 ment for the lease of a motor vehicle or vehicles shall be for a term of  
36 more than one school year, provided that when authorized by a vote of  
37 the qualified voters of the district such lease may have a term of up to  
38 five years and up to ten years for electric school buses. Where the  
39 board of education enters a lease of a motor vehicle or vehicles pursu-  
40 ant to this paragraph for a term of one school year or less, such board  
41 shall not be authorized to enter into another lease of the same or an  
42 equivalent replacement vehicle or vehicles, as determined by the commis-  
43 sioner, without obtaining approval of the voters.

44 § 7. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
45 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of  
46 the laws of 2016, is amended to read as follows:

47 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
48 ty or school district, imposing the taxes authorized by this subdivi-  
49 sion, shall omit the residential solar energy systems equipment and  
50 electricity exemption provided for in subdivision (ee), the commercial  
51 solar energy systems equipment and electricity exemption provided for in  
52 subdivision (ii), the commercial fuel cell electricity generating  
53 systems equipment and electricity generated by such equipment exemption  
54 provided for in subdivision (kk), the electric omnibus exemption  
55 provided for in paragraph forty-six of subdivision (a) of section eleven  
56 hundred fifteen of this chapter, and the clothing and footwear exemption

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

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