CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368**

68th Legislature

2024 Regular Session

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| Passed by the House March 5, 2024Yeas 58 Nays 38**Speaker of the House of Representatives**Passed by the Senate March 1, 2024Yeas 29 Nays 20**President of the Senate** | CERTIFICATEI, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368** as passed by the House of Representatives and the Senate on the dates hereon set forth.Chief Clerk |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1368**

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AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

**State of Washington 68th Legislature 2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Senn, Fey, Berry, Doglio, Peterson, Chapman, Fosse, Slatter, Gregerson, Callan, Lekanoff, Ramel, Stonier, Street, Santos, Fitzgibbon, Berg, Reed, Simmons, Bergquist, Goodman, Pollet, Cortes, Macri, and Leavitt)

AN ACT Relating to requiring and funding the purchase of zero emission school buses; amending RCW 28A.160.195 and 28A.160.140; adding a new section to chapter 70A.15 RCW; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that zero emission vehicle technology is crucial to protecting Washington's children from the health impacts of fossil fuel emissions and to limiting the long-term impacts of climate change on our planet. Spurred by a supportive regulatory environment, the state has made great advances in recent years that have improved the performance and reduced the costs of such vehicles. With the recent deployment of financial incentives for clean transportation technology under the federal bipartisan infrastructure law of 2021, the inflation reduction act of 2022, and state funding for early adopters of zero emission buses that began being made available in the 2023 enacted budgets, the costs and performance of zero emission vehicles, including zero emission school buses, are forecast to continue to improve in coming years. Zero emission school buses on the market today feature reduced fuel, operations, and maintenance costs compared to their fossil-fueled counterparts.

(2) Zero emission school buses and the related reduction of diesel exhaust will also have significant public health benefits for children, school staff, bus drivers, and communities, and decrease inequities. Residents in overburdened parts of Washington facing poor air quality are disproportionately communities of color, rural, and low-income and suffer from increased health risks, higher medical bills, are living sicker and dying younger, emphasizing the need for cleaner air and environmental justice.

(3) Further, the legislature finds that school districts need funding support to enable the transition to zero emission buses, including accurately reflecting the costs of zero emission buses in the state's reimbursement schedule for school buses. Zero emission buses are intended to include both battery electric technologies and hydrogen fuel cell technologies.

(4) Therefore, it is the intent of the legislature to help transition school districts, charter schools, and state-tribal education compact schools to using only zero emission school buses.

(5) During this transition, it is the intent of the legislature to prioritize grants to communities that are already bearing the most acute harms of air pollution, and to replace the oldest diesel vehicles that were manufactured under outdated and less protective federal emission standards. During the time leading up to an eventual phase out of fossil fuel powered school buses, electric utilities are encouraged to plan and take steps to ensure any service upgrades necessary to support the onboarding of zero emission fleets of school buses, including by making use of the grid modernization grant program administered by the department of commerce. Schools and school districts receiving zero emission school buses funded through the program created in this act are encouraged to coordinate with electric utilities to utilize the vehicles to support electric system reliability and capacity through vehicle-to-grid integration when the buses are not in service.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.15 RCW to read as follows:

(1) The department must administer the zero emission school bus grant program within the clean diesel grant program for buses, infrastructure, and related costs.

(2)(a) Appropriations to this grant program are provided solely for grants to transition from fossil-fuel school buses to zero emission vehicles. Eligible uses of grant funds include the planning and acquisition of zero emission school bus vehicles for student transportation, planning, design, and construction of associated fueling and charging infrastructure, including infrastructure to allow the use of zero emission buses in cold weather and other challenging operational conditions, the scrapping of old diesel school buses, and training drivers, mechanics, and facility operations personnel to operate and maintain the zero emission buses and infrastructure.

(b) Grant recipients may combine grant funds awarded under this section with any other source of funding in order to secure all funds needed to fully purchase each zero emission vehicle and any associated charging infrastructure.

(c) Grants issued under this section are in addition to payments made under the depreciation schedule adopted by the office of the superintendent of public instruction. Grants may only be issued until the school bus depreciation schedule established in RCW 28A.160.200 is adjusted to fund the cost of zero emission bus purchases at which time the department must transition the program established in this section to focus solely on electric vehicle charging infrastructure grants.

(3) When selecting grant recipients, the department must prioritize, in descending order of priority:

(a) School districts currently using school buses manufactured prior to 2007 and serving overburdened communities, including communities of color, rural, and low-income communities, highly impacted by air pollution identified by the department under RCW 70A.65.020(1);

(b) If funds remain after reviewing grant applications meeting the criteria of (a) of this subsection, school districts serving overburdened communities, including communities of color, rural, and low-income communities, highly impacted by air pollution identified by the department under RCW 70A.65.020(1);

(c) If funds remain after reviewing grant applications meeting the criteria of (a) and (b) of this subsection, the replacement of school buses manufactured prior to 2007; and

(d) If funds remain after reviewing grant applications meeting the criteria of (a), (b), or (c) of this subsection, to applicants that demonstrate an unsuccessful application to receive federal funding for zero emission school bus purposes prior to January 1, 2024.

(4) The department must distribute no less than 90 percent of the funds appropriated under this section to grant recipients. Amounts retained by the department may only be used as follows:

(a) Up to three and one-half percent of funds appropriated under this section for administering the grant program; and

(b) Up to six and one-half percent of funds appropriated under this section to provide technical assistance to grant applicants including, but not limited to, assistance in evaluating charging infrastructure and equipment and in coordinating with electric utility service adequacy.

(5) The department must provide notice of a grant award decision to the utility providing electrical service to the grant recipient.

(6) By June 1, 2025, the department in consultation with the superintendent of public instruction must submit a report to the governor and the relevant policy and fiscal committees of the legislature providing an update on the status of implementation of the grant program under this section and a summary of recommendations and implementation considerations for transitioning the zero emission school bus grant program to the competitive school bus vehicle depreciation schedule established in RCW 28A.160.200.

(7) For the purposes of this section, "zero emission vehicles" means a vehicle that produces zero exhaust emission of any air pollutant and any greenhouse gas other than water vapor.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.160 RCW to read as follows:

(1) The office of the superintendent of public instruction, in consultation with the department of ecology, must develop preliminary guidance for school districts regarding the formula factors used to calculate the total cost of ownership for zero emission school buses and diesel school buses. After considering feedback to the preliminary guidance, the office of the superintendent of public instruction, in consultation with the department of ecology, must adopt rules to establish the formulas. Such formulas must, at a minimum, address the initial cost of the bus at the time of purchase, the cost of maintenance, the cost of fueling and charging, and the cost of replacing zero emission school bus batteries, if applicable.

(2)(a) Once the total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, as determined by the formulas in subsection (1) of this section, school districts may only receive reimbursement under RCW 28A.160.195 and 28A.160.200 for the purchase of zero emission school buses.

(b) The requirements of this subsection do not prohibit the use of externally vented fuel-operated passenger heaters from November 15th through March 15th annually until other viable alternatives become available.

(3)(a) The office of the superintendent of public instruction must make exceptions to the requirement under subsection (2) of this section in the following circumstances:

(i) The reimbursement is for a diesel school bus that was purchased prior to the total cost of ownership determination;

(ii) The school district has bus route mileage needs that cannot be met by the average daily mileage achieved under actual use conditions in Washington for zero emission school buses;

(iii) The school district has other unique needs that may not be met by the technological capabilities of zero emission school buses; or

(iv) The school district does not have, or have access to, the appropriate charging infrastructure to support the use of zero emission school buses. If a school district qualifies under this exception it must submit documentation indicating it has applied for grant funding to install charging infrastructure under available federal grant programs or the zero emission school bus grant program established under section 2 of this act, or documentation from a public utility district or utility company indicating the school district does not have enough electric capacity to support the appropriate charging infrastructure.

(b) Exceptions granted by the superintendent of public instruction under (a)(ii) through (iv) of this subsection may not exceed five years. A school district may apply to renew an exception if the need for such an exception still exists after the initial exception has expired.

(4) For the purposes of this section, "zero emission school bus" means a school bus that produces zero exhaust emission of any air pollutant and any greenhouse gas other than water vapor.

**Sec.**  RCW 28A.160.195 and 2005 c 492 s 1 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, shall establish a minimum number of school bus categories considering the capacity and type of vehicles required by school districts in Washington. The superintendent, in consultation with the regional transportation coordinators of the educational service districts, shall establish competitive specifications for each category of school bus. The categories shall be developed to produce minimum long-range operating costs, including costs of equipment and all costs in operating the vehicles. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts. The superintendent may solicit and accept price quotes for a rear-engine category school bus that shall be reimbursed at the price of the corresponding front engine category.

(2) After establishing school bus categories and competitive specifications, the superintendent of public instruction shall solicit competitive price quotes for base buses from school bus dealers to be in effect for one year and shall establish a list of all accepted price quotes in each category obtained under this subsection. The superintendent shall also solicit price quotes for optional features and equipment.

(3)(a) The superintendent shall base the level of reimbursement to school districts and educational service districts for school buses on the lowest quote for the base bus in each category. School districts and educational service districts shall be reimbursed for buses purchased only through a lowest-price competitive bid process conducted under RCW 28A.335.190 or through the state bid process established by this section.

(b) Once the total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, as determined under the formulas adopted by rule pursuant to section 3 of this act, school districts may only receive reimbursement for the purchase of zero emission school buses, unless the district has been granted an exception under section 3(3) of this act. For the purposes of this subsection, "zero emission school bus" means a school bus that produces zero exhaust emission of any air pollutant and any greenhouse gas other than water vapor.

(4) Notwithstanding RCW 28A.335.190, school districts and educational service districts may purchase at the quoted price directly from any dealer who is on the list established under subsection (2) of this section. School districts and educational service districts may make their own selections for school buses, but shall be reimbursed at the rates determined under subsection (3) of this section and RCW 28A.160.200. District-selected options shall not be reimbursed by the state.

(5) This section does not prohibit school districts or educational service districts from conducting their own competitive bid process.

(6) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

**Sec.**  RCW 28A.160.140 and 1990 c 33 s 140 are each amended to read as follows:

(1) As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district engages in an open competitive process at least once every five years after July 26, 1987. If a school district enters into a pupil transportation services contract with a private nongovernmental entity that uses zero emission school buses to transport students for the school district, the contract period may be up to seven years in duration.

(2) Once the total cost of ownership of zero emission school buses is at or below the total cost of ownership of diesel school buses, as determined under the formulas adopted by rule pursuant to section 3 of this act, a school district may only enter into, renew, or extend a pupil transportation services contract with a nongovernmental entity that uses zero emission school buses to transport students for the school district. The office of the superintendent of public instruction must provide an exception to this requirement, upon request from the school district, if the school district meets the criteria in section 3(3)(a) (ii) through (iv) of this act. The requirements of this subsection do not prohibit the use of externally vented fuel-operated passenger heaters from November 15th through March 15th annually until other viable alternatives become available.

(3) As used in this section:

((~~(1)~~)) (a) "Open competitive process" means either one of the following, at the choice of the school district:

((~~(a)~~)) (i) The solicitation of bids or quotations and the award of contracts under RCW 28A.335.190; or

((~~(b)~~)) (ii) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;

((~~(2)~~)) (b) "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; ((~~and~~

~~(3)~~)) (c) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction; and

(d) "Zero emission school bus" means a school bus that produces zero exhaust emission of any air pollutant and any greenhouse gas other than water vapor.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.300 RCW to read as follows:

(1) By November 15, 2024, the office of the superintendent of public instruction, in consultation with the department of ecology, must carry out a survey of school districts, charter schools, and state-tribal education compact schools focused on the uptake and total cost of ownership of zero emission school buses. The office of the superintendent of public instruction must submit a report to the legislature summarizing their findings by December 1, 2024.

(2) The survey required under this section must collect information from each school district and school on:

(a) Current zero emission vehicle charging and refueling capacity and infrastructure;

(b) Whether, assuming the availability of grant funds and depreciation schedule payments to cover the full cost of a vehicle, including the total cost of ownership of the vehicle, the school district or school would anticipate applying for funds to support zero emission school bus or bus infrastructure purchases in the next two years, and in the next five years;

(c) For any schools or school districts still using a school bus after the end of its applicable depreciation schedule, whether the bus was manufactured prior to 2007, and an explanation of why the school or school district has continued to use the bus past the end of its depreciation schedule;

(d) Responses to preliminary guidance from the office of the superintendent of public instruction for calculating total cost of ownership and whether the school district or school utilizes the preliminary guidance or uses a different calculation methodology; and

(e) Any other survey information deemed helpful by the department of ecology or the office of the superintendent of public instruction to facilitating the transition to zero emission vehicles.

(3) For purposes of this section, "zero emission vehicle" has the same meaning as in section 2 of this act.

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