

STATE OF NEW YORK

S. 5451

A. 8180

2009-2010 Regular Sessions

SENATE - ASSEMBLY

May 6, 2009

IN SENATE -- Introduced by Sens. DILAN, PERKINS -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. SILVER, FARRELL, LAVINE, MILLMAN, BOYLAND, BRENNAN, BROOK-KRASNY, CLARK, COOK, DINOWITZ, ESPAILLAT, JEFFRIES, LANCMAN, MARKEY, MAYERSOHN, PERALTA, POWELL, ROBINSON, SCAR BOROUGH -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the vehicle and traffic law, in relation to supplemental learners permits (Part A); to amend the vehicle and traffic law, in relation to the metropolitan commuter transportation district supplemental registration fee (Part B); to amend the tax law and the administrative code of the city of New York, in relation to the metropolitan commuter transportation mobility tax; and to repeal certain provisions of the tax law relating thereto (Part C); to amend the education law, in relation to certain moneys apportioned to school districts for reimbursement of article twenty-three of the tax law payments (Part D); to amend the tax law, in relation to a tax on medallion taxicab rides in the metropolitan commuter transportation district (Part E); to amend the tax law, in relation to a supplemental tax on passenger car rentals (Part F); to amend the state finance law, in relation to the metropolitan transportation authority financial assistance fund and making an appropriation relating thereto (Part G); making an appropriation providing financial assistance to the metropolitan transportation authority (Part G-1); and to amend the public authorities law, in relation to metropolitan transportation authority reporting requirements, in relation to legislative oversight of the metropolitan transportation authority, in relation to regulation of metropolitan transportation authority finances, in relation to the independent audit of the metropolitan transportation authority, and the publication of financial information, in relation to audits of the metropolitan transportation authority, in relation to directing the

chairman of the metropolitan transportation authority to submit bien-

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

LBD11287-10-9

S. 5451

2

A. 8180

nial reports to certain legislative committees on the condition of the metropolitan transportation authority, in relation to the fiduciary responsibility of board members, in relation to whistle-blowers on contract projects of the metropolitan transportation authority, and in relation to the powers and duties of the metropolitan transportation authority capital program review board (Part H)

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

- 1 Section 1. Legislative findings and declaration of purpose. 1. Mass
2 transportation services in the metropolitan commuter transportation
3 district ("MTA district") are essential to meeting the basic mobility
4 and economic needs of the citizens of the MTA district, the state and
5 the region. The contributions of such mass transportation services are
6 also essential to addressing fundamental environmental policy and social
7 needs of the state's residents.
- 8 2. The metropolitan transportation authority must continue to function
9 as the primary provider of reasonably priced, safe and reliable mass
10 transportation services in the MTA district.
- 11 3. It is of vital importance to the ability of the metropolitan trans-
12 portation authority to meet the continued need for mobility and for the
13 economic health of the MTA district that additional dedicated sources of
14 reliable funding be made promptly available.
- 15 4. Such funding is needed to ensure the continuation of reasonable
16 fares and provide for the continuation of the capital program of the
17 authority to ensure the ongoing rehabilitation, improvement and expan-
18 sion of the mass transit system.
- 19 5. It is the intent of the governor and legislature to continue to
20 fund the capital program of the metropolitan transportation authority as
21 well as other transportation needs of the state including highways and
22 bridges, non-MTA transit, passenger and freight rail and aviation and
23 port facilities on a multi-year basis.
- 24 6. It is the intent of the governor and the legislature to address the
25 capital needs of the department of transportation including highways and
26 bridges, non-MTA transit, passenger and freight rail and aviation and
27 port facilities at the same time and for the same duration as the next

28 MTA capital program. The governor and the legislature request that the
29 department of transportation begin the development of such a program
30 immediately and provide the legislature with an outline of the objec-
31 tives of the program and the performance measures that will be used to
32 determine investment in transportation in the state for the next multi-
33 year capital program by October 1, 2009.

34 § 2. This act enacts into law major components of legislation relating
35 to the metropolitan transportation authority and the metropolitan commu-
36 ter transportation district. Each component is wholly contained within
37 a Part identified as Parts A through H. The effective date for each
38 particular provision contained within such Part is set forth in the last
39 section of such Part. Any provision in any section contained within a
40 Part, including the effective date of the Part, which makes reference to
41 a section "of this act", when used in connection with that particular
42 component, shall be deemed to mean and refer to the corresponding
43 section of the Part in which it is found. Section three of this act sets
44 forth the general effective date of this act.

S. 5451

3

A. 8180

1

PART A

2 Section 1. Subdivision 2 of section 503 of the vehicle and traffic law
3 is amended by adding a new paragraph (b-1) to read as follows:

4 (b-1) Supplemental learner permit/license fee in the metropolitan
5 commuter transportation district. (i) Upon passage of the knowledge test
6 required to obtain a learner's permit, an applicant for a driver's
7 license who resides in the metropolitan commuter transportation district
8 established by section one thousand two hundred sixty-two of the public
9 authorities law shall be required to pay a supplemental fee of one
10 dollar for each six months or portion thereof of the period of validity
11 of a learner's permit or license which is or may be issued pursuant to
12 the provisions of subparagraph (i) or (ii) of paragraph (b) of this
13 subdivision.

14 (ii) The commissioner shall deposit daily all funds collected pursuant
15 to subparagraph (i) of this paragraph with such responsible banks, bank-
16 ing houses or trust companies as may be designated by the state comp-
17 troller, to the credit of the comptroller. On or before the twelfth day
18 of each month, the commissioner shall certify to the comptroller the
19 amount of all revenues received pursuant to subparagraph (i) of this
20 paragraph during the prior month as a result of the supplemental fee
21 imposed, including any interest and penalties thereon. The revenues so
22 certified shall be deposited by the state comptroller in the metropol-
23 itan transportation authority aid trust account of the metropolitan
24 transportation authority financial assistance fund established pursuant

25 to section ninety-two-ff of the state finance law for deposit, subject
26 to appropriation, in the corporate transportation account of the metro-
27 politan transportation authority special assistance fund established by
28 section twelve hundred seventy-a of the public authorities law, to be
29 applied as provided in paragraph (e) of subdivision four of such
30 section. Any money collected pursuant to this section that is deposited
31 by the comptroller in the metropolitan transportation authority aid
32 trust account of the metropolitan transportation authority financial
33 assistance fund shall be held in such fund free and clear of any claim
34 by any person or entity paying an additional fee pursuant to this
35 section, including, without limiting the generality of the foregoing,
36 any right or claim against the metropolitan transportation authority,
37 any of its bondholders, or any subsidiary or affiliate of the metropol-
38 itan transportation authority.

39 § 2. Subdivision 2 of section 503 of the vehicle and traffic law is
40 amended by adding a new paragraph (c-3) to read as follows:

41 (c-3) (i) Supplemental renewal fee in the metropolitan commuter trans-
42 portation district. In addition to the fees required to be paid pursu-
43 ant to paragraph (c) of this subdivision, a supplemental fee of one
44 dollar for each six months or portion thereof of the validity of the
45 license shall be paid for renewal of a license of a person who resides
46 in the metropolitan commuter transportation district established by
47 section one thousand two hundred sixty-two of the public authorities law
48 issued by the commissioner.

49 (ii) The commissioner shall deposit daily all funds collected pursuant
50 to this paragraph with such responsible banks, banking houses or trust
51 companies as may be designated by the state comptroller, to the credit
52 of the comptroller. On or before the twelfth day of each month, the
53 commissioner shall certify to the comptroller the amount of all revenues
54 received pursuant to this paragraph during the prior month as a result
55 of the supplemental fees imposed, including any interest and penalties

S. 5451

4

A. 8180

1 thereon. The revenues so certified shall be deposited by the state comp-
2 troller in the metropolitan transportation authority aid trust account
3 of the metropolitan transportation authority financial assistance fund
4 established pursuant to section ninety-two-ff of the state finance law
5 for deposit, subject to appropriation, in the corporate transportation
6 account of the metropolitan transportation authority special assistance
7 fund established by section twelve hundred seventy-a of the public
8 authorities law, to be applied as provided in paragraph (e) of subdivi-
9 sion four of such section. Any money collected pursuant to this section
10 that is deposited by the comptroller in the metropolitan transportation
11 authority aid trust account of the metropolitan transportation authority

12 financial assistance fund shall be held in such fund free and clear of
13 any claim by any person or entity paying an additional fee pursuant to
14 this section, including, without limiting the generality of the forego-
15 ing, any right or claim against the metropolitan transportation authori-
16 ty, any of its bondholders, or any subsidiary or affiliate of the metro-
17 politan transportation authority.

18 § 3. This act shall take effect September 1, 2009 and shall apply to
19 licenses issued and renewals of licenses expiring on and after such
20 date.

21 PART B

22 Section 1. The vehicle and traffic law is amended by adding a new
23 article 17-C to read as follows:

24 ARTICLE 17-C
25 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT
26 SUPPLEMENTAL REGISTRATION FEE

27 Section 499. Definition.

28 499-a. Metropolitan commuter transportation district supple-
29 mental registration fee.

30 499-b. Collection of supplemental fee.

31 499-c. Calculation of supplemental registration fee.

32 499-d. Deposit and disposition of revenue from supplemental fee.

33 § 499. Definition. For the purposes of this article "metropolitan
34 commuter transportation district" shall mean the area of the state
35 included in the district created and governed by section twelve hundred
36 sixty-two of the public authorities law.

37 § 499-a. Metropolitan commuter transportation district supplemental
38 registration fee. Registrants residing in the metropolitan commuter
39 transportation district shall upon the registration or renewal of a
40 motor vehicle be charged a supplemental registration fee to be paid to
41 the commissioner or his or her agent in accordance with the provisions
42 of this article.

43 § 499-b. Collection of supplemental fee. All registrants of motor
44 vehicles who reside in the metropolitan commuter transportation district
45 shall pay to the commissioner or his or her agent the supplemental
46 registration fee provided for in this article upon registration or
47 renewal of motor vehicles subject to registration fees pursuant to the
48 following sections of this chapter: paragraph a of subdivision six of
49 section four hundred one; schedules A, B, C, E, F, G, I and K of subdi-
50 vision seven of section four hundred one; paragraph a of subdivision
51 eight of section four hundred one; paragraph a of subdivision five of
52 section four hundred ten; and section four hundred eleven-b.

53 § 499-c. Calculation of supplemental registration fee. The supple-
54 mental registration fee to be charged pursuant to section four hundred

1 ninety-nine-b of this article, shall be calculated at a rate of twenty-
2 five dollars per annum for each year or portion of a year that such
3 registration is valid.
4 § 499-d. Deposit and disposition of revenue from supplemental fee. The
5 commissioner shall deposit daily all funds derived from the collection
6 of the supplemental fee established pursuant to this article with such
7 responsible banks, banking houses or trust companies as may be desig-
8 nated by the state comptroller, to the credit of the comptroller. On or
9 before the twelfth day of each month, the commissioner shall certify to
10 the comptroller the amount of all revenues received pursuant to this
11 article during the prior month as a result of the supplemental fee
12 imposed, including any interest and penalties thereon. The revenues so
13 certified shall be deposited by the state comptroller in the metropol-
14 itan transportation authority aid trust account of the metropolitan
15 transportation authority financial assistance fund established pursuant
16 to section ninety-two-ff of the state finance law for deposit, subject
17 to appropriation, in the corporate transportation account of the metro-
18 politan transportation authority special assistance fund established by
19 section twelve hundred seventy-a of the public authorities law, to be
20 applied as provided in paragraph (e) of subdivision four of such
21 section. Any money collected pursuant to this section that is deposited
22 by the comptroller in the metropolitan transportation authority aid
23 trust account of the metropolitan transportation authority financial
24 assistance fund shall be held in such fund free and clear of any claim
25 by any person or entity paying an additional fee pursuant to this
26 section, including, without limiting the generality of the foregoing,
27 any right or claim against the metropolitan transportation authority,
28 any of its bondholders, or any subsidiary or affiliate of the metropol-
29 itan transportation authority.
30 § 2. This act shall take effect September 1, 2009 and shall apply to
31 registrations issued and renewals of registrations expiring on and after
32 such date.

33

PART C

34 Section 1. The tax law is amended by adding a new article 23 to read
35 as follows:

36

ARTICLE 23

37

METROPOLITAN COMMUTER TRANSPORTATION

38

MOBILITY TAX

39 Section 800. Definitions.

40

801. Imposition of tax and rate.

41

802. Pass through of tax prohibited.

42 803. Exemption override.
43 804. Payment of tax.
44 805. Deposit and disposition of revenue.
45 806. Procedural provisions.
46 § 800. Definitions. For the purposes of this article:
47 (a) Metropolitan commuter transportation district. The metropolitan
48 commuter transportation district ("MCTD") means the area of the state
49 included in the district created and governed by section twelve hundred
50 sixty-two of the public authorities law.
51 (b) Employer. Employer means an employer required by section six
52 hundred seventy-one of this chapter to deduct and withhold tax from
53 wages, that has a payroll expense in excess of two thousand five hundred
54 dollars in any calendar quarter; other than

S. 5451

6

A. 8180

1 (1) any agency or instrumentality of the United States;
2 (2) the United Nations; or
3 (3) an interstate agency or public corporation created pursuant to an
4 agreement or compact with another state or the Dominion of Canada.
5 (c) Payroll expense. Payroll expense means wages and compensation as
6 defined in sections 3121 and 3231 of the internal revenue code (without
7 regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all
8 covered employees.
9 (d) Covered employee. Covered employee means an employee who is
10 employed within the MCTD.
11 (e) Net earnings from self-employment. Net earnings from self-employ-
12 ment has the same meaning as in section 1402 of the internal revenue
13 code.
14 § 801. Imposition of tax and rate. (a) For the sole purpose of provid-
15 ing an additional stable and reliable dedicated funding source for the
16 metropolitan transportation authority and its subsidiaries and affil-
17 iates to preserve, operate and improve essential transit and transporta-
18 tion services in the metropolitan commuter transportation district, a
19 tax is hereby imposed at a rate of thirty-four hundredths (.34) percent
20 of (1) the payroll expense of every employer who engages in business
21 within the MCTD and (2) the net earnings from self-employment of indi-
22 viduals that are attributable to the MCTD if such earnings attributable
23 to the MCTD exceed ten thousand dollars for the tax year.
24 (b)(1) An individual having net earnings from self-employment from
25 activity both within and without the metropolitan commuter transporta-
26 tion district is required to allocate and apportion such net earnings to
27 the MCTD in the manner required for allocation and apportionment of
28 income under article twenty-two of this chapter.
29 (2) In the case of individuals with earnings from self-employment, the

30 net earnings from self employment threshold in paragraph two of
31 subsection (a) of this section will be computed on an individual basis
32 regardless of whether that individual filed a joint personal income tax
33 return.

34 (c) The determination of whether a covered employee is employed within
35 the MCTD will be made by utilizing the rules applicable to the jurisdic-
36 tion of employment for purposes of the statewide wage reporting system
37 under section one hundred seventy-one-a of this chapter and substituting
38 the MCTD for the state in that application.

39 § 802. Pass through of tax prohibited. An employer cannot deduct from
40 the wages or compensation of an employee any amount that represents all
41 or any portion of the tax imposed on the employer under this article.

42 § 803. Exemption override. Any exemption from tax specified in any
43 other New York state law will not apply to the tax imposed by this arti-
44 cle.

45 § 804. Payment of tax. (a) Employers with payroll expense. The tax
46 imposed on the payroll expense of employers under section eight hundred
47 one of this article for each calendar quarter must be paid quarterly at
48 the same time as the statewide wage reporting system report is required
49 under section one hundred seventy-one-a of this chapter; provided howev-
50 er, that employers subject to section nine of this chapter other than
51 school districts as defined in section thirty-six hundred nine-g of the
52 education law must pay the tax on the payroll expense at the same time
53 as the withholding tax remitted under the electronic payment reporting
54 system and the electronic funds transfer system authorized by section
55 nine of this chapter.

S. 5451

7

A. 8180

1 (b) Individuals with net earnings from self-employment. Individuals
2 with earnings from self-employment must make estimated tax payments of
3 the tax imposed by this article for the taxable year on the same dates
4 specified in subsection (a) of this section for the quarterly payments
5 of the tax imposed on the payroll expense of employers. In addition,
6 these self-employed individuals must file a return for the taxable year
7 by the thirtieth day of the fourth month following the close of the
8 taxable year. Paragraph one of subsection (d) of section six hundred
9 eighty-five of this chapter shall not apply to the estimated tax
10 payments required by this subsection.

11 § 805. Deposit and disposition of revenue. (a) The taxes, interest,
12 and penalties imposed by this article and collected or received by the
13 commissioner shall be deposited daily with such responsible banks, bank-
14 ing houses or trust companies, as may be designated by the comptroller,
15 to the credit of the comptroller in trust for the metropolitan transpor-
16 tation authority. An account may be established in one or more of such

17 depositories. Such deposits will be kept separate and apart from all
18 other money in the possession of the comptroller. The comptroller shall
19 require adequate security from all such depositories. Of the total
20 revenue collected or received under this article, the comptroller shall
21 retain such amount as the commissioner may determine to be necessary for
22 refunds under this article. The commissioner is authorized and directed
23 to deduct from the amounts it receives under this article, before depos-
24 it into the trust accounts designated by the comptroller, a reasonable
25 amount necessary to effectuate refunds of appropriations of the depart-
26 ment to reimburse the department for the costs incurred to administer,
27 collect and distribute the taxes imposed by this article.

28 (b) On or before the twelfth and twenty-sixth day of each succeeding
29 month, after reserving such amount for such refunds and deducting such
30 amounts for such costs, as provided for in subsection (a) of this
31 section, the commissioner shall certify to the comptroller the amount of
32 all revenues so received during the prior month as a result of the
33 taxes, interest and penalties so imposed. The amount of revenues so
34 certified shall be paid over by the fifteenth and the final business day
35 of each succeeding month from such account into the mobility tax trust
36 account of the metropolitan transportation authority financial assist-
37 ance fund established pursuant to section ninety-two-ff of the state
38 finance law, for payment, pursuant to appropriations by the legislature
39 to the metropolitan transportation authority finance fund established
40 pursuant to section twelve hundred seventy-h of the public authorities
41 law.

42 § 806. Procedural provisions. All provisions of article twenty-two of
43 this chapter will apply to the provisions of this article in the same
44 manner and with the same force and effect as if the language of article
45 twenty-two of this chapter had been incorporated in full into this arti-
46 cle and had been specifically adjusted for and expressly referred to the
47 tax imposed by this article, except to the extent that any provision is
48 either inconsistent with a provision of this article or is not relevant
49 to this article. Notwithstanding the preceding sentence, no credit
50 against tax in article twenty-two of this chapter can be used to offset
51 the tax due under this article. Notwithstanding any other law to the
52 contrary, the commissioner may require that all filings of forms or
53 returns under this article must be filed electronically and all payments
54 of tax must be paid electronically.

S. 5451

8

A. 8180

1 § 2. Clause (i) of subparagraph 5 of paragraph (a) of subdivision 9 of
2 section 208 of the tax law, as amended by chapter 61 of the laws of
3 1989, is amended to read as follows:

4 (i) any refund or credit of a tax imposed under this article, article

5 twenty-three, or article thirty-two of this chapter, for which tax no
6 exclusion or deduction was allowed in determining the taxpayer's entire
7 net income under this article, article twenty-three, or [such] article
8 thirty-two of this chapter for any prior year,

9 § 3. Paragraph (b) of subdivision 9 of section 208 of the tax law is
10 amended by adding a new subparagraph 20 to read as follows:

11 (20) The amount of any federal deduction for taxes imposed under arti-
12 cle twenty-three of this chapter.

13 § 4. Paragraph 2 of subdivision (a) of section 292 of the tax law, as
14 added by chapter 1005 of the laws of 1970, is amended to read as
15 follows:

16 (2) There shall be subtracted from federal unrelated business taxable
17 income the amount of any refund or credit for overpayment of a tax
18 imposed under this article or article twenty-three of this chapter.

19 § 5. Subdivision (a) of section 292 of the tax law is amended by
20 adding a new paragraph 8 to read as follows:

21 (8) There must be added to federal unrelated business taxable income
22 the amount of any federal deduction for taxes imposed under article
23 twenty-three of this chapter.

24 § 6. Subsection (b) of section 612 of the tax law is amended by adding
25 a new paragraph 39 to read as follows:

26 (39) The amount of any federal deduction for taxes imposed under arti-
27 cle twenty-three of this chapter.

28 § 7. Paragraph 7 of subsection (c) of section 612 of the tax law, as
29 added by chapter 563 of the laws of 1960, is amended to read as follows:

30 (7) The amount of any refund or credit for overpayment of income taxes
31 imposed by this state, or any other taxing jurisdiction, and any taxes
32 imposed by article twenty-three of this chapter, to the extent properly
33 included in gross income for federal income tax purposes.

34 § 8. Subsection (c) of section 615 of the tax law is amended by adding
35 a new paragraph 8 to read as follows:

36 (8) The amount of any federal deduction for taxes imposed under arti-
37 cle twenty-three of this chapter.

38 § 9. Subsection 4 of section 618 of the tax law, as amended by section
39 4 of part HH-1 of chapter 57 of the laws of 2008, is amended to read as
40 follows:

41 (4) There shall be added or subtracted (as the case may be) the
42 modifications described in paragraphs (6), (10), (17), (18), (19), (20),
43 (21), (22), (23), (24), (25), (26), (27), (29) [and], (38) and (39) of
44 subsection (b) and in paragraphs (11), (13), (15), (19), (20), (21),
45 (22), (23), (24), (25), (26) and (28) of subsection (c) of section six
46 hundred twelve of this part.

47 § 10. Subsection (a) of section 686 of the tax law, as amended by
48 section 10 of part R of chapter 60 of the laws of 2004, is amended to
49 read as follows:

50 (a) General.-- The commissioner of taxation and finance, within the

51 applicable period of limitations, may credit an overpayment of income
52 tax and interest on such overpayment against any liability in respect of
53 any tax imposed by this chapter, including taxes imposed under article
54 twenty-three of this chapter, on the person who made the overpayment,
55 against any liability in respect of any tax imposed pursuant to the
56 authority of this chapter or any other law on such person if such tax is

S. 5451

9

A. 8180

1 administered by the commissioner of taxation and finance and, as
2 provided in sections one hundred seventy-one-c, one hundred
3 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f and
4 one hundred seventy-one-l of this chapter, against past-due support, a
5 past-due legally enforceable debt, a city of New York tax warrant judg-
6 ment debt, and against the amount of a default in repayment of a guaran-
7 teed student, state university or city university loan. The balance
8 shall be refunded by the comptroller out of the proceeds of the tax
9 retained by him for such general purpose. Any refund under this section
10 shall be made only upon the filing of a return and upon a certificate of
11 the commissioner [of taxation and finance] approved by the comptroller.
12 The comptroller, as a condition precedent to the approval of such a
13 certificate, may examine into the facts as disclosed by the return of
14 the person who made the overpayment and other information and data
15 available in the files of the commissioner [of taxation and finance].

16 § 11. Subsection (b) of section 1453 of the tax law is amended by
17 adding a new paragraph 15 to read as follows:

18 (15) The amount of any federal deduction for taxes imposed under arti-
19 cle twenty-three of this chapter.

20 § 12. Subsection (d) of section 1453 of the tax law, as amended by
21 chapter 267 of the laws of 1987, is REPEALED.

22 § 13. Subsection (d) of section 1453 of the tax law, as amended by
23 chapter 817 of the laws of 1987, is amended to read as follows:

24 (d) Entire net income shall not include any refund or credit of a tax
25 for which no exclusion or deduction was allowed in determining the
26 taxpayer's entire net income under this article or articles [nine-a,
27 nine-b or nine-c] nine-A or twenty-three of this chapter for any prior
28 year.

29 § 14. Subparagraph (C) of paragraph 1 of subdivision (b) of section
30 1503 of the tax law, as amended by chapter 55 of the laws of 1982, is
31 amended to read as follows:

32 (C) any refund or credit of a tax imposed under this article or
33 section one hundred eighty-seven, or article twenty-three of this chap-
34 ter heretofore in effect to the extent properly included as income for
35 federal income tax purposes, for which no exclusion or deduction was
36 allowed in determining the taxpayer's entire net income under this arti-

37 cle for any prior year;

38 § 15. Paragraph 2 of subdivision (b) of section 1503 of the tax law is
39 amended by adding a new subparagraph (V) to read as follows:

40 (V) The amount of any federal deduction for taxes imposed under arti-
41 cle twenty-three of this chapter.

42 § 16. Subparagraph 5 of paragraph (a) of subdivision 8 of section
43 11-602 of the administrative code of the city of New York, as amended by
44 chapter 241 of the laws of 1989, is amended to read as follows:

45 (5) any refund or credit of a tax imposed under this chapter, or
46 imposed by article nine, nine-A, twenty-three, or thirty-two of the tax
47 law, for which tax no exclusion or deduction was allowed in determining
48 the taxpayer's entire net income under this subchapter or subchapter
49 three of this chapter for any prior year;

50 § 17. Paragraph (b) of subdivision 8 of section 11-602 of the adminis-
51 trative code of the city of New York is amended by adding a new subpara-
52 graph 19 to read as follows:

53 (19) The amount of any federal deduction for taxes imposed under arti-
54 cle twenty-three of the tax law.

S. 5451

10

A. 8180

1 § 18. Subdivision (b) of section 11-641 of the administrative code of
2 the city of New York is amended by adding a new paragraph 16 to read as
3 follows:

4 (16) The amount of any federal deduction for taxes imposed under arti-
5 cle twenty-three of the tax law.

6 § 19. Subdivision (d) of section 11-641 of the administrative code of
7 the city of New York, as amended by chapter 525 of the laws of 1988, is
8 amended to read as follows:

9 (d) Entire net income shall not include any refund or credit of a tax
10 for which no exclusion or deduction was allowed in determining the
11 taxpayer's entire net income under this subchapter or subchapter two of
12 this chapter, or imposed by article twenty-three of the tax law for any
13 prior year.

14 § 20. Subdivision (b) of section 11-1712 of the administrative code of
15 the city of New York is amended by adding a new paragraph 35 to read as
16 follows:

17 (35) The amount of any federal deduction for taxes imposed under arti-
18 cle twenty-three of the tax law.

19 § 21. Paragraph 7 of subdivision (c) of section 11-1712 of the admin-
20 istrative code of the city of New York, such section as renumbered by
21 chapter 639 of the laws of 1986, is amended to read as follows:

22 (7) The amount of any refund or credit for overpayment of income taxes
23 imposed by this city, [or] any other taxing jurisdiction, or any taxes
24 imposed by article twenty-three of the tax law to the extent properly

25 included in gross income for federal income tax purposes.

26 § 22. Subdivision 4 of section 11-1718 of the administrative code of
27 the city of New York, as amended by section 11 of part HH-1 of chapter
28 57 of the laws of 2008, is amended to read as follows:

29 (4) There shall be added or subtracted (as the case may be) the
30 modifications described in paragraphs six, ten, seventeen, eighteen,
31 nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four,
32 twenty-five, twenty-six, twenty-seven, twenty-nine [and], thirty-four
33 and thirty-five of subdivision (b) and in paragraphs eleven, thirteen,
34 fifteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twen-
35 ty-four, twenty-five, twenty-six and twenty-eight of subdivision (c) of
36 section 11-1712 of this subchapter.

37 § 23. This act shall take effect immediately; provided however that:

38 (a) the metropolitan commuter transportation mobility tax enacted
39 pursuant to section one of this act that is (i) imposed on employers,
40 shall apply on and after March 1, 2009, provided however, that the tax
41 shall apply to public school districts within the metropolitan commuter
42 transportation district (MCTD) on and after September 1, 2009 and (ii)
43 imposed on individuals with net earnings from self-employment for tax
44 years beginning on or after January 1, 2009, but the individual's tax
45 liability for the 2009 tax year will be based only on ten-twelfths of
46 such net earnings for the 2009 tax year;

47 (b) the initial payment of such metropolitan commuter transportation
48 mobility tax enacted pursuant to section one of this act shall be made
49 with the third quarterly payment due in tax year 2009; provided however,
50 that the initial payment of such metropolitan commuter transportation
51 mobility tax shall be made at the same time as the first payment of the
52 withholding tax required to be paid pursuant to section 9 of the tax law
53 that is due on or after after October 31, 2009, and such payment by
54 employers shall include the taxes owed for the entire period beginning
55 on March 1, 2009 and that such payment by individuals with net earnings
56 from self-employment shall include the estimated taxes owed for the 2009

S. 5451

11

A. 8180

1 tax year as limited by paragraph (ii) of subdivision (a) of this
2 section, provided however, that public school districts within the MCTD
3 shall include taxes owed for the period beginning September 1, 2009;

4 (c) no addition to tax under subsection (c) of section 685 of the tax
5 law shall be imposed with respect to estimated tax payments of the
6 metropolitan commuter transportation mobility tax required to be filed
7 prior to the due date of the initial payment of the mobility tax as
8 specified in subdivision (b) of this section, provided the taxpayer
9 makes such estimated tax payments by such due date;

10 (d) the amendments to subsection 4 of section 618 of the tax law made

1 5. It is the intent of the governor to submit and the legislature to
2 enact for each fiscal year after the two thousand nine--two thousand ten
3 fiscal year in an annual budget bill an appropriation in the amount to
4 be paid to school districts pursuant to this section.

5 § 2. Paragraph t of subdivision 1 of section 3602 of the education
6 law, as amended by section 11 of part B of chapter 57 of the laws of
7 2007, is amended to read as follows:

8 t. The "approved operating expense" for the apportionments to any
9 school district hereunder shall mean the amount computed as follows: The
10 apportionment to any school district for operating expense shall be
11 based upon the total expenditures from its general fund and from its
12 capital fund and from its risk retention fund for purposes of employee
13 benefit claims related to salaries paid from the general fund, and for
14 any city school districts with a population of more than one hundred
15 twenty-five thousand inhabitants its expenditures from the special aid
16 fund of grant moneys for improving pupil performance and categorical aid
17 for special reading programs as provided in the aid to localities budget
18 during the applicable year as approved by the commissioner, and in
19 accordance with the classification of expenditures in use by the commis-
20 sioner for the reporting by school districts of receipts, expenditures
21 and other financial data. For the purpose of this paragraph operating
22 expense shall be defined as total cash expenditures during the applica-
23 ble year, but shall exclude: (1) any balances and transfers; (2) any
24 payments for transportation of pupils to and from school during the
25 regular school year inclusive of capital outlays and debt service there-
26 for; (2-a) a portion of any payments for transportation of pupils to and
27 from district operated summer school programs pursuant to subdivision
28 six of section thirty-six hundred twenty-two-a of this article, inclu-
29 sive of capital outlays and debt service therefor, equal to the product
30 of such expenditures multiplied by the quotient of the total apportion-
31 ment after the proration, if any, required by such subdivision six of
32 such section divided by the total apportionment prior to such proration;
33 (3) any payments for capital outlay and debt service for school building
34 purposes, provided, however, that in the case of a school district which
35 has entered into a contract with state university pursuant to paragraph
36 o of subdivision two of section three hundred fifty-five of this chap-
37 ter, under which the school district makes payments to state university
38 on account of capital outlay relating to certain children residing in
39 such school district, such payments shall not be so excluded; (4) any
40 payments for cafeteria or school lunch programs; (5) any proceeds of
41 short term borrowings in the general fund and any payments from the
42 proceeds of the sale of obligations in the capital fund; (6) any cash

43 receipts which reduce the cost of an item when applied against the
44 expenditure therefor, except gifts, donations and earned interest and
45 any refunds made; (7) any payments made to boards of cooperative educa-
46 tional services for purposes or programs for which an apportionment is
47 paid pursuant to other sections of this chapter, except that payments
48 attributable to eligible pupils with disabilities and ineligible pupils
49 residing in noncomponent districts shall be included in operating
50 expense; (8) any tuition payments made to other school districts inclu-
51 sive of payments made to a central high school district by one of its
52 component school districts; (9) any apportionment or payment received
53 from the state for experimental or special programs paid under
54 provisions other than those found in this section and other than any
55 apportionments or payments received from the state by the city school
56 district of the city of Yonkers for the purpose of funding an educa-

S. 5451

13

A. 8180

1 tional improvement program pursuant to a court order and other than any
2 other state grants in aid identified by the commissioner for general use
3 as specified by the board of education pursuant to subdivision two of
4 section seventeen hundred eighteen of this chapter; (10) any funds
5 received from the federal government except the federal share of medi-
6 caid subject to the provisions of section thirty-six hundred nine-a of
7 this part and except Impact Aid funds received pursuant to sections two
8 and six of Public Law eighty-one-eight hundred seventy-four (PL 81-874)
9 or any law superseding such law in any such district which received aid
10 pursuant to both such sections; provided further, however, that there
11 shall be excluded from such federal funds or other apportionments any
12 payments from such funds already deducted pursuant to this paragraph;
13 (11) any payments made for which an apportionment is disallowed pursuant
14 to regulations of the commissioner; (12) any expenditures made for
15 accounting, tabulation, or computer equipment, in excess of ten thousand
16 dollars unless such expenditures shall have been specifically approved
17 by the commissioner; (13) any rentals received pursuant to the
18 provisions of section four hundred three-a of this chapter; (14) any
19 rentals or other annual payments received pursuant to the provisions of
20 section four hundred three-b of this chapter; (15) any expenditures made
21 for persons twenty-one years of age or over attending employment prepa-
22 ration education programs pursuant to subdivision eleven of this
23 section; (16) any tuition payments made pursuant to a contract under the
24 provisions of paragraphs e, f, g, h, i and l of subdivision two of
25 section forty-four hundred one of this chapter or any tuition payments
26 on behalf of pupils attending a state school under paragraph d of such
27 subdivision; [and] (17) in any year in which expenditures are made to
28 the New York state teachers' retirement system or the New York state and

29 local employees' retirement system for both the prior school year and
30 the current school year, any expenditures made to such retirement
31 systems and recorded in the school year prior to the school year in
32 which such obligations are paid; and (18) any payments to the commis-
33 sioner of taxation and finance pursuant to article twenty-three of the
34 tax law.

35 § 2-a. If an appropriation were not to be enacted in any state fiscal
36 year after 2009-10 to reimburse school districts in accordance with
37 subdivision 5 of section 3609-g of the education law, the school
38 districts may suspend payment of their obligations in accordance with
39 article 23 of the tax law until such time as an appropriation in accord-
40 ance with subdivision 5 of section 3609-g of the education law is made.
41 In no case, however, shall the suspension of payment obligation exceed a
42 period of six months, nor shall the liability be reduced.

43 § 3. This act shall take effect July 1, 2009.

44 PART E

45 Section 1. The tax law is amended by adding a new article 29-A to read
46 as follows:

47 ARTICLE 29-A

48 TAX ON MEDALLION TAXICAB RIDES IN THE METROPOLITAN
COMMUTER

49 TRANSPORTATION DISTRICT

50 Section 1280. Definitions.

51 1281. Imposition of tax.

52 1282. Presumption of taxability.

53 1283. Special provisions.

54 1284. Returns.

S. 5451

14

A. 8180

1 1285. Payment of tax.

2 1286. Records to be kept.

3 1287. Secrecy of returns and reports.

4 1288. Deposit and disposition of revenue.

5 1289. Cooperation by city.

6 1290. Practice and procedure.

7 § 1280. Definitions. When used in this article, unless otherwise
8 expressly stated, the following words and terms shall have the following
9 meanings:

10 (a) "Person" means an individual, partnership, limited liability
11 company, society, association, joint stock company, corporation, estate,
12 receiver, trustee, assignee, referee or any other person acting in a
13 fiduciary or representative capacity, whether appointed by a court or

14 otherwise, any combination of individuals, and any other form of unin-
15 corporated enterprise owned or conducted by two or more persons.

16 (b) "MCTD" means the metropolitan commuter transportation district
17 established by section twelve hundred sixty-two of the public authori-
18 ties law.

19 (c) "City" means a city of a million or more located in the MCTD.

20 (d) "Taxicab" means a motor vehicle carrying passengers for hire in
21 the city, duly licensed by the taxi and limousine commission of the city
22 and permitted to accept hails from prospective passengers in the street.

23 (e) "Taxicab ride" means a taxicab ride provided to one or more
24 passengers to a given destination.

25 (f) "Taxicab owner" means a person owning a taxicab and shall include
26 a purchaser under a reserve title contract, conditional sales agreement
27 or vendor's lien agreement. In addition, an owner shall be deemed to
28 include any lessee, licensee or bailee having the exclusive use of a
29 taxicab, under a lease or otherwise, for a period of thirty days or
30 more.

31 (g) "Passenger" means an individual seated in a taxicab for travel for
32 hire to a given destination.

33 (h) "Taximeter" shall include any device which, when affixed to a
34 motor vehicle, is so constructed as to operate as a fare indicator and a
35 time and distance register for the purpose of automatically determining
36 the charge for which a passenger becomes liable.

37 § 1281. Imposition of tax. In addition to any other tax imposed by
38 this chapter or other law, there is hereby imposed on every taxicab
39 owner a tax of fifty cents per taxicab ride on every ride that origi-
40 nates in the city and terminates anywhere within the territorial bounda-
41 ries of the MCTD.

42 § 1282. Presumption of taxability. For the purpose of the proper
43 administration of this article and to prevent evasion of the tax imposed
44 by this article, it shall be presumed that every taxicab ride that origi-
45 nates in the city is subject to the tax imposed by this article. This
46 presumption shall prevail until the contrary is proven, and the burden
47 of proving the contrary shall be on the person liable for payment of the
48 tax.

49 § 1283. Special provisions. Notwithstanding any provisions of this
50 article to the contrary: (a) If a taxicab owner subject to the tax
51 imposed by this article leases, rents or otherwise furnishes a taxicab
52 to an unrelated person who uses the taxicab to provide taxicab rides
53 originating in the city, then: (1) the owner is deemed to provide such
54 taxicab rides during the day or other period that the unrelated person
55 uses the taxicab to provide such rides; (2) the tax imposed by this
56 article shall be imposed on such owner; and (3) the owner must pay the

1 tax imposed by this article on the number of rides subject to such tax
2 provided by such unrelated person during the day or other period.

3 (b) Notwithstanding any law to the contrary: (1) Although the tax is
4 imposed on the taxicab owner, the taxicab owner must pass along the
5 economic incidence of the tax to the passenger by adjusting the fare for
6 the ride, and the passing along of such economic incidence may not be
7 construed by any court or administrative body as imposing the tax on the
8 person or entity that pays the fare for a ride. A city that regulates
9 taxicabs or taxicab fares must adjust the fares authorized to include
10 therein the tax imposed by this article, as the rate of such tax may
11 from time to time change, and must timely require that any taximeter in
12 a taxicab used to provide rides in the city be adjusted to include the
13 tax.

14 (2) A taxicab owner in such city must timely adjust the taximeter in
15 any of such person's taxicabs so that it reflects the tax imposed by
16 this article as such rate may from time to time change.

17 (3) Neither the failure of such city to adjust fares nor the failure
18 of a taxicab owner to adjust a taximeter will relieve any person liable
19 for the tax imposed by this article from the obligation to pay such tax
20 timely, at the correct rate.

21 (c) For purposes of this section, "unrelated person" means a person
22 other than a related person as defined for purposes of section fourteen
23 of this chapter.

24 § 1284. Returns. Every person liable for the tax imposed by this arti-
25 cle shall file a return quarterly with the commissioner. Each return
26 shall show the number of rides in the quarter for which the return is
27 filed, together with such other information as the commissioner may
28 require. The returns required by this section shall be filed for quar-
29 terly periods ending on the last day of March, June, September, and
30 December of each year, and each return shall be filed within twenty days
31 after the end of the quarterly period covered thereby. Every such
32 person shall also file a return with the commissioner for the period of
33 November and December two thousand nine, by January twentieth, two thou-
34 sand ten, containing the information described above. If the commis-
35 sioner deems it necessary in order to ensure the payment of the tax
36 imposed by this article, the commissioner may require returns to be made
37 for shorter periods than prescribed by the foregoing provisions of this
38 section, and upon such dates as the commissioner may specify. The form
39 of returns shall be prescribed by the commissioner and shall contain
40 such information as the commissioner may deem necessary for the proper
41 administration of this article. The commissioner may require amended
42 returns to be filed within twenty days after notice and to contain the
43 information specified in the notice. The commissioner may require that
44 the returns be filed electronically.

45 § 1285. Payment of tax. Every person required to file a return under

46 this article shall, at the time of filing such return, pay to the
47 commissioner the total of all tax imposed by this article, on the
48 correct number of rides subject to tax under this article. The amount so
49 payable to the commissioner for the period for which a return is
50 required to be filed shall be due and payable to the commissioner on the
51 date limited for the filing of the return for such period, without
52 regard to whether a return is filed or whether the return which is filed
53 correctly shows the correct number of rides or the amount of tax due
54 thereon. The commissioner may require that the tax be paid electron-
55 ically.

S. 5451

16

A. 8180

1 § 1286. Records to be kept. Every person required to pay any tax
2 imposed by this article shall keep records of every ride originating in
3 the city and of all amounts paid, charged or due thereon and of the tax
4 payable thereon, in such form as the commissioner may require. Every
5 such person shall also keep a true and complete copy of every contract,
6 agreement, or arrangement concerning the lease, rental, or license to
7 use a taxicab for which the person is required to remit the tax on rides
8 imposed by this article on such person. Such records shall be available
9 for inspection and examination at any time upon demand by the commis-
10 sioner or the commissioner's duly authorized agent or employee and shall
11 be preserved for a period of three years, except that the commissioner
12 may consent to their destruction within that period or may require that
13 they be kept longer. Such records may be kept within the meaning of this
14 section when reproduced on any photographic, photostatic, microfilm,
15 micro-card, miniature photographic or other process which actually
16 reproduces the original record. If those records are maintained in an
17 electronic format, they must be made available and accessible to the
18 commissioner in electronic format.

19 § 1287. Secrecy of returns and reports. (a) Except in accordance with
20 proper judicial order or as otherwise provided by law, it shall be
21 unlawful for the commissioner, any officer or employee of the depart-
22 ment, any person engaged or retained by the department on an independent
23 contract basis, or any person who in any manner may acquire knowledge of
24 the contents of a return or report filed with the commissioner pursuant
25 to this article, to divulge or make known in any manner any particulars
26 set forth or disclosed in any such return or report. The officers
27 charged with the custody of such returns and reports shall not be
28 required to produce any of them or evidence of anything contained in
29 them in any action or proceeding in any court, except on behalf of the
30 commissioner in an action or proceeding under the provisions of this
31 chapter or in any other action or proceeding involving the collection of
32 a tax due under this chapter to which the state or the commissioner is a

33 party or a claimant, or on behalf of any party to any action, proceeding
34 or hearing under the provisions of this article when the returns,
35 reports or facts shown thereby are directly involved in such action,
36 proceeding or hearing, in any of which events the court, or in the case
37 of a hearing, the division of tax appeals may require the production of,
38 and may admit into evidence, so much of said returns, reports or of the
39 facts shown thereby, as are pertinent to the action, proceeding or hear-
40 ing and no more. The commissioner or the division of tax appeals may,
41 nevertheless, publish a copy or a summary of any decision rendered after
42 a hearing required by this article. Nothing in this section shall be
43 construed to prohibit the delivery to a person who has filed a return or
44 report or to such person's duly authorized representative of a certified
45 copy of any return or report filed in connection with such person's tax.
46 Nor shall anything in this section be construed to prohibit the publica-
47 tion of statistics so classified as to prevent the identification of
48 particular returns or reports and the items thereof, or the inspection
49 by the attorney general or other legal representatives of the state of
50 the return or report of any person required to pay the tax who shall
51 bring action to review the tax based thereon, or against whom an action
52 or proceeding under this chapter has been recommended by the commission-
53 er or the attorney general or has been instituted, or the inspection of
54 the returns or reports required under this article by the comptroller or
55 duly designated officer or employee of the state department of audit and
56 control, for purposes of the audit of a refund of any tax paid by a

S. 5451

17

A. 8180

1 person required to pay the tax under this article. Provided, further,
2 nothing in this section shall be construed to prohibit the disclosure,
3 in such manner as the commissioner deems appropriate, of the names and
4 other appropriate identifying information of those persons required to
5 pay tax under this article.
6 (b) Notwithstanding the provisions of subdivision (a) of this section,
7 the commissioner may, in his or her discretion, permit the proper offi-
8 cer of a city that regulates taxicabs or the duly authorized represen-
9 tative of such officer, to inspect any return filed under this article,
10 or may furnish to such officer or such officer's authorized represen-
11 tative an abstract of any such return or supply such person with infor-
12 mation concerning an item contained in any such return, or disclosed by
13 any investigation of tax liability under this article; but such permis-
14 sion shall be granted or such information furnished only if such city
15 shall have furnished the commissioner with all information requested by
16 the commissioner pursuant to this article and shall have permitted the
17 commissioner or the commissioner's authorized representative to make any
18 inspection of any records or reports concerning taxicabs and their

19 owners or operators filed with or possessed by such city which the
20 commissioner may have requested from such city.

21 (c) Notwithstanding the provisions of subdivision (a) of this section,
22 the commissioner, in his or her discretion, may require or permit any or
23 all persons liable for any tax imposed by this article, to make payment
24 to banks, banking houses or trust companies designated by the commis-
25 sioner and to file returns with such banks, banking houses or trust
26 companies as agents of the commissioner, in lieu of paying any such tax
27 directly to the commissioner. However, the commissioner shall designate
28 only such banks, banking houses or trust companies as are already desig-
29 nated by the comptroller as depositories pursuant to section twelve
30 hundred eighty-eight of this article.

31 (d) Notwithstanding the provisions of subdivision (a) of this section,
32 the commissioner may permit the secretary of the treasury of the United
33 States or such secretary's delegate, or the authorized representative of
34 either such officer, to inspect any return filed under this article, or
35 may furnish to such officer or such officer's authorized representative
36 an abstract of any such return or supply such person with information
37 concerning an item contained in any such return, or disclosed by any
38 investigation of tax liability under this article, but such permission
39 shall be granted or such information furnished only if the laws of the
40 United States grant substantially similar privileges to the commissioner
41 or officer of this state charged with the administration of the tax
42 imposed by this article, and only if such information is to be used for
43 tax purposes only; and provided further the commissioner may furnish to
44 the commissioner of internal revenue or such commissioner's authorized
45 representative such returns filed under this article and other tax
46 information, as such commissioner may consider proper, for use in court
47 actions or proceedings under the internal revenue code, whether civil or
48 criminal, where a written request therefor has been made to the commis-
49 sioner by the secretary of the treasury of the United States or such
50 secretary's delegate, provided the laws of the United States grant
51 substantially similar powers to the secretary of the treasury of the
52 United States or his or her delegate. Where the commissioner has so
53 authorized use of returns and other information in such actions or
54 proceedings, officers and employees of the department may testify in
55 such actions or proceedings in respect to such returns or other informa-
56 tion.

S. 5451

18

A. 8180

1 (e) Returns and reports filed under this article shall be preserved
2 for three years and thereafter until the commissioner orders them to be
3 destroyed.

4 (f) (1) Any officer or employee of the state who willfully violates

5 the provisions of subdivision (a) of this section shall be dismissed
6 from office and be incapable of holding any public office for a period
7 of five years thereafter.

8 (2) Cross-reference: For criminal penalties, see article thirty-seven
9 of this chapter.

10 § 1288. Deposit and disposition of revenue. Notwithstanding any
11 provision of law to the contrary: (a) All taxes, interest and penalties
12 collected or received by the commissioner pursuant to this article shall
13 be deposited daily with such responsible banks, banking houses or trust
14 companies, as may be designated by the comptroller, to the credit of the
15 comptroller. Such an account may be established in one or more of such
16 depositories. Such deposits shall be kept separate and apart from all
17 other money in the possession of the comptroller. The comptroller shall
18 require adequate security from all such depositories. Of the total
19 revenue collected or received under this section, the comptroller shall
20 retain in the comptroller's hands such amount as the commissioner may
21 determine to be necessary for refunds under this article. The commis-
22 sioner is authorized and directed to deduct from such amounts collected
23 or received under this article, before deposit into the accounts speci-
24 fied by the comptroller, a reasonable amount necessary to effectuate
25 refunds of appropriations of the department to reimburse the department
26 for the costs to administer, collect and distribute the taxes imposed by
27 this article.

28 (b) On or before the twelfth day following the end of each month,
29 after reserving such amount for such refunds and such costs, the commis-
30 sioner shall certify to the comptroller the amount of all revenues so
31 received pursuant to this article during the prior month as a result of
32 the taxes, interest and penalties so imposed.

33 (c) The comptroller shall pay over the amount of revenues so certified
34 by the commissioner to the metropolitan transportation authority aid
35 trust account of the metropolitan transportation authority financial
36 assistance fund established by section ninety-two-ff of the state
37 finance law for deposit, subject to appropriation, in the corporate
38 transportation account of the metropolitan transportation authority
39 special assistance fund established by section twelve hundred seventy-a
40 of the public authorities law to be applied as provided in paragraph (e)
41 of subdivision four of such section twelve hundred seventy-a. Any money
42 collected pursuant to this article that is deposited by the comptroller
43 in the metropolitan transportation authority aid trust account of the
44 metropolitan transportation authority financial assistance fund shall be
45 held in such fund free and clear of any claim by any person or entity
46 paying the tax pursuant to this article, including, without limiting the
47 generality of the foregoing, any right or claim against the metropolitan
48 transportation authority, any of its bondholders, or any subsidiary or
49 affiliate of the metropolitan transportation authority.

50 § 1289. Cooperation by city. The city shall cooperate with and assist

51 the commissioner to effect the purposes of this article and the commis-
52 sioner's responsibilities under this article. Such cooperation shall
53 include furnishing the names, addresses and all other information
54 concerning every owner, operator and driver of taxicabs in the city,
55 together with any other information the commissioner requests, all with-
56 out cost to the commissioner.

S. 5451

19

A. 8180

1 § 1290. Practice and procedure. The provisions of article twenty-seven
2 of this chapter shall apply with respect to the administration of and
3 procedure with respect to the tax imposed by this article in the same
4 manner and with the same force and effect as if the language of such
5 article twenty-seven had been incorporated in full into this article and
6 had expressly referred to the tax under this article, except to the
7 extent that any such provision is either inconsistent with a provision
8 of this article or is not relevant to this article. Criminal penalties
9 provided in section one thousand eight hundred twenty of this chapter
10 shall apply in the same manner and with the same force and effect with
11 respect to this article.

12 § 2. Section 1825 of the tax law, as amended by section 2 of part N of
13 chapter 686 of the laws of 2003, is amended to read as follows:

14 § 1825. Violation of secrecy provisions of the tax law.--Any person
15 who violates the provisions of subdivision (b) of section twenty-one,
16 subdivision one of section two hundred two, subdivision eight of section
17 two hundred eleven, subdivision (a) of section three hundred fourteen,
18 subdivision one or two of section four hundred thirty-seven, section
19 four hundred eighty-seven, subdivision one or two of section five
20 hundred fourteen, subsection (e) of section six hundred ninety-seven,
21 subsection (a) of section nine hundred ninety-four, subdivision (a) of
22 section eleven hundred forty-six, section twelve hundred eighty-seven,
23 subdivision (a) of section fourteen hundred eighteen, subsection (a) of
24 section fourteen hundred sixty-seven, subdivision (a) of section fifteen
25 hundred eighteen, subdivision (a) of section fifteen hundred fifty-five
26 of this chapter, and subdivision (e) of section 11-1797 of the adminis-
27 trative code of the city of New York shall be guilty of a misdemeanor.
28 § 3. This act shall take effect November 1, 2009, and shall apply to
29 taxicab rides commencing on or after such date.

30

PART F

31 Section 1. The tax law is amended by adding a new section 1166-a to
32 read as follows:

33 § 1166-a. Special supplemental tax on passenger car rentals. (a) In
34 addition to the tax imposed under section eleven hundred sixty of this

35 article and in addition to any tax imposed under any other article of
36 this chapter, there is hereby imposed and there shall be paid a tax at
37 the rate of five percent upon the receipts from every rental of a
38 passenger car which is a retail sale of such passenger car within the
39 metropolitan commuter transportation district as defined in subdivision
40 (a) of section eight hundred of this chapter.

41 (b) Except to the extent that a passenger car rental described in
42 subdivision (a) of this section has already been or will be subject to
43 the tax imposed under such subdivision and except as otherwise exempted
44 under this article, there is hereby imposed on every person and there
45 shall be paid a use tax for the use within the metropolitan commuter
46 transportation district as defined in subdivision (a) of section eight
47 hundred of this chapter; of any passenger car rented by the user which
48 is a purchase at retail of such passenger car, but not including any
49 lease of a passenger car to which subdivision (i) of section eleven
50 hundred eleven of this chapter applies. For purposes of this paragraph,
51 the tax shall be at the rate of five percent of the consideration given
52 or contracted to be given for such property, or for the use of such
53 property, including any charges for shipping or delivery as described in
54 paragraph three of subdivision (b) of section eleven hundred one of this

S. 5451

20

A. 8180

1 chapter, but excluding any credit for tangible personal property
2 accepted in part payment and intended for resale.
3 § 2. Section 1165 of the tax law, as amended by section 2 of part D of
4 chapter 85 of the laws of 2002, is amended to read as follows:
5 § 1165. Administrative provisions. The [tax] taxes imposed by [section
6 eleven hundred sixty of] this article shall be administered and
7 collected in a like manner as and jointly with the taxes imposed by
8 sections eleven hundred five and eleven hundred ten of article twenty-
9 eight of this chapter. All of the provisions of such article twenty-
10 eight (except sections eleven hundred seven, eleven hundred eight,
11 [eleven hundred nine and] eleven hundred forty-eight, and, for purposes
12 of the tax imposed by section eleven hundred sixty, section eleven
13 hundred nine) relating to or applicable to the administration,
14 collection and review of the taxes imposed by such sections eleven
15 hundred five and eleven hundred ten, including, but not limited to, the
16 provisions relating to definitions, exemptions, returns, personal
17 liability for the tax, collection of tax from the customer, collection
18 of tax at the time of registration of a motor vehicle and payment of tax
19 by a person required to file a return, shall apply to the [tax] taxes
20 imposed by this article so far as such provisions can be made applicable
21 to the [tax] taxes imposed by this article with such limitations as set
22 forth in this article and such modifications as may be necessary in

23 order to adapt such language to the [tax] taxes so imposed. Such
24 provisions shall apply with the same force and effect as if the language
25 of those provisions had been set forth in full in this article except to
26 the extent that any provision is either inconsistent with a provision of
27 this article or is not relevant to the [tax] taxes imposed by this arti-
28 cle. For purposes of this article, any reference in article twenty-eight
29 to the tax or taxes imposed by such article shall be deemed to refer to
30 the [tax] taxes imposed by this article also unless a different meaning
31 is clearly required. Provided, further, however, that the provisions of
32 subdivision seven of section eleven hundred eighteen of this chapter
33 shall apply to the [tax] taxes on uses within this state imposed by
34 [section eleven hundred sixty of] this article only in the event that
35 the rate of the retail sales or use tax paid, under the conditions
36 described in such subdivision seven, to any other state or jurisdiction
37 within any other state exceeds the aggregate rate of the compensating
38 use tax imposed under section eleven hundred ten of this chapter and any
39 compensating use tax imposed pursuant to the authority of article twen-
40 ty-nine of this chapter, and in such event only with respect to the
41 difference between the rate paid to such other state or jurisdiction
42 thereof and such aggregate rate. Provided, further, that for purposes of
43 this article and for articles twenty-eight and twenty-nine of this chap-
44 ter, the provisions of section eleven hundred seventeen of this chapter
45 shall not apply to the rental, as such term is defined in this article,
46 of motor vehicles and that the provisions contained in section eleven
47 hundred thirty-six of this chapter with respect to filing a part-quar-
48 terly return monthly and section eleven hundred thirty-seven-A of this
49 chapter relating to returns and payments of estimated tax shall not
50 apply to the [tax] taxes imposed under this article.

51 § 3. Section 1167 of the tax law, as added by section 3 of part D of
52 chapter 85 of the laws of 2002, is amended to read as follows:

53 § 1167. Deposit and disposition of revenue. All taxes, interest and
54 penalties collected or received by the commissioner under this article
55 shall be deposited and disposed of pursuant to the provisions of section
56 one hundred seventy-one-a of this chapter, except that after reserving

S. 5451

21

A. 8180

1 amounts in accordance with such section one hundred seventy-one-a of
2 this chapter, the remainder shall be paid by the comptroller to the
3 credit of the highway and bridge trust fund established by section
4 eighty-nine-b of the state finance law, provided, however, taxes, inter-
5 est and penalties collected or received pursuant to section eleven
6 hundred sixty-six-a of this article shall be paid to the credit of the
7 metropolitan transportation authority aid trust account of the metropol-
8 itan transportation authority financial assistance fund established by

9 section ninety-two-ff of the state finance law.

10 § 4. Paragraph 6 of subsection (a) of section 1801 of the tax law, as
11 added by section 15 of subpart l of part V-1 of chapter 57 of the laws
12 of 2009, is amended to read as follows:

13 (6) fails to collect any tax required to be collected under articles
14 twelve-A, eighteen, twenty, twenty-two [or], twenty-eight or twenty-
15 eight-A of this chapter, or pursuant to the authority of article twen-
16 ty-nine of this chapter;

17 § 5. This act shall take effect June 1, 2009 and shall apply to sales
18 made or uses occurring on and after such date in accordance with the
19 transitional provisions in section 1106 of the tax law.

20

PART G

21 Section 1. The state finance law is amended by adding a new section
22 92-ff to read as follows:

23 § 92-ff. Metropolitan transportation authority financial assistance
24 fund. 1. There is hereby established in the joint custody of the commis-
25 sioner of taxation and finance and the state comptroller a special fund
26 to be known as the "metropolitan transportation authority financial
27 assistance fund".

28 2. Moneys in the metropolitan transportation authority financial
29 assistance fund shall be kept separately from and shall not be commin-
30 gled with any other moneys in the joint or sole custody of the state
31 comptroller or the commissioner of taxation and finance.

32 3. Such fund shall consist of all moneys collected therefore or cred-
33 ited or transferred thereto from any other fund, account or source,
34 including, without limitation, the revenues derived from the metropol-
35 itan commuter transportation mobility tax imposed by article twenty-
36 three of the tax law; revenues derived from the special supplemental tax
37 on passenger car rentals imposed by section eleven hundred sixty-six-a
38 of the tax law; revenues derived from the transportation surcharge
39 imposed by article twenty-nine-A of the tax law; the supplemental regis-
40 tration fees imposed by article seventeen-C of the vehicle and traffic
41 law; and the supplemental metropolitan commuter transportation district
42 license fees imposed by section five hundred three of the vehicle and
43 traffic law. Any interest received by the comptroller on moneys on
44 deposit in the metropolitan transportation authority financial assist-
45 ance fund shall be retained in and become a part of such fund.

46 4. The metropolitan transportation authority financial assistance fund
47 shall consist of two separate and distinct accounts: (a) the "mobility
48 tax trust account" and (b) the "metropolitan transportation authority
49 aid trust account." Moneys in each of the accounts shall be kept sepa-
50 rately from and not commingled with any other moneys in the metropolitan
51 transportation authority financial assistance fund.

52 5. (a) The "mobility tax trust account" shall consist of revenues

53 required to be deposited therein pursuant to the provisions of article

S. 5451

22

A. 8180

1 twenty-three of the tax law and all other moneys credited or transferred
2 thereto from any other fund or source pursuant to law.
3 (b) Moneys in the "mobility tax trust account" shall, pursuant to
4 appropriation by the legislature, be transferred on a monthly basis to
5 the metropolitan transportation authority finance fund established by
6 section twelve hundred seventy-h of the public authorities law and
7 utilized in accordance with said section. It is the intent of the legis-
8 lature to enact two appropriations from the mobility tax trust account
9 to the metropolitan transportation authority finance fund established by
10 section twelve hundred seventy-h of the public authorities law. One such
11 appropriation shall be equal to the amounts expected to be available for
12 such purpose pursuant to article twenty-three of the tax law or from any
13 other monies described in paragraph (a) of this subdivision during the
14 two thousand nine--two thousand ten fiscal year and shall be effective
15 in that fiscal year. The other such appropriation shall be equal to the
16 amounts expected to be available for such purpose pursuant to article
17 twenty-three of the tax law or from any other monies described in para-
18 graph (a) of this subdivision during the two thousand ten--two thousand
19 eleven fiscal year and shall, notwithstanding the provisions of section
20 forty of this chapter, take effect on the first day of the two thousand
21 ten--two thousand eleven fiscal year and lapse on the last day of that
22 fiscal year. It is the intent of the governor to submit and the legisla-
23 ture to enact for each fiscal year after the two thousand nine--two
24 thousand ten fiscal year in an annual budget bill: (i) an appropriation
25 for the amount expected to be available in the mobility tax trust
26 account during such fiscal year for the metropolitan transportation
27 authority pursuant to article twenty-three of the tax law or any other
28 monies described in paragraph (a) of this subdivision; and (ii) an
29 appropriation for the amount projected by the director of the budget to
30 be deposited in the mobility tax trust account pursuant to article twen-
31 ty-three of the tax law or from any other monies described in paragraph
32 (a) of this subdivision for the next succeeding fiscal year. Such appro-
33 priation for payment of revenues projected to be deposited in the
34 succeeding fiscal year shall, notwithstanding the provisions of section
35 forty of this chapter, take effect on the first day of such succeeding
36 fiscal year and lapse on the last day of such fiscal year. If for any
37 fiscal year commencing on or after the first day of April, two thousand
38 ten the governor fails to submit a budget bill containing the foregoing,
39 or the legislature fails to enact a bill with such provisions, then the
40 metropolitan transportation authority shall notify the comptroller, the
41 director of the budget, the chairperson of the senate finance committee

42 and the chairperson of the assembly ways and means committee of amounts
43 required to be disbursed from the appropriation made during the preced-
44 ing fiscal year for payment in such fiscal year. In no event shall the
45 comptroller make any payments from such appropriation prior to May first
46 of such fiscal year, and unless and until the director of the budget,
47 the chairperson of the senate finance committee and the chairperson of
48 the assembly ways and means committee have been notified of the required
49 payments and the timing of such payments to be made from the mobility
50 tax trust account to the metropolitan transportation authority finance
51 fund established by section twelve hundred seventy-h of the public
52 authorities law at least forty-eight hours prior to any such payments.
53 Until such time as payments pursuant to such appropriation are made in
54 full, revenues in the mobility tax trust account shall not be paid over
55 to any person other than the metropolitan transportation authority.

S. 5451

23

A. 8180

1 6. (a) The "metropolitan transportation authority aid trust account"
2 shall consist of revenues required to be deposited therein pursuant to
3 the provisions of section eleven hundred sixty-six-a of the tax law;
4 article twenty-nine-A of the tax law; article seventeen-C of the vehicle
5 and traffic law; and section five hundred three of the vehicle and traf-
6 fic law, and all other moneys credited or transferred thereto from any
7 other fund or source pursuant to law.
8 (b) Moneys in the metropolitan transportation authority aid trust
9 account shall, following appropriation by the legislature, be deposited
10 quarterly by the comptroller into the corporate transportation account
11 of the metropolitan transportation authority special assistance fund
12 established by section twelve hundred seventy-a of the public authori-
13 ties law, to be applied as provided in paragraph (e) of subdivision four
14 of such section twelve hundred seventy-a of the public authorities law.
15 7. Nothing contained in this section shall be deemed to restrict the
16 right of the state to amend, repeal, modify or otherwise alter statutes
17 imposing or relating to the taxes and fees producing revenues for depos-
18 it in the metropolitan transportation authority financial assistance
19 fund or the appropriations relating thereto. The metropolitan transpor-
20 tation authority shall not include within any resolution, contract or
21 agreement with holders of the bonds or notes issued under section twelve
22 hundred sixty-nine of the public authorities law any provision which
23 provides that a default occurs as a result of the state exercising its
24 right to amend, repeal, modify or otherwise alter such taxes or appro-
25 priations.
26 § 2. This act shall take effect immediately.

28 Section 1. The several amounts specified in this act for aid to local-
29 ities, or so much thereof as may be sufficient to accomplish the purpose
30 of providing financial assistance to the metropolitan transportation
31 authority are hereby appropriated and authorized to be paid as provided
32 in this section.

33 METROPOLITAN TRANSPORTATION AUTHORITY SUPPORT PROGRAM

34 Special Revenue Funds - Other/Aid to
35 Localities
36 Metropolitan Transportation Authority
37 Financial Assistance Fund - 225
38 Mobility Tax Trust Account

39 To the metropolitan transportation authority
40 for deposit in the metropolitan transpor-
41 tation authority finance fund pursuant to
42 the provisions of section 92-ff of the
43 state finance law, as added by the chapter
44 of the laws of 2009 which added this
45 section. Moneys appropriated herein may
46 be made available at such times and upon
47 such conditions as may be deemed appropri-
48 ate by the commissioner of transportation
49 and the director of the budget in accord-
50 ance with section 92-ff of the state
51 finance law \$1,482,000,000

S. 5451

24

A. 8180

1 To the metropolitan transportation authority
2 for deposit in the metropolitan transpor-
3 tation authority finance fund pursuant to
4 the provisions of section 92-ff of the
5 state finance law, as added by the chapter
6 of the laws of 2009 which added this
7 section, for the period April 1, 2010 to
8 March 31, 2011 and notwithstanding section
9 40 of the state finance law shall take
10 effect on April 1, 2010 and shall lapse on
11 March 31, 2011 \$1,563,000,000

12 Special Revenue Funds - Other/Aid to
13 Localities

14 Metropolitan Transportation Authority
15 Financial Assistance Fund - 225
16 Metropolitan Transportation Authority Aid
17 Trust Account

18 Notwithstanding any inconsistent provision
19 of law, the following appropriation is for
20 payment of assistance provided that
21 payments from this appropriation shall be
22 made pursuant to a financial plan approved
23 by the director of the budget.

24 To the metropolitan transportation authority
25 for deposit in the metropolitan transpor-
26 tation authority corporate transportation
27 account of the metropolitan transportation
28 authority special assistance fund pursuant
29 to section 92-ff of the state finance law
30 \$161,100,000

31 General Fund / State Operations
32 State Purposes Account - 003

33 Nonpersonal Service

34 For the payment of the metropolitan commuter
35 transportation mobility tax pursuant to
36 Article 23 of the tax law as added by part
37 C of the chapter of the laws of 2009 which
38 added this section on behalf of state
39 employees employed in the Metropolitan
40 Commuter Transportation District \$18,000,000

41 § 2. No expenditure may be made from any appropriation in this act
42 until a certificate of approval has been issued by the director of the
43 budget and a copy of such certificate shall have been filed with the
44 state comptroller, the chairman of the senate finance committee and the
45 chairman of the assembly ways and means committee.

46 § 3. This act shall take effect immediately.

47 PART H

S. 5451

25

A. 8180

1 Section 1. Section 1261 of the public authorities law, as added by
2 chapter 324 of the laws of 1965, subdivision 7 as amended by chapter 415

3 of the laws of 1966, subdivision 8 as amended by chapter 569 of the laws
4 of 1973, subdivision 14 as amended by section 20 and subdivisions 19 and
5 20 as added by section 21 of part O of chapter 61 of the laws of 2000,
6 subdivisions 16 and 17 as added by chapter 717 of the laws of 1967, and
7 subdivision 18 as added by chapter 427 of the laws of 1983, is amended
8 to read as follows:

9 § 1261. Definitions. As used or referred to in this title, unless a
10 different meaning clearly appears from the context:

11 1. "Authority" shall mean the corporation created by section twelve
12 hundred sixty-three of this title.

13 2. "Authority facilities" shall mean the authority's railroad, omni-
14 bus, marine and aviation facilities and operations pursuant to joint
15 service arrangements.

16 3. "Budget" shall mean the preliminary, final proposed and adopted
17 final plans of the authority, and each of its agencies.

18 [3.] 4. "Comptroller" shall mean the comptroller of the state of New
19 York.

20 [4.] 5. "Equipment" shall mean rolling stock, omnibuses, vehicles,
21 air, marine or surface craft, motors, boilers, engines, wires, ways,
22 conduits and mechanisms, machinery, tools, implements, materials,
23 supplies, instruments and devices of every nature whatsoever used or
24 useful for transportation purposes or for the generation or transmission
25 of motive power including but not limited to all power houses, and all
26 apparatus and all devices for signalling, communications and ventilation
27 as may be necessary, convenient or desirable for the operation of a
28 transportation facility.

29 [5.] 6. "Federal government" shall mean the United States of America,
30 and any officer, department, board, commission, bureau, division, corpo-
31 ration, agency or instrumentality thereof.

32 7. "Gap" shall mean the difference between projected revenues and
33 expenses for any given fiscal year based on the existing fare structure.

34 8. "Gap-closing initiative" shall mean any action to reduce a project-
35 ed gap.

36 [6.] 9. "Governor" shall mean the governor of the state of New York.

37 [7.] 10. "Joint service arrangements" shall mean agreements between or
38 among the authority and any common carrier or freight forwarder, the
39 state, any state agency, the federal government, any other state or
40 agency or instrumentality thereof, any public authority of this or any
41 other state, or any political subdivision or municipality of the state,
42 relating to property, buildings, structures, facilities, services,
43 rates, fares, classifications, divisions, allowances or charges (includ-
44 ing charges between operators of railroad, omnibus, marine and aviation
45 facilities), or rules or regulations pertaining thereto, for or in
46 connection with or incidental to transportation in part in or upon rail-
47 road, omnibus, marine or aviation facilities located within the district
48 and in part in or upon railroad, omnibus, marine or aviation facilities

49 located outside the district.

50 [8.] 11. "Marine and aviation facilities" shall mean equipment and
51 craft for the transportation of passengers, mail and cargo between
52 points within the district or pursuant to joint service arrangements, by
53 marine craft and aircraft of all types including but not limited to
54 hydrofoils, ferries, lighters, tugs, barges, helicopters, amphibians,
55 seaplanes or other contrivances now or hereafter used in navigation or
56 movement on waterways or in the navigation of or flight in airspace. It

S. 5451

26

A. 8180

1 shall also mean any marine port or airport facility within the transpor-
2 tation district but outside the port of New York district as defined in
3 chapter one hundred fifty-four of the laws of nineteen hundred twenty-
4 one, including but not limited to terminals, docks, piers, bulkheads,
5 ramps or any facility or real property necessary, convenient or desira-
6 ble for the accommodation of passengers and cargo or the docking, sail-
7 ing, landing, taking off, accommodation or servicing of such marine
8 craft or aircraft.

9 [9.] 12. "Omnibus facilities" shall mean motor vehicles, of the type
10 operated by carriers subject to the jurisdiction of the public service
11 commission, engaged in the transportation of passengers and their
12 baggage, express and mail between points within the district or pursuant
13 to joint service arrangements, and equipment, property, buildings,
14 structures, improvements, loading or unloading areas, parking areas or
15 other facilities, necessary, convenient or desirable for the accommo-
16 dation of such motor vehicles or their passengers, including but not
17 limited to buildings, structures and areas notwithstanding that portions
18 may not be devoted to any omnibus purpose other than the production of
19 revenues available for the costs and expenses of all or any facilities
20 of the authority.

21 [10.] 13. "Railroad facilities" shall mean right of way and related
22 trackage, rails, cars, locomotives, other rolling stock, signal, power,
23 fuel, communication and ventilation systems, power plants, stations,
24 terminals, storage yards, repair and maintenance shops, yards, equipment
25 and parts, offices and other real estate or personalty used or held for
26 or incidental to the operation, rehabilitation or improvement of any
27 railroad operating or to operate between points within the district or
28 pursuant to joint service arrangements, including but not limited to
29 buildings, structures, and areas notwithstanding that portions thereof
30 may not be devoted to any railroad purpose other than the production of
31 revenues available for the costs and expenses of all or any facilities
32 of the authority.

33 [11.] 14. "Real property" shall mean lands, structures, franchises and
34 interests in land, waters, lands under water, riparian rights and air

35 rights and any and all things and rights included within said term and
36 includes not only fees simple absolute but also any and all lesser
37 interests including but not limited to easements, rights of way, uses,
38 leases, licenses and all other incorporeal hereditaments and every
39 estate, interest or right, legal or equitable, including terms for years
40 and liens thereon by way of judgments, mortgages or otherwise.
41 [12.] 15. "State" shall mean the state of New York.
42 [13.] 16. "State agency" shall mean any officer, department, board,
43 commissioner, bureau, division, public benefit corporation, agency or
44 instrumentality of the state.
45 [14.] 17. "Transportation facility" shall mean any transit, railroad,
46 omnibus, marine or aviation facility and any person, firm, partnership,
47 association or, corporation which owns, leases or operates any such
48 facility or any other facility used for service in the transportation of
49 passengers, United States mail or personal property as a common carrier
50 for hire and any portion thereof and the rights, leaseholds or other
51 interest therein together with routes, tracks, extensions, connections,
52 parking lots, garages, warehouses, yards, storage yards, maintenance and
53 repair shops, terminals, stations and other related facilities thereof,
54 the devices, appurtenances, and equipment thereof and power plants and
55 other instrumentalities used or useful therefor or in connection there-
56 with.

S. 5451

27

A. 8180

1 [15.] 18. "Transportation district" and "district" shall mean the
2 metropolitan commuter transportation district created by section twelve
3 hundred sixty-two of this title.
4 [16.] 19. "New York city transit authority" shall mean the corporation
5 created by section twelve hundred one of this chapter.
6 [17.] 20. "Triborough bridge and tunnel authority" shall mean the
7 corporation created by section five hundred fifty-two of this chapter.
8 [18.] 21. "Inspector general" shall mean the metropolitan transporta-
9 tion authority inspector general.
10 [19.] 22. "Revenues." All monies received by the authority or its
11 subsidiaries, or New York city transit authority or its subsidiaries, or
12 Triborough bridge and tunnel authority, as the case may be, from whatev-
13 er source, derived directly or indirectly from or in connection with the
14 operations of the respective entity.
15 [20.] 23. "Transit facility." Transit facility as defined in subdivi-
16 sion fifteen of section twelve hundred of this article.
17 24. "Utilization" shall mean public usage of the subway, bus, railroad
18 and paratransit services, and bridge and tunnel crossings, of the
19 authority and its affiliates and subsidiaries as reflected in empirical
20 data.

21 § 2. Section 1204-a of the public authorities law, as added by chapter
22 483 of the laws of 1981, is renumbered section 1204-e.

23 § 3. Subparagraph 1 of paragraph (a) of subdivision 1 of section 1263
24 of the public authorities law, as amended by chapter 549 of the laws of
25 1994, is amended to read as follows:

26 (1) There is hereby created the "metropolitan transportation authori-
27 ty." The authority shall be a body corporate and politic constituting a
28 public benefit corporation. The authority shall consist of a chairman,
29 sixteen other voting members, and two non-voting and four alternate
30 non-voting members, as described in subparagraph two of this paragraph
31 appointed by the governor by and with the advice and consent of the
32 senate. Any member appointed to a term commencing on or after June
33 thirtieth, two thousand nine shall have experience in one or more of the
34 following areas: transportation, public administration, business manage-
35 ment, finance, accounting, law, engineering, land use, urban and
36 regional planning, management of large capital projects, labor
37 relations, or have experience in some other area of activity central to
38 the mission of the authority. Four of the sixteen voting members other
39 than the chairman shall be appointed on the written recommendation of
40 the mayor of the city of New York; and each of seven other voting
41 members other than the chairman shall be appointed after selection from
42 a written list of three recommendations from the chief executive officer
43 of the county in which the particular member is required to reside
44 pursuant to the provisions of this subdivision. Of the members appointed
45 on recommendation of the chief executive officer of a county, one such
46 member shall be, at the time of appointment, a resident of the county of
47 Nassau[;], one a resident of the county of Suffolk[;], one a resident of
48 the county of Westchester[; and], one a resident of the county of Dutch-
49 ess, one a resident of the county of Orange, one a resident of the coun-
50 ty of Putnam and one a resident of the county of Rockland, provided that
51 the term of any member who is a resident of a county that has withdrawn
52 from the metropolitan commuter transportation district pursuant to
53 section twelve hundred seventy-nine-b of this article shall terminate
54 upon the effective date of such county's withdrawal from such district.
55 Of the five voting members, other than the chairman, appointed by the
56 governor without recommendation from any other person, three shall be,

S. 5451

28

A. 8180

1 at the time of appointment, residents of the city of New York and two
2 shall be, at the time of appointment, residents of such city or of any
3 of the aforementioned counties in the metropolitan commuter transporta-
4 tion district. The chairman and each of the members shall be appointed
5 for a term of six years, provided however, that the chairman first
6 appointed shall serve for a term ending June thirtieth, nineteen hundred

7 eighty-one, [and the] provided that thirty days after the effective date
8 of the chapter of the laws of two thousand nine which amended this
9 subparagraph, the term of the chairman shall expire; provided, further,
10 that such chairman may continue to discharge the duties of his or her
11 office until the position of chairman is filled by appointment by the
12 governor upon the advice and consent of the senate and the term of such
13 new chairman shall terminate June thirtieth, two thousand fifteen. The
14 sixteen other members first appointed shall serve for the following
15 terms: The members from the counties of Nassau and Westchester shall
16 each serve for a term ending June thirtieth, nineteen hundred eighty-
17 five; the members from the county of Suffolk and from the counties of
18 Dutchess, Orange, Putnam and Rockland shall each serve for a term ending
19 June thirtieth, nineteen hundred ninety-two; two of the members
20 appointed on recommendation of the mayor of the city of New York shall
21 each serve for a term ending June thirtieth, nineteen hundred eighty-
22 four and, two shall each serve for a term ending June thirtieth, nine-
23 teen hundred eighty-one; two of the members appointed by the governor
24 without the recommendation of any other person shall each serve for a
25 term ending June thirtieth, nineteen hundred eighty-two, two shall each
26 serve for a term ending June thirtieth, nineteen hundred eighty and one
27 shall serve for a term ending June thirtieth, nineteen hundred eighty-
28 five. The two non-voting and four alternate non-voting members shall
29 serve until January first, two thousand one. The members from the coun-
30 ties of Dutchess, Orange, Putnam and Rockland shall cast one collective
31 vote.

32 § 4. Paragraph (a) of subdivision 1 of section 1263 of the public
33 authorities law, as amended by chapter 929 of the laws of 1986, is
34 amended to read as follows:

35 (a) There is hereby created the "metropolitan transportation authori-
36 ty." The authority shall be a body corporate and politic constituting a
37 public benefit corporation. The authority shall consist of a chairman
38 and sixteen other members appointed by the governor by and with the
39 advice and consent of the senate. Any member appointed to a term
40 commencing on or after June thirtieth, two thousand nine shall have
41 experience in one or more of the following areas of expertise: transpor-
42 tation, public administration, business management, finance, accounting,
43 law, engineering, land use, urban and regional planning, management of
44 large capital projects, labor relations, or have experience in some
45 other area of activity central to the mission of the authority. Four of
46 the sixteen members other than the chairman shall be appointed on the
47 written recommendation of the mayor of the city of New York; and each of
48 seven other members other than the chairman shall be appointed after
49 selection from a written list of three recommendations from the chief
50 executive officer of the county in which the particular member is
51 required to reside pursuant to the provisions of this subdivision. Of
52 the members appointed on recommendation of the chief executive officer

53 of a county, one such member shall be, at the time of appointment, a
54 resident of the county of Nassau; one a resident of the county of
55 Suffolk; one a resident of the county of Westchester; and one a resident
56 of the county of Dutchess, one a resident of the county of Orange, one a

S. 5451

29

A. 8180

1 resident of the county of Putnam and one a resident of the county of
2 Rockland, provided that the term of any member who is a resident of a
3 county that has withdrawn from the metropolitan commuter transportation
4 district pursuant to section twelve hundred seventy-nine-b of this arti-
5 cle shall terminate upon the effective date of such county's withdrawal
6 from such district. Of the five members, other than the chairman,
7 appointed by the governor without recommendation from any other person,
8 three shall be, at the time of appointment, residents of the city of New
9 York and two shall be, at the time of appointment, residents of such
10 city or of any of the aforementioned counties in the metropolitan commu-
11 ter transportation district. The chairman and each of the members shall
12 be appointed for a term of six years, provided however, that the chair-
13 man first appointed shall serve for a term ending June thirtieth, nine-
14 teen hundred eighty-one, [and the] provided that thirty days after the
15 effective date of the chapter of the laws of two thousand nine which
16 amended this paragraph, the term of the chairman shall expire; provided,
17 further, that such chairman may continue to discharge the duties of his
18 office until the position of chairman is filled by appointment by the
19 governor upon the advice and consent of the senate and the term of such
20 new chairman shall terminate June thirtieth, two thousand fifteen. The
21 sixteen other members first appointed shall serve for the following
22 terms: The members from the counties of Nassau and Westchester shall
23 each serve for a term ending June thirtieth, nineteen hundred eighty-
24 five; the members from the county of Suffolk and from the counties of
25 Dutchess, Orange, Putnam and Rockland shall each serve for a term ending
26 June thirtieth, nineteen hundred ninety-two; two of the members
27 appointed on recommendation of the mayor of the city of New York shall
28 each serve for a term ending June thirtieth, nineteen hundred eighty-
29 four and, two shall each serve for a term ending June thirtieth, nine-
30 teen hundred eighty-one; two of the members appointed by the governor
31 without the recommendation of any other person shall each serve for a
32 term ending June thirtieth, nineteen hundred eighty-two, two shall each
33 serve for a term ending June thirtieth, nineteen hundred eighty and one
34 shall serve for a term ending June thirtieth, nineteen hundred eighty-
35 five. The members from the counties of Dutchess, Orange, Putnam and
36 Rockland shall cast one collective vote.

37 § 5. Paragraph (a) of subdivision 4 of section 1263 of the public
38 authorities law, as amended by chapter 766 of the laws of 2005, is

39 amended, and a new paragraph (d) is added to read as follows:

40 (a) [On recommendation of the chairman, the authority shall] Notwith-
41 standing subdivision three of section twenty-eight hundred twenty-four
42 of this chapter or any other provision of law to the contrary, the
43 chairman shall be the chief executive officer of the authority and shall
44 be responsible for the discharge of the executive and administrative
45 functions and powers of the authority. The chairman may appoint an exec-
46 utive director [who shall be responsible for the] and such other offi-
47 cials and employees as shall in his or her judgement be needed to
48 discharge [of] the executive and administrative functions and powers of
49 the authority[, including the administration and the day-to-day oper-
50 ations of the authority and who shall not be a member of the authority].
51 (d) Notwithstanding paragraph (c) of subdivision one of section twen-
52 ty-eight hundred twenty-four of this chapter or any other provision of
53 law to the contrary, the chairman shall not participate in establishing
54 authority policies regarding the payment of salary, compensation and
55 reimbursement to, nor establish rules for the time and attendance of,
56 the chief executive officer. The salary of the chairman, as determined

S. 5451

30

A. 8180

1 pursuant to subdivision two of this section, shall also be compensation
2 for all services performed as chief executive officer.

3 § 6. Subdivision 2 of section 1201 of the public authorities law, as
4 amended by chapter 766 of the laws of 2005, is amended to read as
5 follows:

6 2. The chairman of such board shall be the chairman of metropolitan
7 transportation authority, serving ex officio, and, provided that there
8 is an executive director of the metropolitan transportation authority,
9 the executive director of the authority shall be the executive director
10 of the metropolitan transportation authority, serving ex officio.
11 Notwithstanding subdivision three of section twenty-eight hundred twen-
12 ty-four of this chapter or any other provision of law to the contrary,
13 the chairman shall be the chief executive officer of the authority and
14 shall be responsible for the discharge of the executive and administra-
15 tive functions and powers of the authority. The chairman and executive
16 director, if any, each shall be empowered to delegate his or her [func-
17 tion] functions and [power to appoint, discipline and remove officers
18 and employees] powers to one or more officers or employees designated by
19 him or her.

20 § 7. Subdivision 1 of section 552 of the public authorities law, as
21 amended by chapter 766 of the laws of 2005, is amended to read as
22 follows:

23 1. A board, to be known as "Triborough bridge and tunnel authority" is
24 hereby created. Such board shall be a body corporate and politic consti-

25 tuting a public benefit corporation. It shall consist of seventeen
26 members, all serving ex officio. Those members shall be the persons who
27 from time to time shall hold the offices of chairman and members of
28 metropolitan transportation authority. The chairman of such board shall
29 be the chairman of metropolitan transportation authority, serving ex
30 officio, and, provided that there is an executive director of the metro-
31 politan transportation authority, the executive director of the authori-
32 ty shall be the executive director of the metropolitan transportation
33 authority, serving ex officio. Notwithstanding subdivision three of
34 section twenty-eight hundred twenty-four of this chapter or any other
35 provision of law to the contrary, the chairman shall be the chief execu-
36 tive officer of the authority and shall be responsible for the discharge
37 of the executive and administrative functions and powers of the authori-
38 ty. The chairman and executive director, if any, each shall be empowered
39 to delegate his or her [function] functions and [power to appoint,
40 discipline and remove officers and employees] powers to the executive
41 officer of the Triborough bridge and tunnel authority or to such person
42 as may succeed to the powers and duties of said executive officer. The
43 chairman and other members of the board hereby created, and the execu-
44 tive director, if any, shall not be entitled to compensation for their
45 services hereunder but shall be entitled to reimbursement for their
46 actual and necessary expenses incurred in the performance of their offi-
47 cial duties.

48 § 7-a. Subdivision 7 of section 1263 of the public authorities law, as
49 added by chapter 324 of the laws of 1965, is amended to read as follows:
50 7. The governor may remove any member for inefficiency, neglect of
51 duty, breach of fiduciary duty or misconduct in office after giving
52 [him] the member a copy of the charges against [him] the member and an
53 opportunity to be heard, in person or by counsel in [his] the member's
54 defense, upon not less than ten days' notice. If any member shall be so
55 removed, the governor shall file in the office of the department of

S. 5451

31

A. 8180

1 state a complete statement of charges made against such member, and his
2 findings thereon, together with a complete record of the proceedings.

3 § 8. Subdivision 5 of section 1266 of the public authorities law, as
4 amended by section 23 of part O of chapter 61 of the laws of 2000, is
5 amended to read as follows:

6 5. The authority may acquire, hold, own, lease, establish, construct,
7 effectuate, operate, maintain, renovate, improve, extend or repair any
8 transportation facilities through, and cause any one or more of its
9 powers, duties, functions or activities to be exercised or performed by,
10 one or more wholly owned subsidiary corporations of the authority, or by
11 New York city transit authority or any of its subsidiary corporations in

12 the case of transit facilities and may transfer to or from any such
13 corporations any moneys, real property or other property for any of the
14 purposes of this title upon such terms and conditions as shall be agreed
15 to and subject to such payment or repayment obligations as are required
16 by law or by any agreement to which any of the affected entities is
17 subject. The directors or members of each such subsidiary corporation of
18 the authority corporation shall be the same persons holding the offices
19 of members of the authority. The chairman of the board of each such
20 subsidiary shall be the chairman of the authority, serving ex officio
21 and, provided that there is an executive director of the metropolitan
22 transportation authority, the executive director of such subsidiary
23 shall be the executive director of the metropolitan transportation
24 authority, serving ex officio. Notwithstanding subdivision three of
25 section twenty-eight hundred twenty-four of this chapter or any other
26 provision of law to the contrary, the chairman shall be the chief execu-
27 tive officer of each such subsidiary and shall be responsible for the
28 discharge of the executive and administrative functions and powers of
29 each such subsidiary. The chairman and executive director, if any,
30 shall be empowered to delegate his or her functions and powers to one or
31 more officers or employees of each such subsidiary designated by him or
32 her. Each such subsidiary corporation of the authority and any of its
33 property, functions and activities shall have all of the privileges,
34 immunities, tax exemptions and other exemptions of the authority and of
35 the authority's property, functions and activities. Each such subsid-
36 iary corporation shall be subject to the restrictions and limitations to
37 which the authority may be subject. Each such subsidiary corporation of
38 the authority shall be subject to suit in accordance with section twelve
39 hundred seventy-six of this title. The employees of any such subsidiary
40 corporation, except those who are also employees of the authority, shall
41 not be deemed employees of the authority.

42 If the authority shall determine that one or more of its subsidiary
43 corporations should be in the form of a public benefit corporation, it
44 shall create each such public benefit corporation by executing and
45 filing with the secretary of state a certificate of incorporation, which
46 may be amended from time to time by filing, which shall set forth the
47 name of such public benefit subsidiary corporation, its duration, the
48 location of its principal office, and any or all of the purposes of
49 acquiring, owning, leasing, establishing, constructing, effectuating,
50 operating, maintaining, renovating, improving, extending or repairing
51 one or more facilities of the authority. Each such public benefit
52 subsidiary corporation shall be a body politic and corporate and shall
53 have all those powers vested in the authority by the provisions of this
54 title which the authority shall determine to include in its certificate
55 of incorporation except the power to contract indebtedness.

1 Whenever any state, political subdivision, municipality, commission,
2 agency, officer, department, board, division or person is authorized and
3 empowered for any of the purposes of this title to co-operate and enter
4 into agreements with the authority such state, political subdivision,
5 municipality, commission, agency, officer, department, board, division
6 or person shall have the same authorization and power for any of such
7 purposes to co-operate and enter into agreements with a subsidiary
8 corporation of the authority.

9 § 9. Intentionally omitted.

10 § 10. The public authorities law is amended by adding a new section
11 1266-i to read as follows:

12 § 1266-i. The permanent citizens advisory committee. There is hereby
13 established a permanent citizens advisory committee. The members of the
14 committee shall consist of the following members: the Long Island Rail
15 Road commuter's council, the Metro-North commuter council, and the New
16 York city transit authority advisory council, as defined in section
17 twelve hundred four-e of this chapter.

18 § 11. The public authorities law is amended by adding a new section
19 1268-a to read as follows:

20 § 1268-a. Promotion of qualified transportation fringes. The authori-
21 ty shall promote the broad use of qualified transportation fringes,
22 under section 132(f) of the internal revenue code, in order to increase
23 the number of participating companies and employees in such programs.
24 The authority may also study and report on ways in which programs may be
25 improved so as to increase public participation.

26 § 11-a. Section 1269-b of the public authorities law is amended by
27 adding a new subdivision 2-a to read as follows:

28 2-a. A copy of any proposed capital program plan that has been
29 distributed to one or more committees of the authority shall be simul-
30 taneously provided, for informational purposes, to the members of the
31 metropolitan transportation authority capital program review board.
32 Provision of such a proposed capital program plan to the capital program
33 review board pursuant to this provision for informational purposes shall
34 not constitute the submission of a capital program plan for capital
35 program review board approval.

36 § 12. Paragraph (c) of subdivision 1 of section 1269-b of the public
37 authorities law, as amended by chapter 384 of the laws of 2007, is
38 amended to read as follows:

39 (c) on or before October first, two thousand thirteen and every fifth
40 year thereafter, the authority shall submit to the metropolitan trans-
41 portation authority capital program review board two capital program
42 plans for the five-year period commencing January first of the following
43 year. Such plans shall include methods to maximize participation by
44 minority and women-owned business enterprises.

45 § 13. The public authorities law is amended by adding three new
46 sections 1269-e, 1269-f and 1269-g to read as follows:

47 § 1269-e. Financial and operational reports. The authority shall
48 submit to the governor, the temporary president of the senate and the
49 speaker of the assembly, no later than thirty days following the
50 submission of the annual independent audit report pursuant to section
51 twenty-eight hundred two of this chapter, a complete detailed report or
52 reports setting forth, to the extent such matters are not fully
53 addressed in the annual independent audit report, the following:

54 1. its financial reports, including:

S. 5451

33

A. 8180

1 a. audited financials in accordance with all applicable regulations
2 and following generally accepted accounting principles as defined in
3 subdivision ten of section two of the state finance law;

4 b. grant and subsidy programs;

5 c. operating and financial risks;

6 d. current ratings of its bonds issued by recognized municipal bond
7 rating agencies and notice changes in such ratings; and

8 e. long-term liabilities, including leases and employee benefit plans;
9 and

10 2. an assessment of the effectiveness of its internal control struc-
11 ture and procedures, including:

12 a. descriptions of the authority and its major units and subsidiaries;

13 b. the number of employees, and minority and women employees, for
14 each;

15 c. an organizational chart;

16 d. its charter, if any and by-laws;

17 e. the extent of participation by minority and women owned enterprises
18 in authority contracts and services in accordance with article fifteen-A
19 of the executive law; and

20 f. a listing of material changes in internal operations and programs
21 during the reporting year.

22 § 1269-f. Mission statement and measurement report. 1. The authority
23 shall submit to the governor, the temporary president of the senate and
24 the speaker of the assembly, on or before October thirty-first, two
25 thousand nine, a proposed authority mission statement and proposed meas-
26 urements. The proposed mission statement and proposed measurements shall
27 have the following components: a brief mission statement expressing the
28 purpose and goals of the authority; a description of the stakeholders of
29 the authority and their reasonable expectations from the authority,
30 which stakeholders shall include at a minimum: the residents and taxpay-
31 ers of the area of the state served by the authority, the persons that
32 use the services provided by the authority, and the employees of the

33 authority and any employee organization; the goals of the authority in
34 response to the needs of each group of stakeholders; and a list of meas-
35 ures by which performance of the authority and the achievement of its
36 goals may be evaluated.

37 2. The authority shall thereafter reexamine its mission statement and
38 measurements on an annual basis, and publish on its website self evalu-
39 ations based on the stated measures.

40 § 1269-g. Requirements for certain authority contracts and related
41 subcontracts. 1. Any contractor or subcontractor subject to the posting
42 requirements of paragraph a of subdivision three-a of section two
43 hundred twenty of the labor law with respect to a public works contract
44 of the authority shall:

45 (a) post information conforming to the provisions of subdivision two
46 of this section in one or more conspicuous places at each major work-
47 place site where persons who perform work on the contract or subcon-
48 tract, including management, are most likely to see such postings;
49 provided that, this requirement may be satisfied by the displaying of
50 such information with other notices that inform persons of rights under
51 federal or state laws or rules, human resource policies, or collective
52 bargaining agreements;

53 (b) post information conforming to the provisions of subdivision two
54 of this section on an internet and intranet website, if any, of that
55 person or business organization; provided that, this requirement may be
56 satisfied by providing on such website a conspicuous hyperlink to the

S. 5451

34

A. 8180

1 authority website maintained pursuant to subdivision three of this
2 section, which hyperlink shall be labeled "Protections for Reporting
3 Fraud in New York";

4 (c) distribute information specified in subdivision two of this
5 section to those persons, including employees and managers, who perform
6 work on the contract; provided that, this requirement may be satisfied
7 by distributing such information in an employee handbook or through a
8 specific electronic communication containing the information to a known
9 electronic mail address maintained by the person; and

10 (d) comply with the provisions of this subdivision, and provide to the
11 authority satisfactory evidence of such compliance, within ninety days.

12 2. The disclosures required by subdivision one of this section shall:

13 (a) provide the telephone numbers and addresses to report information
14 of fraud or other illegal activity to the appropriate officers of the
15 inspector general of the authority and the attorney-general of the
16 state;

17 (b) describe in detail conduct prohibited by section one hundred
18 eighty-nine of the state finance law, and the role of that act in

19 preventing and detecting fraud and abuse in work paid for by the author-
20 ity or with funds originating from the authority;

21 (c) notify prospective qui tam plaintiffs on how to file a qui tam
22 action, including the necessity to contact private counsel skilled in
23 filing such actions and of the potential for cash rewards in such
24 actions based on the percentage of the funds recovered by the govern-
25 ment; and

26 (d) describe prohibitions on employer retaliation against persons who
27 file or assist actions under article thirteen of the state finance law
28 (the New York false claims act) pursuant to section one hundred ninety-
29 one of the state finance law, or who report illegal conduct that threat-
30 ens the health or safety of the public pursuant to section seven hundred
31 forty of the labor law.

32 3. No later than forty-five days after the effective date of this
33 section, the authority shall establish and continuously maintain on its
34 public website and its intranet site a page that shall provide the
35 information specified in subdivision two of this section, and that shall
36 also provide sample statements, displays and other materials suitable
37 for insertion in employee handbooks or posting at workplaces or on
38 websites that would satisfy the disclosure requirements of this section.

39 4. On and after the effective date of this section, the authority
40 shall not enter into any contract described in subdivision one of this
41 section that does not incorporate the terms of this section.

42 5. Material compliance by a covered person or business organization
43 that has contracted with the authority under a contract that incorpo-
44 rates the terms of this section shall be a material condition of payment
45 for the provision of goods or services.

46 6. The authority is authorized to adopt such rules and regulations as
47 are necessary to effect the purposes of this section.

48 § 14. Subdivision 1 of section 1270-a of the public authorities law,
49 as amended by section 29 of part O of chapter 61 of the laws of 2000, is
50 amended to read as follows:

51 1. The authority shall create and establish a fund to be known as the
52 "metropolitan transportation authority special assistance fund" which
53 shall be kept separate from and shall not be commingled with any other
54 moneys of the authority. The special assistance fund shall consist of
55 three separate accounts: (i) the "transit account", (ii) the "commuter
56 railroad account" and (iii) the "corporate transportation account".

S. 5451

35

A. 8180

1 The authority shall make deposits in the transit account and the
2 commuter railroad account of the moneys received by it pursuant to the
3 provisions of subdivision one of section two hundred sixty-one of the
4 tax law in accordance with the provisions thereof, and shall make depos-

5 its in the corporate transportation account of the moneys received by it
6 pursuant to the provisions of subdivision two of section two hundred
7 sixty-one of the tax law and section ninety-two-ff of [such] the state
8 finance law.

9 § 15. Subdivision 4 of section 1270-a of the public authorities law is
10 amended by adding a new paragraph (e) to read as follows:

11 (e) Notwithstanding the foregoing provisions of this subdivision, any
12 moneys in the corporate transportation account that are received by the
13 authority pursuant to the provisions of section ninety-two-ff of the
14 state finance law may be pledged by the authority, or pledged to the
15 Triborough bridge and tunnel authority, to secure bonds, notes or other
16 obligations of the authority or the Triborough bridge and tunnel author-
17 ity, as the case may be, and, if so pledged to the Triborough bridge and
18 tunnel authority, shall be paid to the Triborough bridge and tunnel
19 authority in such amounts and at such times as necessary to pay or to
20 reimburse that authority for its payment of debt service and reserve
21 requirements, if any, on that portion of special Triborough bridge and
22 tunnel authority bonds and notes issued by that authority pursuant to
23 section five hundred fifty-three-d of this chapter. Subject to the
24 provisions of any such pledge, or in the event there is no such pledge,
25 any moneys in the corporate transportation account received by the
26 authority pursuant to the provisions of section ninety-two-ff of the
27 state finance law may be used by the authority for payment of operating
28 costs of, and capital costs, including debt service and reserve require-
29 ments, if any, of or for the authority, the New York city transit
30 authority and their subsidiaries as the authority shall determine. No
31 moneys in the corporate transportation account that are reserved by the
32 authority pursuant to the provisions of section ninety-two-ff of the
33 state finance law may be used for making any payment to the Dutchess,
34 Orange and Rockland fund created by section twelve hundred seventy-b of
35 this title or considered in calculating the amounts required to be paid
36 into such fund.

37 § 16. The public authorities law is amended by adding two new
38 sections 1270-g and 1270-h to read as follows:

39 § 1270-g. Regulation of certain authority expenditures. The authority
40 shall implement policies as appropriate to minimize unwarranted expenses
41 and to protect against abuses in connection with (i) the granting of any
42 privileges or benefits having financial value, other than wage payments
43 or expense reimbursements, to members or staff of the authority, or any
44 subsidiary or other authority created by the authority; and (ii) the
45 full-time and part-time assignment and use of automobiles owned or
46 leased by the authority, or any subsidiary or other authority created by
47 the authority, and the use by authority employees and board members of
48 livery vehicles, as defined in section one hundred twenty-one-e of the
49 vehicle and traffic law.

50 § 1270-h. Metropolitan transportation authority finance fund. 1. The

51 authority shall establish a fund to be known as the "metropolitan trans-
52 portation authority finance fund" which shall be kept separate from and
53 shall not be commingled with any other moneys of the authority.
54 2. The comptroller shall deposit monthly, pursuant to appropriation,
55 into the metropolitan transportation authority finance fund the moneys
56 deposited in the mobility tax trust account of the metropolitan trans-

S. 5451

36

A. 8180

1 portation authority financial assistance fund pursuant to article twen-
2 ty-three of the tax law, and any other provision of law directing or
3 permitting the deposit of moneys in such fund.
4 3. Moneys in the fund may be (a) pledged by the authority to secure
5 and be applied to the payment of the bonds, notes or other obligations
6 of the authority issued on or after the effective date of this section
7 to finance capital projects of the authority and its subsidiaries and
8 the New York city transit authority and any subsidiaries; or (b) used
9 for payment of capital costs, including debt service, reserve require-
10 ments, if any, the payment of amounts required under bond and note
11 facilities or agreements related thereto, the payment of federal govern-
12 ment loans, security or credit arrangements or other agreements related
13 thereto, and the payment of all costs related to such obligations, of or
14 for the authority, the New York city transit authority and their subsid-
15 iaries as the authority shall determine. Subject to the provisions of
16 any such pledge, or in the event there is no such pledge, any excess
17 moneys in this fund may be used by the authority for payment of operat-
18 ing costs of, and capital costs, including debt service and reserve
19 requirements, if any, of or for the authority, the New York city transit
20 authority and their subsidiaries as the authority shall determine. To
21 the extent moneys in the fund have been pledged by the authority to
22 secure and pay the bonds, notes or other obligations of the authority
23 issued to finance capital projects of the authority and its subsidiaries
24 and the New York city transit authority and any subsidiaries as herein
25 provided, monies deposited into the fund shall be deposited to the
26 extent necessary to satisfy the requirements of any debt service or
27 reserve requirements, if any, of the resolution authorizing such bonds,
28 notes or other obligations.
29 4. Any monies deposited in the fund shall be held in the fund free and
30 clear of any claim by any person arising out of or in connection with
31 article twenty-three of the tax law. Without limiting the generality of
32 the foregoing and without limiting the rights and duties of the commis-
33 sioner of taxation and finance under article twenty-three of the tax
34 law, no entity paying a mobility tax under article twenty-three of the
35 tax law shall have any right or claim against the authority, any of
36 their bondholders, any of the authority's other subsidiaries or the New

37 York city transit authority or any subsidiary to any moneys in or
38 distributed from the fund or in respect of a refund, rebate, credit or
39 reimbursement of taxes paid under article twenty-three of the tax law.
40 § 17. The public authorities law is amended by adding three new
41 sections 1276-b, 1276-c and 1276-d to read as follows:
42 § 1276-b. Authority budget and financial plan. 1. In addition to the
43 requirements of section twenty-eight hundred two of this chapter, each
44 authority budget and plan shall be posted on its website and shall: (a)
45 present information relating to the authority and each of its agencies
46 in a clear and consistent manner and format; (b) be prepared in accord-
47 ance with generally accepted accounting principles, except as otherwise
48 consented to by the comptroller upon good cause shown; (c) be based on
49 reasonable assumptions and methods of estimation; (d) include estimates
50 of projected operating revenues and expenses; (e) identify any planned
51 transaction that would shift resources, from any source, from one fiscal
52 year to another, and the amount of any reserves; and (f) contain a
53 summary in plain English of the principal information in the budget and
54 conclusions to be drawn from it.
55 2. Supporting documentation. The authority shall prepare and make
56 available for public inspection on its website information that details

S. 5451

37

A. 8180

1 the sources of data and the assumptions and methods of estimation used
2 to calculate all operating and capital budget projections, consistent
3 with generally accepted budgetary practices.
4 3. The authority shall establish at least annually the quarterly
5 revenue and expense targets for the authority, and for each subsidiary
6 or other authority created by the authority itself and for which it
7 reports financial data.
8 4. Monitoring the budget and financial plan. The authority shall
9 prepare and make available for public inspection on its website: (a)
10 within sixty days of the release of the adopted budget and any updates
11 to the budget (except updates released within ninety days of the close
12 of the fiscal year), monthly projections for the current fiscal year of
13 all revenues and expenses, staffing for the authority and each of its
14 agencies, and utilization for each of the authority's agencies that
15 operate transportation systems, including bridges and tunnels; (b) with-
16 in sixty days after the close of each quarter, a comparison of actual
17 revenues and expenses, actual staffing and actual utilization to planned
18 or projected levels for each of the authority's agencies that operate
19 transportation systems, including bridges and tunnels, with an explana-
20 tion of each material variance and its budgetary impact; and (c) within
21 ninety days after the close of each quarter, the status of each gap-
22 closing initiative with a projected value greater than one million

23 dollars in any given fiscal year; the status of capital projects by
24 capital element, including but not limited to commitments, expenditures
25 and completions; and an explanation of material variances from the plan,
26 cost overruns and delays.

27 5. Strategic operation plan. Financial information required to be
28 submitted by the authority pursuant to paragraphs d and e of subdivision
29 one of section twelve hundred sixty-nine-c of this title shall be
30 presented in a format consistent with the budget and plan, in downloada-
31 ble, searchable format.

32 § 1276-c. Independent audit of authority. The independent auditor
33 retained by the authority shall not provide to the authority, contempo-
34 raneously with the audit unless it shall have previously received writ-
35 ten approval by the audit committee any non-audit service, including:

- 36 1. routine bookkeeping or other services;
- 37 2. financial information systems design and implementation;
- 38 3. appraisal or valuation services, fairness opinions, or contribu-
39 tion-in-kind reports;
- 40 4. actuarial services;
- 41 5. outsourcing services;
- 42 6. authority management functions or human resources;
- 43 7. broker or dealer, investment advisor or investment banking
44 services;
- 45 8. legal services and expert services unrelated to the audit.

46 § 1276-d. Independent audit by the legislature. After the submission
47 of the annual independent audit report to the legislature pursuant to
48 section two thousand eight hundred two of this chapter, and after review
49 of such report, the temporary president of the senate and the speaker of
50 the assembly may commission an auditing firm, every two years, after the
51 year two thousand nine, to conduct an independent audit of the authori-
52 ty, including its subsidiaries. The temporary president of the senate
53 and the speaker of the assembly shall set the scope of such audit, and
54 determine the terms of the request for proposal for such audit. Such
55 audit shall be performed for the year two thousand nine. The authority
56 shall fully cooperate with and assist in such an audit.

S. 5451

38

A. 8180

1 § 18. The public authorities law is amended by adding a new section
2 1279-c to read as follows:

3 § 1279-c. The office of legislative and community input. 1. The
4 chairperson of the authority shall establish the office of legislative
5 and community input for the purpose of communicating information to, and
6 receiving comments, concerns and recommendations from, members of the
7 legislature, and members of the permanent citizens advisory committee to
8 the authority, as defined in section twelve hundred sixty-six-i of this

9 chapter, on the following:

10 (a) the operations of the rapid transit, omnibus and commuter rail
11 line facilities of the authority including, but not limited to:

12 (i) the quality of service provided on any rapid transit, omnibus, and
13 commuter rail line or route;

14 (ii) the frequency of operating service on the authority's mass trans-
15 it facilities;

16 (iii) the maintenance and condition of the authority's mass transit
17 facilities including, but not limited to, rapid transit and commuter
18 rail stations, railcars, buses, rail lines, fare collection systems and
19 sound systems; and

20 (iv) proposed service changes, including any reductions or expansion
21 of services, as it relates to the authority's mass transit facilities;
22 and

23 (b) any proposed, submitted and/or approved capital program plan, its
24 components, elements and projects, and associated expenditures. Any such
25 comments, concerns and recommendations relating to the capital program
26 plan, its components, elements and projects, and associated expenditures
27 shall be taken into consideration in the development of the current and
28 each successive capital program plan and/or any amendment to such plan.

29 2. The office shall establish a process to ensure timely notification
30 of the receipt of, and response to, comments, concerns, and recommenda-
31 tions by members of the legislature or members of the permanent citizens
32 advisory committee to the authority.

33 3. The chair and office shall prepare a report containing the follow-
34 ing information:

35 (a) a compilation of the comments, concerns, and recommendations
36 received by the office;

37 (b) how these comments, concerns or recommendations were or will be
38 addressed, such as the authority's response by the incorporation or
39 initiation of system and operational adjustments, improvements or expan-
40 sions if applicable; and

41 (c) how these comments, concerns or recommendations were or will be
42 addressed, such as the authority's response by changing or amending the
43 capital plan, as well as providing status updates on the progress of
44 such plan.

45 4. Such report shall on a biannual basis, commencing September first,
46 two thousand nine, be submitted to the governor, the temporary president
47 of the senate and the speaker of the assembly, be posted on the authori-
48 ty's website and also be made readily available to the public.

49 § 19. The public authorities law is amended by adding a new section
50 1276-e to read as follows:

51 § 1276-e. Reporting. The authority shall post on its website on or
52 before the first of May, the law firms retained by the authority which
53 in the past year received payment for services in such year.

54 § 20. Section 1266-c of the public authorities law is amended by

55 adding a new subdivision 15 to read as follows:

S. 5451

39

A. 8180

1 15. (a) In connection with the performance of projects pursuant to
2 this section, the authority shall, to the extent practicable and not
3 inconsistent with any federal law, regulation or requirement, promote
4 the meaningful participation of small business and New York state busi-
5 ness enterprises in the provision of goods and services that are
6 produced or manufactured in New York state as part of procurements
7 undertaken by the authority.

8 (b) The authority shall within one hundred eighty days after the
9 effective date of this subdivision develop, and review annually there-
10 after, a plan to effect the purposes of this subdivision.

11 § 21. This act shall take effect immediately; provided, however, that:

12 (a) the amendments to subparagraph (1) of paragraph (a) of subdivision 1
13 of section 1263 of the public authorities law made by section three of
14 this act shall be subject to the expiration and reversion of such para-
15 graph pursuant to section 3 of chapter 549 of the laws of 1994, as
16 amended, when upon such date the provisions of section four of this act
17 shall take effect;

18 (b) the amendments to subdivision 4 of section 1263 of the public
19 authorities law made by section five of this act, subdivision 2 of
20 section 1201 of the public authorities law made by section six of this
21 act, subdivision 1 of section 552 of the public authorities law made by
22 section seven of this act, and subdivision 5 of section 1266 of the
23 public authorities law made by section eight of this act, shall take
24 effect upon the date of the appointment by the governor with the advice
25 and consent of the senate of a chair to the new term of office created
26 pursuant to section three of this act. The governor's office of appoint-
27 ments shall notify the legislative bill drafting commission upon the
28 appointment of a chairman to the new term provided for in section three
29 of this act in order that the legislative bill drafting commission may
30 maintain an accurate and timely effective database of the original text
31 of the laws of the state of New York in furtherance of effectuating the
32 provisions of section 44 of the legislative law and section 70-b of the
33 public officers law; and

34 (c) paragraph c of subdivision 1 of section 1269-b of the public
35 authorities law as amended by section twelve of this act shall not
36 affect the expiration of such paragraph and shall be deemed to expire
37 therewith.

38 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
39 sion, section or part of this act shall be adjudged by any court of
40 competent jurisdiction to be invalid, such judgment shall not affect,
41 impair, or invalidate the remainder thereof, but shall be confined in

42 its operation to the clause, sentence, paragraph, subdivision, section
43 or part thereof directly involved in the controversy in which such judg-
44 ment shall have been rendered. It is hereby declared to be the intent of
45 the legislature that this act would have been enacted even if such
46 invalid provisions had not been included herein.

47 § 4. This act shall take effect immediately provided, however, that
48 the applicable effective date of Parts A through H of this act shall be
49 as specifically set forth in the last section of such Parts.