**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** (not yet assigned)

**SPONSOR:** ZELDIN

**TITLE OF BILL**:

An act to amend the tax law in relation to phasing out the MTA payroll tax; and to repeal subsection (a) of section 801 of such law relating thereto.

**PURPOSE OR GENERAL IDEA OF BILL**:

This bill phases out the MTA payroll tax over two years. The tax is reduced to .23% in the first year and to .12% in the second year for the seven counties outside of New York City. On January 1, 2014, the tax will cease to be in effect in these seven counties. The tax shall remain at the .34% level through January 1, 2013, when it shall be reduced to .28%. On January 1, 2014, the tax shall be reduced further to .21%. The MTA payroll tax shall be eliminated with respect to non-public schools and small businesses with twenty five or fewer employees beginning on the January 1, 2012 effective date. It is the intent of the legislature that the reductions in tax provided for in this section shall be implemented without any increase in fares, or any decrease in service provided by the MTA.

**SUMMARY OF PROVISIONS**:

Section One amends section 801 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009 to provide a reduction in the tax imposed on New York City employers from .34% to .28% for one year commencing January 1, 2013 and from .28% to .21% commencing January 1, 2014. For the seven counties outside of New York City, the tax imposed shall be reduced to .23% commencing January 1, 2012, reduced again to .12% commencing January 1, 2013, and fully eliminated as of January 1, 2014. Beginning on January 1, 2012, the effective date of this bill, the tax shall be fully eliminated for small business with twenty five or fewer employees and for public and non-public schools.

Section Two provides the effective dates.

**JUSTIFICATION**:

Enacted in 2009, article 23 of the tax law imposed an onerous tax on employers in the areas serviced by the Metropolitan Transportation Authority. This region, called the Metropolitan Commuter Transportation District (MCTD), includes New York City’s five boroughs as well as the surrounding counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester. Employers who are required to withhold New York state income tax from employee wages and whose payroll exceeds $2,500 quarterly are currently required to pay a 0.34% tax on payroll expenses allocated to the MCTD. This amounts to $.34 per $100.00 of their payroll. Self-employed individuals who make more than $10,000 during the tax year are subject to the same 0.34% tax rate on their net earnings from self-employment allocated to the MCTD.

This tax has had a crippling effect on business in the areas subject to this tax. Not only has there been a severe negative impact on existing businesses, it has also stymied growth of new business at a time when the government should be incentivizing people to start new businesses. While an across the board elimination of the tax would be ideal, an immediate repeal of the tax would financially devastate the MTA, who has relied on this revenue and is already facing a severe debt situation.

To address the negative effect of this tax on business growth as well as concerns pertaining to schools, the tax shall immediately be repealed with respect to small businesses with twenty five or fewer employees as well as public and non-public schools. Under current law, public schools are required to pay the mobility tax however they are reimbursed by the state for this cost. This legislation fully exempts public schools from having to pay the tax. This relief applies to schools and small businesses throughout the entire MCTD, including New York City, so that these financially vulnerable institutions and businesses will no longer be subject to the devastating tax rates imposed by the mobility tax.

This legislation phases out the tax for the purpose of providing an additional stable and reliable dedicated funding source for the MTA to preserve their essential services. The gradual repeal of the tax proposed in this legislation would reduce the amount of the tax imposed on the seven counties outside of New York City to .23% beginning on January 1, 2012, and again to .12% beginning January 1, 2013, expiring one year later on January 1, 2014. The tax would remain at the .34% level within the five boroughs until January 1, 2013, when it shall be reduced to .28% until January 1, 2014, when the tax will be reduced again to .21% where it shall remain.

This plan’s expedited reduction and ultimate repeal is an equitable strategy because these areas are generally not as reliant on the MTA’s services. While residents of New York City’s five boroughs utilize the subways and busses in their daily life, many residents of the surrounding counties use MTA services infrequently. In the absence of an immediate repeal, relieving the residents of these suburban areas of this burden, as well as small business owners and non-public schools in the entire MCTD, is an appropriate way to facilitate the eventual abrogation of this ill-conceived tax.

**LEGISLATIVE HISTORY**:

New bill.

**FISCAL IMPLICATIONS**:

To be determined.

**EFFECTIVE DATE**:

This act shall take effect January 1, 2012. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.