

4410--A

2015-2016 Regular Sessions

I N S E N A T E

March 19, 2015

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to eliminating state sales and compensating use taxes on motor fuels and diesel motor fuels and authorizing localities to eliminate such taxes at the local level; in relation to reducing the tax rate from four cents per gallon to two cents per gallon, and to amend the public authorities law, the highway law and the tax law, in relation to making technical changes; and to repeal certain sections of the tax law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision (a) of section 1115 of the tax law is amended
2 by adding a new paragraph 44 to read as follows:
3 (44) MOTOR FUEL AND DIESEL MOTOR FUEL.
4 S 2. Subdivision (b) of section 1107 of the tax law is amended by
5 adding a new clause 12 to read as follows:
6 (12) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EXEMPTION PROVIDED IN
7 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
8 FIFTEEN OF THIS ARTICLE RELATING TO MOTOR FUEL AND DIESEL MOTOR FUEL
9 SHALL BE APPLICABLE PURSUANT TO A LOCAL LAW, ORDINANCE OR RESOLUTION
10 ADOPTED BY A CITY SUBJECT TO THE PROVISIONS OF THIS SECTION. SUCH CITY
11 IS EMPOWERED TO ADOPT OR REPEAL SUCH A LOCAL LAW, ORDINANCE OR RESOL-
12 UTION. SUCH ADOPTION OR REPEAL SHALL ALSO BE DEEMED TO AMEND ANY LOCAL
13 LAW, ORDINANCE OR RESOLUTION ENACTED BY SUCH A CITY IMPOSING TAXES
14 PURSUANT TO THE AUTHORITY OF SUBDIVISION (A) OF SECTION TWELVE HUNDRED
15 TEN OF THIS CHAPTER.

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

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1 S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
2 amended by section 3 of part Z of chapter 59 of the laws of 2015, is
3 amended to read as follows:

4 (1) Either, all of the taxes described in article twenty-eight of this
5 chapter, at the same uniform rate, as to which taxes all provisions of
6 the local laws, ordinances or resolutions imposing such taxes shall be
7 identical, except as to rate and except as otherwise provided, with the
8 corresponding provisions in such article twenty-eight, including the
9 definition and exemption provisions of such article, so far as the
10 provisions of such article twenty-eight can be made applicable to the
11 taxes imposed by such city or county and with such limitations and
12 special provisions as are set forth in this article. The taxes author-
13 ized under this subdivision may not be imposed by a city or county
14 unless the local law, ordinance or resolution imposes such taxes so as
15 to include all portions and all types of receipts, charges or rents,
16 subject to state tax under sections eleven hundred five and eleven
17 hundred ten of this chapter, except as otherwise provided. (i) Any local
18 law, ordinance or resolution enacted by any city of less than one
19 million or by any county or school district, imposing the taxes author-
20 ized by this subdivision, shall, notwithstanding any provision of law to
21 the contrary, exclude from the operation of such local taxes all sales
22 of tangible personal property for use or consumption directly and
23 predominantly in the production of tangible personal property, gas,
24 electricity, refrigeration or steam, for sale, by manufacturing, proc-
25 essing, generating, assembly, refining, mining or extracting; and all
26 sales of tangible personal property for use or consumption predominantly
27 either in the production of tangible personal property, for sale, by
28 farming or in a commercial horse boarding operation, or in both; and,
29 unless such city, county or school district elects otherwise, shall omit
30 the provision for credit or refund contained in clause six of subdivi-
31 sion (a) or subdivision (d) of section eleven hundred nineteen of this
32 chapter. (ii) Any local law, ordinance or resolution enacted by any
33 city, county or school district, imposing the taxes authorized by this
34 subdivision, shall omit the residential solar energy systems equipment
35 and electricity exemption provided for in subdivision (ee), the commer-
36 cial solar energy systems equipment and electricity exemption provided
37 for in subdivision (ii) and the clothing and footwear exemption provided
38 for in paragraph thirty of subdivision (a) of section eleven hundred
39 fifteen of this chapter, unless such city, county or school district
40 elects otherwise as to either such residential solar energy systems
41 equipment and electricity exemption, such commercial solar energy
42 systems equipment and electricity exemption or such clothing and foot-
43 wear exemption. ANY LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED BY ANY
44 CITY, COUNTY OR SCHOOL DISTRICT, IMPOSING THE TAXES AUTHORIZED BY THIS
45 SUBDIVISION, SHALL OMIT THE MOTOR FUEL AND DIESEL MOTOR FUEL EXEMPTION
46 PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEV-
47 EN HUNDRED FIFTEEN OF THIS CHAPTER, UNLESS SUCH CITY, COUNTY OR SCHOOL
48 DISTRICT ELECTS OTHERWISE; PROVIDED THAT IF SUCH A CITY HAVING A POPU-
49 LATION OF ONE MILLION OR MORE ENACTS THE RESOLUTION DESCRIBED IN SUBDI-
50 VISION (P) OF THIS SECTION OR REPEALS SUCH RESOLUTION, SUCH RESOLUTION
51 OR REPEAL SHALL ALSO BE DEEMED TO AMEND ANY LOCAL LAW, ORDINANCE OR
52 RESOLUTION ENACTED BY SUCH A CITY IMPOSING SUCH TAXES PURSUANT TO THE
53 AUTHORITY OF THIS SUBDIVISION, WHETHER OR NOT SUCH TAXES ARE SUSPENDED
54 AT THE TIME SUCH CITY ENACTS ITS RESOLUTION PURSUANT TO SUBDIVISION (P)
55 OF THIS SECTION OR AT THE TIME OF ANY SUCH REPEAL; PROVIDED, FURTHER,
56 THAT ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION AND SECTION ELEVEN

HUNDRED SEVEN OF THIS CHAPTER, AS DEEMED TO BE AMENDED IN THE EVENT A CITY OF ONE MILLION OR MORE ENACTS A RESOLUTION PURSUANT TO THE AUTHORITY OF SUBDIVISION (P) OF THIS SECTION, SHALL BE FURTHER AMENDED, AS PROVIDED IN SECTION TWELVE HUNDRED EIGHTEEN OF THIS SUBPART, SO THAT THE MOTOR FUEL AND DIESEL MOTOR FUEL EXEMPTION IN ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION OR IN SUCH SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER IS THE SAME AS THE MOTOR FUEL AND DIESEL MOTOR FUEL EXEMPTION IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER.

S 4. Subdivision (d) of section 1210 of the tax law, as amended by section 4-a of part Z of chapter 59 of the laws of 2015, is amended to read as follows:

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; PROVIDED, FURTHER, THAT A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING FOR THE EXEMPTION DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER OR REPEALING ANY SUCH EXEMPTION SO PROVIDED AND A RESOLUTION ENACTED PURSUANT TO THE AUTHORITY OF SUBDIVISION (P) OF THIS SECTION PROVIDING SUCH EXEMPTION OR REPEALING SUCH EXEMPTION SO PROVIDED MAY GO INTO EFFECT IMMEDIATELY. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

S 5. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDINANCE OR RESOLUTION TO THE CONTRARY;

1 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
2 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
3 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
4 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE
5 SAME MOTOR FUEL AND DIESEL MOTOR FUEL EXEMPT FROM STATE SALES AND
6 COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION
7 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A
8 RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION;
9 WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND
10 (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED
11 TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION
12 ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTION AS IF
13 IT HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE
14 GOVERNOR.

15 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF
16 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

17 SECTION ONE. RECEIPTS FROM SALES OF THE CONSIDERATION GIVEN OR
18 CONTRACTED TO BE GIVEN FOR PURCHASES OF MOTOR FUEL AND DIESEL MOTOR FUEL
19 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH
20 FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THE
21 TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES
22 IMPOSED IN THIS JURISDICTION.

23 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT, (INSERT THE DATE) AND
24 SHALL APPLY TO SALES MADE AND USES OCCURRING ON AND AFTER THAT DATE
25 ALTHOUGH MADE OR OCCURRING UNDER A PRIOR CONTRACT.

26 S 6. The commissioner of taxation and finance is hereby authorized to
27 implement the provisions of sections one through five of this act with
28 respect to the elimination of the imposition of sales tax, additional
29 taxes, and supplemental taxes on diesel motor fuel and motor fuel and
30 all other taxes so addressed by this act.

31 S 7. Subdivision 1 of section 282-a of the tax law, as amended by
32 section 2 of part W of chapter 59 of the laws of 2013, is amended to
33 read as follows:

34 1. There is hereby levied and imposed with respect to Diesel motor
35 fuel an excise tax of [four] TWO cents per gallon upon the sale or use
36 of Diesel motor fuel in this state.

37 The excise tax is imposed on the first sale or use of Diesel motor
38 fuel to occur which is not exempt from tax under this article. Provided,
39 however, if the tax has not been imposed prior thereto, it shall be
40 imposed on the removal of highway Diesel motor fuel from a terminal,
41 other than by pipeline, barge, tanker or other vessel, or the delivery
42 of Diesel motor fuel to a filling station or into the fuel tank connect-
43 ing with the engine of a motor vehicle for use in the operation thereof
44 whichever event shall be first to occur. The tax shall be computed based
45 upon the number of gallons of Diesel motor fuel sold, removed or used or
46 the number of gallons of Diesel fuel delivered into the fuel tank of a
47 motor vehicle, as the case may be. Nothing in this article shall be
48 construed to require the payment of such excise tax more than once upon
49 the same Diesel motor fuel. Nor shall the collection of such tax be made
50 applicable to the sale or use of Diesel motor fuel under circumstances
51 which preclude the collection of such tax by reason of the United States
52 constitution and of laws of the United States enacted pursuant thereto.
53 Provided, further, no Diesel motor fuel shall be included in the measure
54 of the tax unless it shall have previously come to rest within the mean-
55 ing of federal decisional law interpreting the United States constitu-
56 tion. All tax for the period for which a return is required to be filed

shall be due on the date limited for the filing of the return for such period, regardless of whether a return is filed as required by this article or whether the return which is filed correctly shows the amount of tax due.

S 8. Section 282-b of the tax law is REPEALED.

S 9. Section 282-c of the tax law is REPEALED.

S 10. Subdivision 1 of section 284 of the tax law, as amended by chapter 276 of the laws of 1986, is amended to read as follows:

1. There is hereby levied and imposed an excise tax of [four] TWO cents per gallon upon motor fuel (a) imported into or caused to be imported into the state by a distributor for use, distribution, storage or sale in the state or upon motor fuel which is produced, refined, manufactured or compounded by a distributor in the state (which acts shall hereinafter in this subdivision be encompassed by the phrase "imported or manufactured") or (b) if the tax has not been imposed prior to its sale in this state, which is sold by a distributor (which act, in conjunction with the acts described in paragraph (a) of this subdivision, shall hereinafter in this article be encompassed by the phrase "imported, manufactured or sold"), except when imported, manufactured or sold under circumstances which preclude the collection of such tax by reason of the United States constitution and of laws of the United States enacted pursuant thereto or when imported or manufactured by an organization described in paragraph one or two of subdivision (a) of section eleven hundred sixteen of this chapter or a hospital included in the organizations described in paragraph four of such subdivision for its own use or consumption and except kero-jet fuel when imported or manufactured by an airline for use in its airplanes. Provided, further, no motor fuel shall be included in the measure of the tax unless it shall have previously come to rest within the meaning of federal decisional law interpreting the United States constitution. All tax for the period for which a return is required to be filed shall be due on the date limited for the filing of the return for such period, regardless of whether a return is filed by such distributor as required by this article or whether the return which is filed correctly shows the amount of tax due.

S 11. Section 284-a of the tax law is REPEALED.

S 12. Section 284-c of the tax law is REPEALED.

S 13. Paragraph (b) of subdivision 5 of section 376 of the public authorities law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

(b) To assure the continued operation and solvency of the authority for the carrying out of the purposes relating to this section, provision is made in this section for the accumulation in the debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund; provided however for such bonds issued by the authority after April first, nineteen hundred ninety-two, such debt service reserve fund may in the discretion of the authority and consistent with any covenants with any existing bondholders and without impairing the rights of any existing bondholders be sized in an amount equal to not less than one-half of the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on such bonds of the authority then outstanding and secured by such debt service reserve fund. In order to further assure the maintenance of such debt service reserve fund, with respect to bonds of the authority issued pursuant to subdivisions

1 two-a, two-b and two-c of this section after April first, nineteen
2 hundred ninety, the authority shall create a special subaccount in each
3 revenue fund established pursuant to any resolution or resolutions
4 authorizing such bonds. [Such subaccounts shall consist of the moneys
5 available after April first, nineteen hundred ninety, pursuant to
6 sections two hundred eighty-two-b, two hundred eighty-two-c, two hundred
7 eighty-four-a and two hundred eighty-four-c of the tax law, respective-
8 ly, in the emergency highway reconditioning and preservation fund
9 reserve account established pursuant to paragraph (b) of subdivision two
10 of section eighty-nine of the state finance law and in the emergency
11 highway construction and reconstruction fund reserve account established
12 pursuant to paragraph (b) of subdivision two of section eighty-nine-a of
13 the state finance law, apportioned and paid to the authority for deposit
14 in such subaccount of the revenue fund.] Amounts in each such subaccount
15 shall be kept separate and shall not be commingled with any other moneys
16 in the custody of the authority. Amounts in each such subaccount shall
17 be applied solely to pay such sum, if any, as shall semi-annually, (on
18 such dates as are established under the terms of any cooperative highway
19 contractual agreement of the department of transportation with the New
20 York state thruway authority entered into on or after April first, nine-
21 teen hundred ninety which is then in effect), be certified by the chair-
22 man of the authority to the governor and state director of the budget as
23 necessary to provide funds in an amount sufficient together with other
24 moneys available to the authority for such purpose, to pay one-half of
25 the total annual principal and interest maturing and becoming due during
26 the next succeeding twelve calendar months on all bonds of the authority
27 issued pursuant to subdivisions two-a, two-b and two-c of this section
28 after April first, nineteen hundred ninety and maintaining or funding
29 debt service reserve funds therefor. [Any surplus of funds in excess of
30 such certified amounts remaining in each such subaccount after such
31 payments, if any, have been made shall on the dates established under
32 the terms of such cooperative highway agreements, be paid over for
33 deposit, respectively, in the emergency highway reconditioning and pres-
34 ervation fund reserve account established pursuant to paragraph (b) of
35 subdivision two of section eighty-nine of the state finance law and in
36 the emergency highway construction and reconstruction fund reserve
37 account established pursuant to paragraph (b) of subdivision two of
38 section eighty-nine-a of the state finance law.]

39 S 14. Paragraphs (b), (d) and (e) of subdivision 3 of section 289-c of
40 the tax law, paragraph (b) as amended by chapter 411 of the laws of
41 1971, paragraph (d) as amended by chapter 836 of the laws of 1974 and
42 paragraph (e) as added by chapter 756 of the laws of 1974, are amended
43 to read as follows:

44 (b) Any omnibus carrier which shall buy any motor fuel on which the
45 aggregate tax imposed by section two hundred eighty-four [and section
46 two hundred eighty-four-a] of this chapter, or any diesel motor fuel on
47 which the aggregate tax imposed by section two hundred eighty-two-a [and
48 section two hundred eighty-two-b] of this chapter, shall have been paid,
49 shall be reimbursed, in the case of such motor fuel, the amount paid
50 pursuant to such [sections] SECTION two hundred eighty-four [and two
51 hundred eighty-four-a] in excess of four cents per gallon, and in the
52 case of diesel motor fuel, the amount paid pursuant to such [sections]
53 SECTION two hundred eighty-two-a [and two hundred eighty-two-b] in
54 excess of six cents per gallon, provided such motor fuel or diesel motor
55 fuel has been consumed by such carrier in the operation of an omnibus in
56 this state. Any taxicab licensee, as defined by subdivision ten of

1 section two hundred eighty-two of this chapter, who or which shall buy
2 any motor fuel on which the aggregate tax imposed by section two hundred
3 eighty-four [and section two hundred eighty-four-a] of this chapter or
4 any diesel motor fuel on which the aggregate tax imposed by section two
5 hundred eighty-two-a [and section two hundred eighty-two-b] of this
6 chapter, shall have been paid, shall be reimbursed, in the case of such
7 motor fuel, the amount paid pursuant to such [sections] SECTION two
8 hundred eighty-four [and two hundred eighty-four-a] in excess of four
9 cents per gallon, and in the case of diesel motor fuel, the amount paid
10 pursuant to such [sections] SECTION two hundred eighty-two-a [and two
11 hundred eighty-two-b] in excess of six cents per gallon, provided such
12 motor fuel or diesel fuel has been consumed by such licensee in the
13 operation of a taxicab in this state.

14 (d) Any omnibus carrier which shall buy motor fuel on which the aggre-
15 gate tax imposed by section two hundred eighty-four[, section two
16 hundred eighty-four-a and section two hundred eighty-four-c] of this
17 chapter or any diesel motor fuel on which the aggregate tax imposed by
18 section two hundred eighty-two-a[, section two hundred eighty-two-b and
19 section two hundred eighty-two-c] of this chapter shall have been paid,
20 shall be reimbursed the amount paid provided such motor fuel or diesel
21 motor fuel has been consumed by such carrier in the operation of an
22 omnibus in local transit service in this state pursuant to a certificate
23 of convenience and necessity issued by the commissioner of transporta-
24 tion of this state or by the interstate commerce commission of the
25 United States or pursuant to a contract, franchise or consent between
26 such carrier and a city having a population of more than one million
27 inhabitants, or any agency of such city.

28 (e) Any nonpublic school operator which shall buy motor fuel on which
29 the aggregate tax imposed by section two hundred eighty-four[, section
30 two hundred eighty-four-a and section two hundred eighty-four-c] of this
31 chapter or any diesel motor fuel on which the aggregate tax imposed by
32 section two hundred eighty-two-a[, section two hundred eighty-two-b and
33 section two hundred eighty-two-c] of this chapter shall have been paid,
34 shall be reimbursed the amount paid provided such motor fuel or diesel
35 motor fuel has been consumed by such nonpublic school operator exclu-
36 sively in educational related activities.

37 S 15. Subdivision 1 of section 289-e of the tax law, as amended by
38 section 15 of part K of chapter 61 of the laws of 2011, is amended to
39 read as follows:

40 1. All taxes, interest, penalties and fees collected or received by
41 the commissioner under the taxes imposed by this article, except as
42 provided otherwise in subdivision two and subdivision three of this
43 section [and sections two hundred eighty-two-b, two hundred
44 eighty-two-c, two hundred eighty-four-a and two hundred eighty-four-c,]
45 other than the fee imposed by section two hundred eighty-four-d and
46 penalties and interest on such fee, shall be deposited and disposed of
47 pursuant to the provisions of section one hundred seventy-one-a of this
48 chapter; provided that an amount equal to thirty-seven and one-half per
49 centum of the moneys collected under section two hundred eighty-four of
50 this chapter shall be appropriated and used for the acquisition of prop-
51 erty necessary for the construction and reconstruction of highways and
52 bridges or culverts on the state highway system, and for the
53 construction, maintenance and repair of such highways and bridges or
54 culverts, all under the direction of the commissioner of transportation.

55 S 16. Subdivision 5 of section 10-c of the highway law, as amended by
56 chapter 20 of the laws of 1983, is amended to read as follows:

1 5. For amounts to be distributed pursuant to this section above the
2 funding level, as defined in this subdivision, received by any municipi-
3 pality, such municipality shall use at least seventy-five percent of
4 such apportioned moneys for the construction, reconstruction or improve-
5 ment of local highways, bridges and/or highway-railroad crossings,
6 including right of way acquisition, preliminary engineering, and
7 construction supervision and inspection, where the service life of the
8 project is at least ten years. Such moneys made available may be used to
9 match other state and federal funds made available for such projects
10 under federal-aid highway acts. The remainder of the apportionment, may
11 be used for any highway purposes, except debt service, including but not
12 limited to, the acquisition of materials and equipment devoted to opera-
13 tion and maintenance of local highways, bridges and/or highway-railroad
14 crossings and the payment of any costs directly attributable to opera-
15 tion and maintenance of local highways, bridges and/or highway-railroad
16 crossings. At the discretion of the commissioner, the requirement speci-
17 fied in this subdivision may be waived for assistance payments in
18 amounts of less than five thousand dollars. For purposes of this section
19 "funding level" shall mean the average amounts, calculated for each
20 municipality, received over two years ending March thirty-first, nine-
21 teen hundred eighty-two from the provisions of the town highway improve-
22 ment program, the distribution made by former section one hundred twelve
23 of this chapter, as repealed by section twenty-one of the transportation
24 systems assistance and financing act of 1981 of amounts collected from
25 taxes on motor fuel imposed by [sections] SECTION two hundred eighty-
26 four [and two hundred eighty-four-a] of the tax law and on Diesel motor
27 fuel imposed by [sections] SECTION two hundred eighty-two-a [and two
28 hundred eighty-two-b] of the tax law, and from motor vehicle fees
29 collected from residents pursuant to the vehicle and traffic law, and
30 the distribution made by former section two hundred seventy-nine of this
31 chapter, as repealed by section twenty-one of the transportation systems
32 assistance and financing act of 1981.

33 S 17. Notwithstanding any other section of the law, any taxes, inter-
34 est, penalties and fees that would have been received by the commission-
35 er of taxation and finance prior to the enactment of sections seven,
36 eight, nine, ten, eleven and twelve of this act, be deposited pursuant
37 to section 289-e of the tax law from the state general fund.

38 S 18. This act shall take effect immediately; provided, however, that
39 sections one through five of this act shall take effect on the first day
40 of the sales tax quarterly period, as described in subdivision (b) of
41 section 1136 of the tax law, next commencing at least 90 days after this
42 act shall have become a law and shall apply in accordance with the
43 applicable transitional provisions of section 1106 and 1217 of the tax
44 law.