§ 1269-b. Capital program plans; approvals; effect of disapproval. 1. (a) On or before October first, nineteen hundred eighty-one, and on or before October first of every fifth year thereafter, through and including October first, nineteen hundred ninety-one, the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five year period commencing January first of the following year;

(b) not later than ten days after the effective date of this paragraph the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five-year period commencing January first, nineteen hundred ninety-five; and

(c) on or before October first, nineteen hundred ninety-nine and every fifth year thereafter, the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five-year period commencing January first of the following year.

For each of the periods described above, one such plan shall contain the capital program for the transit facilities operated by the New York city transit authority and its subsidiaries and for the Staten Island rapid transit operating authority; the other such plan shall contain the capital program for the railroad facilities, not including the Staten Island rapid transit operating authority, under the jurisdiction of the authority.

Each plan shall set system-wide goals and objectives for capital spending, establish standards for service and operations, and describe each capital element proposed to be initiated in each of the years covered by the plan and explain how each proposed element supports the achievement of the service and operational standards established in the plan. Each plan shall also set forth an estimate of the amount of capital funding required each year and the expected sources of such funding. Each plan subsequent to the first such plan and each proposed amendment or modification thereof shall also describe the current status of each capital element included in the previously approved plan, if any. Each plan shall be accompanied or supplemented by such supporting materials as the metropolitan transportation authority capital program

review board shall require.

A capital element shall mean either a category of expenditure itemized in a plan, as hereinafter provided, for which a specified maximum dollar amount is proposed to be expended, or a particularly described capital project within one or more categories for which no maximum expenditure is proposed, but for which an estimate of expected cost is provided. A capital element shall be deemed to have been initiated for purposes of this section if in connection with such element the authority shall certify that (i) purchase or construction contracts have been entered into, obligating in the aggregate an amount exceeding ten percent of the maximum or estimated cost of the element as set forth in a plan, (ii) financing specific to the project has been undertaken, or (iii) in a case where such element is limited to design or engineering, a contract therefor has been entered into.

2. Each plan shall itemize the capital elements included in each section of the plan under the following categories of expenditure: (a) rolling stock and buses; (b) passenger stations; (c) track; (d) line equipment; (e) line structures; (f) signals and communications; (g) power equipment, emergency power equipment and substations; (h) shops, yards, maintenance facilities, depots and terminals; (i) service vehicles; (j) security systems; (k) electrification extensions; and (l) unspecified, miscellaneous and emergency.

2-a. (a) A copy of any proposed capital program plan that has been distributed to one or more committees of the authority shall be simultaneously provided, for informational purposes, to the members of the metropolitan transportation authority capital program review board. Provision of such a proposed capital program plan to the capital program review board pursuant to this provision for informational purposes shall not constitute the submission of a capital program plan for capital program review board approval.

(b) A copy of any proposed capital program plan that has been distributed to one or more committees of the authority shall be simultaneously provided to the public by the metropolitan transportation authority, via its official or shared internet website.

(c) The authority shall publish data pertaining to capital programs of the authority and any amendments to such programs as required by this section on the authority's website in a common, machine readable format, as defined by executive order number ninety-five of two thousand thirteen, "Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement" or any successor order. Such data shall include, but not be limited to:

(i) all data required by paragraph (c) of subdivision one of this section, including estimates of capital budget required by element for an approved capital program and expected sources of such funding for the entire capital program; and

(ii) all data required by subdivision two of this section, including proposed annual commitments for individual capital elements required.

(d) At a minimum, individual capital project data for projects that are committed for construction shall be included in a capital program dashboard maintained by the authority on its website. Any summary views provided on the website shall include the original budgets at the time of project commitment when scope and budget are defined, project scopes, and schedules, in addition to current or amended budgets, project scopes, and schedules. Data pertaining to individual projects shall include, but not be limited to:

(i) the capital project identification number delineated by agency, category, element and project as used in the capital program;

(ii) the capital plan years;

(iii) the agency or authority undertaking the project;

(iv) a project description;

(v) the project location where appropriate;

(vi) the capital needs code of the project, such as state of good repair, normal replacement, system improvement, system expansion or other category;

(vii) budget information including the original budget at the time of project commitment when scope and budget are defined, all amendments, the current budget and planned annual allocations; and

(viii) a schedule for project delivery including original, amended and current start and completion dates as projects develop at each phase.

The status of projects shall be provided and state the current phase

of the project, such as planning, design, construction or completion, and shall state how far the project has progressed as measured in percentage by expenditure. The dashboard shall measure progress based on original budgets at the time of project commitment when scope and budget are defined. At a minimum, all changes to planned budgets of greater than ten percent, significant project scope or a three month or more change in schedule shall be provided in narrative form and describe the reason for each change or amendment. The dashboard shall include a glossary or data dictionary which contains plain language descriptions of the data, including individual project data, and any other information provided on the dashboard. The authority shall provide a definition of resiliency in the glossary or data dictionary. The dashboard shall be updated, at a minimum, on a quarterly basis, and all data fields available on the dashboard shall be made available for download on the authority's website in a single tabular data file in a common, machine readable format. Capital dashboard data shall also be made available on the data.ny.gov website or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

(e) The data required to be published pursuant to this subdivision shall be made in a single tabular data file in a common, machine readable format and shall be accessible on the authority's website and the website data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the New York state office of information technology services under executive order number ninety-five of two thousand thirteen, or any successor agency or order.

(f) The authority shall create and maintain a separate section on its capital program dashboard website for projects related to accessibility or resiliency. Information on this website shall be updated quarterly. For the purposes of this subdivision, "accessibility" shall mean projects regarding elevators, escalators, or other projects related to compliance with the federal Americans with Disabilities Act of 1990, as amended, and corresponding guidelines, and "resiliency" shall have the same meaning as defined by the authority in its twenty-year needs assessment as required by subdivision c of section twelve hundred

sixty-nine-c of this title.

3. A plan may only be approved in two ways: (i) a plan shall only be approved by the board by a unanimous vote of the members entitled to vote thereon and within ninety days or by September fifteenth, nineteen hundred ninety-six in the case of a plan submitted during the period described in paragraph (b) of subdivision one of this section, of the submission of a plan the metropolitan transportation authority capital program review board may notify the authority of its approval of the same; or (ii) if the plan is not approved by the board within such ninety day period or by September fifteenth, nineteen hundred ninety-six, as the case may be, and no individual member of the board who is entitled to vote thereon has notified the authority in writing of his or her disapproval with a written explanation of such disapproval including specific aspects of the plan that are of concern and what steps could be taken to address such concerns within such period, the plan shall be deemed to have been approved. Upon the receipt of a written disapproval, the authority shall be provided an opportunity to respond in writing within ten days of the receipt of such disapproval. Upon the receipt of such response, the disapproving member shall have ten days to reconsider and withdraw such written disapproval.

If the plan is not approved, the authority may thereafter reformulate and resubmit such plan at any time. Within thirty days of the submission of such reformulated plan the board may notify the authority of its approval of the same by the unanimous vote of the members entitled to vote thereon, or, if the reformulated plan is not approved and no individual member of the board who is entitled to vote on such reformulated plan has notified the authority in writing of his or her disapproval within such period, the reformulated plan shall be deemed to have been approved.

4. No general obligation bonds or notes of the authority, no special obligation bonds or notes of the authority to finance a transit project, as such term is defined in section twelve hundred sixty-six-c of this title, and no bonds or notes of the Triborough bridge and tunnel authority to finance a project pursuant to the authorization contained

in paragraph (r) of subdivision nine of section five hundred fifty-three of this chapter shall be issued to finance the costs of a capital element unless such capital element and such source of funding was set forth in a plan submitted to and approved by the metropolitan transportation authority capital program review board.

5. The disapproval of a plan by the metropolitan transportation authority capital program review board shall not affect: (a) the right of the authority, of the Triborough bridge and tunnel authority, or of the New York city transit authority, or of the subsidiaries of any of them to initiate and complete any capital element which will be financed otherwise than through the issuance of the bonds or notes the issuance of which is prohibited under subdivision four of this section; (b) the right of the authority or the Triborough bridge and tunnel authority to issue bonds or notes to finance a capital element which was initiated prior to such disapproval in conformity with a previously approved plan; (c) the right of the New York city transit authority to issue its bonds, notes, lease, sublease or other contractual obligations in payment for a transit project initiated prior to such disapproval in conformity with a previously approved plan; (d) the right of the authority or of the Triborough bridge and tunnel authority to issue bonds or notes to refund or otherwise repay any of its outstanding bonds or notes or to fulfill any of their obligations to the holders of any of their outstanding bonds or notes; or (e) the right of the New York city transit authority to issue its bonds, notes, lease, sublease or other contractual obligations to refund or otherwise repay any of its outstanding bonds or notes or to fulfill any of its obligations to the holders of any of its outstanding bonds or notes.

6. Notwithstanding the provisions of subdivision four of this section, if a source of funding described in an approved plan shall be unavailable or be available in a lesser amount than that set forth in such plan, the authority and the Triborough bridge and tunnel authority may issue bonds or notes as necessary to provide the requisite funding for the capital elements included in the plan to the extent that the aggregate amount of such bonds or notes to be issued in substitution for such unavailable amounts shall not exceed the greater of fifty million

dollars or twenty percent of the total amount described in such plan for either the substitute funding source or the funding source being substituted for, subject to the limitations set forth in subdivision eleven of section five hundred fifty-three-e of this chapter and paragraph (a) of subdivision four of section twelve hundred seven-m of this article.

7. (a) The authority may from time to time submit to the metropolitan transportation authority capital program review board amendments or modifications to any five-year plan theretofore submitted, and shall submit such an amendment or modification (i) if the estimated cost of any capital element for which a specified dollar amount was proposed to be expended exceeds the amount set forth in the approved plan for such element by more than ten percent, (ii) if with respect to a particularly described capital element for which only an estimate of projected cost has been provided in the plan there is a material change in the description of such element from that contained in the approved plan, (iii) if a capital element not previously included in the approved plan is proposed to be undertaken and its cost, together with the cost of other elements included in category (l) of the plan, exceeds by ten percent the amount provided for such category (l) elements, (iv) if the authority shall propose to change by more than one year the time when any capital element is proposed to be initiated or the effect of such change will be to increase the estimated amount of capital funding required in any year covered by the plan by more than twenty percent, or (v) if the availability of funding sources changes to the degree to which the authority or the Triborough bridge and tunnel authority are precluded from exercising the authorization provided in subdivision six of this section and the authority wishes to do so.

(b) An amendment or modification may only be approved in two ways: (i) an amendment or modification shall only be approved by the board by a unanimous vote of the members entitled to vote thereon and within thirty days of the submission of an amendment or modification the metropolitan transportation authority capital program review board may notify the authority of its approval of the same; or (ii) if the amendment or modification is not approved by the board within such thirty day period and no individual member of the board who is entitled to vote thereon,

has notified the authority in writing of his disapproval within such period, the amendment or modification shall be deemed to have been approved.

8. In formulating its capital program plans, the authority shall give consideration to the physical condition and urgency of need of each of the several transportation and transit systems involved, to the needs of all of the communities and areas serviced by these systems, to the extent to which other capital aid or assistance may be available to each of these systems, and to the safety, comfort and convenience of its passengers. In determining the source or method of funding which the authority is to use to finance the cost of the capital elements included in its capital program plans, the authority shall, insofar as practicable, give consideration, among other things, to (i) the potential impact of each such source or method upon the level of passenger fares, (ii) the relative cost of the several funding alternatives, and (iii) the relative ability of each source or method to provide funding at times and in amounts estimated to be required by the capital program plan. To the extent funding is proposed to be obtained through the issuance and sale of bonds or notes, the authority shall, insofar as practicable and consistent with the matters set forth in (i), (ii) and (iii) above, give preference to the use of funds appropriated or to be appropriated to the authority by virtue of service contracts with the director of the budget entered into pursuant to the provisions of the transportation systems assistance and financing act of 1981 for purposes of paying the annual cost of debt service for such bonds or notes.

9. Prior to the adoption by the authority or the New York city transit authority of its general resolution pursuant to which it is to issue any general or special obligation bonds or notes, not including any series resolution or resolutions, the authority shall submit a copy of such resolution to the metropolitan transportation authority capital program review board. Within fifteen days of such submission, the board may notify the authority of its unanimous approval of the same by the members entitled to vote thereon, or if the resolution is not approved and no individual member of the board who is entitled to vote on such

resolution has notified the authority in writing of his disapproval, the resolution shall be deemed to have been approved. Neither the board nor any member thereof shall disapprove a proposed resolution by reason of any covenant requiring the authority, the New York city transit authority or their subsidiaries to charge and fix fares, fees and rentals sufficient to pay its operating expenses and the debt service, including the funding of requisite reserves, on the bonds and notes authorized by such resolution. If the board or any member thereof entitled to vote thereon shall disapprove a proposed resolution, the authority may, at any time, resubmit a reformulated resolution. Within ten days of the submission of such reformulated resolution the board may notify the authority of its unanimous approval of the same by the members entitled to vote thereon, or, if the reformulated resolution is not approved and no individual member of the board who is entitled to vote thereon has notified the authority in writing of his disapproval within such period, the reformulated resolution shall have been deemed to have been approved. Any individual member of the board who votes against a resolution or a reformulated resolution or who notifies the authority of his disapproval shall state his reasons therefor. The member appointed on the recommendation of the mayor of the city of New York shall not participate in the action of the board with respect to any bond resolution of the authority pursuant to which its general obligation bonds or notes may be issued. Neither the authority nor the New York city transit authority shall adopt a bond resolution disapproved by the board as herein provided.

10. In formulating its capital program plans, the authority shall develop criteria to determine how to best prioritize subway stations for accessibility improvements. Such criteria shall include, but not be limited to: citywide geographic coverage; transit transfer options; annual ridership volume; census tract data for senior and disabled populations and percentage of those populations in poverty; residential density of surrounding neighborhoods; and proximity to medical centers, schools, parks, business districts, cultural hubs and senior centers. Such criteria shall be made publicly available.

11. In formulating their capital program plans, the authority and its

affiliates and subsidiaries shall consider bicycle and pedestrian accessibility.