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I N   S E N A T E

March 28, 2012

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Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to establish an energy system tax stabilization reserve fund in the Lowville Central School District to lessen or prevent increases in the school district's real property tax levy

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

- 1     Section 1. Legislative findings. The legislature hereby finds that the  
2 private development and ownership of wind energy systems located within  
3 the Lowville Central School District may result in instability in the  
4 real property tax base and the budgets of the district due to the uncer-  
5 tainty with the assessments of such wind energy systems at the time the  
6 payments in lieu of taxes terminate.
- 7     S 2. Definitions. As used in this act:
- 8     (a) "Board of education" or "board" means the board of education of  
9 the Lowville Central School District.
- 10    (b) "Energy system tax stabilization reserve fund" or "fund" means the  
11 energy system tax stabilization reserve fund established pursuant to  
12 this act.
- 13    (c) "Payments in lieu of taxes" or "payments" means payments in lieu  
14 of taxes receivable by the school district pursuant to contracts entered  
15 into in accordance with section 487 of the real property tax law or  
16 subdivision 15 of section 858 of the general municipal law on any wind  
17 energy system located wholly or partially within the Lowville Central  
18 School District.
- 19    (d) "School district" or "district" means the Lowville Central School  
20 District.
- 21    (e) "Wind energy systems" shall be defined as in section 487 of the  
22 real property tax law and shall include the land upon which the system  
23 is located, any equipment used in such generation, and equipment leading  
24 from the system to the interconnection with the transmission system.
- 25    S 3. The board of education, without voter approval, is hereby author-  
26 ized to establish an energy system tax stabilization reserve fund to  
27 lessen or prevent increases in the school district's real property tax

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

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1 levy resulting from decreases in revenue due to changes in the amount of  
2 or termination of payments in lieu of taxes receivable by the school  
3 district. Moneys shall be paid into and withdrawn from the fund, and the  
4 fund shall be administered, as follows:

5 (a) For any school district fiscal year commencing after the effective  
6 date of this act and after the establishment of the energy system tax  
7 stabilization reserve fund, the board of education, without voter  
8 approval, may determine that there shall be paid into the fund all or  
9 any portion of the amount by which the payments in lieu of taxes receiv-  
10 able by the school district for such fiscal year is not required to  
11 prevent an increase in the school tax levy from the immediately preced-  
12 ing fiscal year, provided that no payment into the reserve fund shall  
13 cause the balance of the fund to exceed 100 percent of the budget for  
14 such immediately preceding fiscal year. Such determination may be  
15 amended to reduce the amount paid into the fund in the event that the  
16 district's original proposed budget is not approved by the voters.

17 (b) The board of education, without voter approval, is hereby author-  
18 ized to make a one-time deposit into the energy system tax stabilization  
19 reserve fund in an amount not to exceed the balance over any maximum  
20 allowable balance as required by any other law that accrued prior to the  
21 establishment of the energy system tax stabilization reserve fund as a  
22 result of the receipt of any payment in lieu of taxes.

23 (c) Moneys may be withdrawn from the energy system tax stabilization  
24 reserve fund subject to the following limitations:

25 (1) For any fiscal year for which payments in lieu of taxes receivable  
26 by the school district equal or exceed the amount of such payments  
27 received for the immediately preceding fiscal year, no amount shall be  
28 withdrawn from the fund.

29 (2) For any fiscal year for which payments in lieu of taxes receivable  
30 by the school district are less than the amount of such payments  
31 received for the immediately preceding fiscal year, the board of educa-  
32 tion, without voter approval, may authorize a withdrawal from the fund  
33 in an amount not to exceed the amount of the payments received for the  
34 immediately preceding year less the amount of the payments receivable  
35 for the fiscal year for which the budget and tax levy is being deter-  
36 mined.

37 (3) For any fiscal year for which the school district does not antic-  
38 ipate receiving any payments in lieu of taxes, the board of education,  
39 without voter approval, may authorize a withdrawal from the fund in an  
40 amount not to exceed the amount of such payments received for the last  
41 preceding fiscal year for which such payments were received plus the  
42 amount, if any, which the board of education authorized to be withdrawn  
43 from the fund for such last preceding fiscal year.

44 (4) Notwithstanding paragraph one of this subdivision, and in addition  
45 to any withdrawal from the fund authorized pursuant to paragraph two or  
46 three of this subdivision, moneys may be withdrawn from the fund for any  
47 fiscal year in such amount and for such purposes as may be set forth in  
48 a separate proposition submitted by the board of education and approved  
49 by the qualified voters of the school district.

50 (c) Determinations by the board of education to pay money into the  
51 energy system tax stabilization reserve fund, authorizations by the  
52 board to withdraw money from the fund, and decisions by the board to  
53 submit a proposition to the voters authorizing a withdrawal from the  
54 fund shall be made on or before the last date provided by law for the  
55 submission to the state education department of the school district's

1 property tax report card pursuant to subdivision seven of section 1716  
2 of the education law.

3 (d) The moneys in the energy system tax stabilization reserve fund  
4 shall be deposited, invested and accounted for in the manner provided  
5 for in subdivisions two and six of section 3651 and section 3652 of the  
6 education law.

7 S 4. The property tax report card prepared by the school district  
8 pursuant to subdivision seven of section 1716 of the education law shall  
9 contain the following information relating to the energy system tax  
10 stabilization reserve fund: (a) the balance of the fund as of the start  
11 of the current fiscal year, (b) all deposits or withdrawals from the  
12 fund for the current fiscal year, (c) an analysis of the impact of such  
13 withdrawals on the school district's tax levy for the current fiscal  
14 year, (d) proposed deposits and withdrawals for the ensuing fiscal year,  
15 and (e) an analysis of the impact of such proposed deposits and with-  
16 draws on the projected tax levy for the ensuing fiscal year if the  
17 proposed budget is adopted.

18 S 5. When computing the school district's tax levy limit for a school  
19 year pursuant to subdivision three of section 2023-a of the education  
20 law:

21 (a) The payments in lieu of taxes receivable for the prior school year  
22 shall be decreased by any amount paid into the energy system tax  
23 stabilization reserve fund for such prior school year and increased by  
24 any amount withdrawn from the fund for such prior school year.

25 (b) The payments in lieu of taxes receivable in the coming fiscal year  
26 shall be decreased by the amount to be paid into the energy system tax  
27 stabilization reserve fund for such coming fiscal year and increased by  
28 any amount to be withdrawn from the energy system tax stabilization  
29 reserve fund for such coming fiscal year.

30 S 6. Notwithstanding the provisions of subdivision (c) of section  
31 three of this act and section four of this act, if this act shall take  
32 effect later than fourteen days prior to the last date provided by law  
33 for the submission to the state education department of the school  
34 district's property tax report card for the school district's ensuing  
35 fiscal year, then a determination by the board of education to pay money  
36 into the fund for the ensuing fiscal year may be made on or before the  
37 last date provided by law for the levy of taxes for such ensuing fiscal  
38 year. Upon making such determination to pay money into the fund, the  
39 board shall cause to be posted on the school district's website a state-  
40 ment containing the amount of the payment into the fund and the effect  
41 of the payment on the projected tax levy for the ensuing fiscal year.

42 S 7. This act shall take effect immediately.