S T A T E O F N E W Y O R K

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I N S E N A T E

June 18, 2012

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

AN ACT to amend the state finance law, in relation to establishing the repowering and local mitigation fund

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

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

S 92-GG. REPOWERING AND LOCAL MITIGATION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF THE DEPARTMENT OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "REPOWERING AND LOCAL MITIGATION FUND".

2. SUCH FUND SHALL CONSIST OF MONEYS CREDITED OR TRANSFERRED WITHOUT APPROPRIATION THERETO OVER AND ABOVE A BASE LEVEL PURSUANT TO THE STANDARDS CONTROLLING CHAPTER ELEVEN OF TITLE TWENTY-ONE OF THE NEW YORK STATE CODES, RULES AND REGULATIONS.

3. MONEYS OF THE REPOWERING AND LOCAL MITIGATION FUND SHALL BE AVAILABLE, IN ORDER OF PRIORITY, FOR:

(A) THE PARTIAL REIMBURSEMENT, FOR A PERIOD OF NO MORE THAN FOUR CONSECUTIVE TAXING YEARS, AT A RATE OF A MAXIMUM OF EIGHTY PERCENT OF SUCH LOSS IN YEAR ONE, A MAXIMUM OF SIXTY PERCENT OF SUCH LOSS IN YEAR TWO, A MAXIMUM OF FORTY PERCENT IN YEAR THREE, AND A MAXIMUM OF TWENTY PERCENT OF SUCH LOSS IN YEAR FOUR OF EACH ELIGIBLE CONSECUTIVE TAXABLE YEAR, OF A MUNICIPAL GOVERNMENT AS THE RESULT OF A LOSS OF PROPERTY TAX RECEIPTS, INCLUDING, FOR THE PURPOSES OF THIS CLAUSE, PAYMENTS IN LIEU OF TAXES, RESULTING FROM A REDUCTION OF COMPLIANCE ACCOUNTS EMISSIONS TO ZERO PURSUANT TO GUIDELINES IN PART TWO HUNDRED FORTY-TWO OF TITLE SIX OF THE NEW YORK STATE CODES, RULES AND REGULATIONS FOR A TAXPAYER PREVIOUSLY GENERATING COMPLIANCE ACCOUNT EMISSIONS IF SUCH TAXPAYER'S ELECTRIC GENERATING PROPERTY, WITHIN TWO YEARS PRIOR OF SUCH REDUCTION TO ZERO, IS ASSESSED AT LEAST TEN PERCENT OF THE TOTAL ASSESSED VALUE OF TAXABLE PROPERTY FOR SUCH MUNICIPAL GOVERNMENT; PROVIDED FURTHER, THAT NO REIMBURSEMENT SHALL BE MADE IF, IN A MUNICIPAL TAX YEAR, THE AGGREGATE AMOUNT PAID TO A MUNICIPAL GOVERNMENT BY THE OWNER OF AN ELECTRIC

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

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GENERATING FACILITY STATION INCLUDING, BUT NOT LIMITED TO, PAYMENTS IN LIEU OF TAXES AND PROPERTY TAXES, EXCEED THE AGGREGATE AMOUNT PAID TO THAT MUNICIPALITY BY THAT OWNER IN THE YEAR ON OR BEFORE SUCH COMPLIANCE ACCOUNT EMISSIONS REACHED ZERO;

(B) THE PROVISION OF A FISCAL INCENTIVE TO ENCOURAGE THE REPOWERING OF A GENERATING FACILITY PURSUANT TO AN APPLICATION CONSISTENT WITH PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW IF, IN ANY STATE FISCAL YEAR, THE MONEYS AVAILABLE IN THE REPOWERING AND LOCAL MITIGATION FUND EXCEED THE PAYMENTS AUTHORIZED IN PARAGRAPH (A) OF THIS SUBDIVISION.

4. MONEYS IN THE FUND SHALL BE KEPT SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE STATE COMPTROLLER.

5. ALL PAYMENTS OF MONEYS FROM THE FUND SHALL BE MADE ON THE AUDIT AND THE WARRANT OF THE COMPTROLLER.

S 2. This act shall take effect immediately.