

5491--E

2011-2012 Regular Sessions

I N   S E N A T E

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AN ACT to amend the general municipal law and the tax law, in relation to enacting the New York state green economic development zones act

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

1     Section 1. This act shall be known and may be cited as the "New York  
2     state green economic development zones act".

3     S 2. The general municipal law is amended by adding a new article 18-D  
4     to read as follows:

5                                 ARTICLE 18-D  
6                         GREEN ECONOMIC DEVELOPMENT ZONES

7     SECTION 974. SHORT TITLE.

8                 974-A. LEGISLATIVE FINDINGS AND DECLARATION.

9                 974-B. DEFINITIONS.

10                974-C. RESPONSIBILITIES OF THE COMMISSIONER.

11     S 974.     SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS  
12     THE "NEW YORK STATE GREEN ECONOMIC DEVELOPMENT ZONES ACT".

13     S 974-A.   LEGISLATIVE FINDINGS AND DECLARATION.   IT IS HEREBY FOUND  
14     AND DECLARED THAT THERE EXISTS WITHIN THE STATE THE NEED TO STIMULATE  
15     EMPLOYMENT AND MORE EFFICIENT TRANSPORTATION BY UTILIZING THE EMERGING

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

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1 GREEN TECHNOLOGY THAT WILL REDUCE THE OUTPUT OF CARBON IN THE ATMOSPHERE  
2 OF THE STATE, IMPROVE THE STATE'S ENVIRONMENTAL QUALITY OF LIFE AND  
3 GENERAL HEALTH OF THE RESIDENTS. THIS NEED REQUIRES THE STATE GOVERNMENT  
4 TO TARGET AREAS FOR EXTRAORDINARY ECONOMIC DEVELOPMENT PROGRAMS IN ORDER  
5 TO STIMULATE PRIVATE INVESTMENT, PRIVATE BUSINESS DEVELOPMENT AND JOB  
6 CREATION. IT IS THE PUBLIC POLICY OF THE STATE TO OFFER SPECIAL INCEN-  
7 TIVES AND ASSISTANCE THAT WILL PROMOTE THE DEVELOPMENT OF NEW GREEN  
8 BUSINESSES AND THE EXPANSION OF EXISTING BUSINESSES WITHIN PRE-DESIGNAT-  
9 ED AREAS AND TO DO SO WITHOUT ENCOURAGING THE RELOCATION OF BUSINESS  
10 INVESTMENT FROM OTHER AREAS OF THE STATE. IT IS FURTHER FOUND AND  
11 DECLARED THAT IT IS THE PUBLIC POLICY OF THE STATE TO ACHIEVE THESE  
12 GOALS THROUGH THE MUTUAL COOPERATION OF ALL LEVELS OF STATE AND LOCAL  
13 GOVERNMENT AND THE BUSINESS COMMUNITY.

14 S 974-B. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS  
15 SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE  
16 ANOTHER OR DIFFERENT MEANING OR INTENT:

17 (A) "APPLICANT" SHALL MEAN THE COUNTY, CITY, TOWN OR VILLAGE SUBMIT-  
18 TING AN APPLICATION IN THE MANNER AUTHORIZED BY LOCAL LAW FOR DESIG-  
19 NATION OF AN AREA AS A GREEN ECONOMIC DEVELOPMENT ZONE.

20 (B) "ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE THAT IS AUTHORIZED  
21 TO DO BUSINESS IN THIS STATE AND IS INDEPENDENTLY OWNED AND OPERATED AND  
22 FOUND TO COMPLY WITH GREEN ECONOMIC DEVELOPMENT ZONE CRITERIA.

23 (C) "GREEN BUSINESS" SHALL MEAN A BUSINESS THAT PRIMARILY OPERATES IN  
24 ONE OR MORE OF FOUR AREAS: PRODUCTION, SERVICE AND REPAIR, RESEARCH AND  
25 DEVELOPMENT AND THE APPLICATION AND INSTALLATION OF GREEN PRODUCTS AND  
26 SERVICES. A GREEN PRODUCTION COMPANY IS A COMPANY DEALING PRIMARILY WITH  
27 THE MANUFACTURING AND DISTRIBUTION OF ENERGY EFFICIENCY TECHNOLOGIES AND  
28 GREENHOUSE GAS EMISSION REDUCTION TECHNOLOGIES. GREEN PRODUCTION COMPA-  
29 NIES INCLUDE, BUT ARE NOT LIMITED TO, BIO FUEL DEVELOPMENT, SOLAR PANEL  
30 PRODUCTION OR ASSEMBLY, WIND TURBINE PRODUCTION OR ASSEMBLY, CARBON  
31 CAPTURE AND STORAGE MECHANISM, CLEAN FUEL VEHICLES, RENEWABLE ENERGY  
32 DEVELOPMENT, OR ENERGY EFFICIENCY TECHNOLOGIES. GREEN PRODUCTION SHALL  
33 ALSO INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING: (1) GREEN  
34 HOUSE EMISSION REDUCTION TECHNOLOGIES; (2) THE ASSEMBLY OF ESSENTIAL  
35 COMPONENTS FOR A CLEAN-FUELED VEHICLE; OR (3) ENERGY EFFICIENCY TECHNOL-  
36 OGIES; WHERE

37 (A) "GREENHOUSE GAS EMISSION REDUCTION TECHNOLOGIES" SHALL MEAN AND  
38 INCLUDE, BUT NOT BE LIMITED TO: (I) COGENERATION TECHNOLOGIES, WHICH  
39 SHALL MEAN ANY ONE OF THE SEVERAL TECHNOLOGIES WHEREIN WASTE HEAT FROM  
40 ON-SITE ELECTRICAL GENERATION PROCESSES IS RECOVERED TO PROVIDE STEAM OR  
41 HOT WATER TO MEET ON-SITE NEEDS, SUCH AS HEATING AND/OR AIR CONDITIONING  
42 AND WHICH ATTAINS OVERALL SYSTEM EFFICIENCY AS ESTABLISHED BY THE  
43 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, CONSIDERING BOTH THERMAL AND  
44 ELECTRICAL PROCESSES TOGETHER; (II) FURNACE AND BOILER REPLACEMENTS AND  
45 RETROFITS, PROVIDED THAT THE NEW OR RETROFITTED FURNACES AND BOILERS  
46 SHALL NOT AT ANY TIME OPERATE ON DIESEL FUEL WITH SULFUR CONTENT GREATER  
47 THAN 0.05 PERCENT BY WEIGHT; (III) THE PRODUCTION OF CLEAN-FUELED VEHI-  
48 CLES OR THE CONVERSION OF EXISTING VEHICLES TO CLEAN-FUELED VEHICLES;  
49 AND (IV) OTHER MEASURES THAT WILL REDUCE THE DEMAND FOR AND/OR THE  
50 CONSUMPTION OF ENERGY INCLUDING FUELS, AS DETERMINED BY THE DEPARTMENT  
51 OF ENVIRONMENTAL CONSERVATION WITH THE NEW YORK STATE ENERGY RESEARCH  
52 AND DEVELOPMENT AUTHORITY;

53 (B) "CLEAN-FUELED VEHICLE" SHALL MEAN ANY MOTOR VEHICLE AS DEFINED IN  
54 SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT  
55 USES ELECTRICITY, INCLUDING ELECTRICITY EITHER STORED OR GENERATED

ON-BOARD, AS ITS PRIMARY MOTIVE FORCE, OR THAT IS FUELED BY NATURAL GAS, PROPANE, HYDROGEN OR ANY OTHER NON-CARBON PRODUCING FUEL;

(C) "ENERGY EFFICIENCY TECHNOLOGIES" SHALL MEAN TECHNOLOGIES THAT REDUCE THE CONSUMPTION OF ELECTRICITY INCLUDING BUT NOT LIMITED TO: (I) REPLACEMENT OF INEFFICIENT LIGHTING FIXTURES; (II) APPLIANCES AND EQUIPMENT THAT MEET ENERGY EFFICIENCY PERFORMANCE STANDARDS AS IDENTIFIED IN ARTICLE SIXTEEN OF THE ENERGY LAW; AND (III) OTHER SUCH MEASURES THAT WILL REDUCE THE DEMAND FOR AND/OR CONSUMPTION OF ELECTRICITY AS DETERMINED BY THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT AUTHORITY;

(D) "RENEWABLE ENERGY DEVELOPMENT" SHALL MEAN THE PURCHASE AND INSTALLATION OF TECHNOLOGIES DESIGNED TO CONVERT RENEWABLE ENERGY INTO ELECTRICITY OR OTHER END USES, WHERE RENEWABLE ENERGY INCLUDES SOLAR, WIND, TIDAL, FUEL CELL, GEOTHERMAL AND HYDROGEN, BUT DOES NOT INCLUDE COMBUSTION OR PYROLYSIS OF SOLID WASTE AS DEFINED IN SECTION 27-0701 OF THE ENVIRONMENTAL CONSERVATION LAW OR ELECTRICITY GENERATED FROM NUCLEAR POWER PLANTS;

(E) "GREEN SERVICE AND REPAIR" SHALL MEAN ANY COMPANY THAT DEALS PRIMARILY WITH THE PROVISION OF SERVICES TO OTHER COMPANIES OR INDIVIDUALS IN A SUSTAINABLE OR ENERGY EFFICIENT MANNER. GREEN SERVICE AND REPAIR COMPANIES INCLUDE, BUT ARE NOT LIMITED TO, THOSE OFFERING SUCH SERVICES AS GREEN ROOFING, LEED CERTIFICATION AND INSPECTION SERVICES, THE GREEN BUILDING INITIATIVE'S GREEN GLOBES SYSTEM, USE AND SALE OF LOW VOC PAINTS, LOW ENERGY RADIANT FLOORING, WHITE, COATED, OR GREEN ROOF INSTALLATION, RECOVERY AND RECYCLING PROCESSING, REPLACEMENT OF INEFFICIENT TECHNOLOGIES, CLEAN-FUEL VEHICLE SALES AND REPAIR, COGENERATION TECHNOLOGY INSTALLATION AND REPAIR, AND GREEN LEGAL AND FINANCIAL SERVICES;

(F) "GREEN RESEARCH AND DEVELOPMENT" SHALL MEAN ANY ENTITY THAT WORKS PRIMARILY TO DISCOVER NEW KNOWLEDGE ABOUT GREEN PRODUCTS, PROCESSES, AND SERVICES, AND THEN APPLIES THAT KNOWLEDGE TO CREATE NEW AND IMPROVED GREEN PRODUCTS, PROCESSES, AND SERVICES THAT FILL MARKET NEEDS. GREEN RESEARCH AND DEVELOPMENT PROJECTS INCLUDE, BUT ARE NOT LIMITED TO, STUDIES INVOLVING IMPROVEMENTS TO RENEWABLE ENERGY TECHNOLOGY, SUSTAINABLE FARMING OR LANDSCAPING PROCESSES, WATER CONSERVATION TECHNOLOGIES, ENERGY EFFICIENCY TECHNOLOGY IMPROVEMENTS, ALTERNATIVE FUEL DEVELOPMENT, COST-BENEFIT ANALYSES OF SUSTAINABLE PRACTICES, ENERGY RETURN ON INVESTMENT, GREEN EDUCATION OUTREACH, AND URBAN SUSTAINABILITY PRACTICES; AND

(G) "GREEN APPLICATION AND INSTALLATION" IS THE ACT OF A PROPERTY OWNER OR TENANT INSTALLING OR USING A TYPE OF GREEN TECHNOLOGY THAT RESULTS IN GREENHOUSE GAS EMISSION REDUCTION OR ANY OTHER ENERGY EFFICIENCY TECHNOLOGIES AND SHALL ALSO INCLUDE CERTAIN WORK PERFORMED BY NON-MANUFACTURING AND SERVICE COMPANIES AS DEFINED BY THIS SECTION. GREEN APPLICATION AND INSTALLATION INCLUDES, BUT IS NOT LIMITED TO, SOLAR PANEL INSTALLATION, COGENERATION TECHNOLOGY RETROFITTING, GREEN ROOF INSTALLATION, LOW FLOW WATER FIXTURE INSTALLATION, CLEAN-FUEL VEHICLE UTILIZATION, GREENHOUSE GAS EMISSIONS REDUCTION TECHNOLOGY UTILIZATION, ENERGY EFFICIENCY TECHNOLOGY UTILIZATION, AND LEED CERTIFICATION.

(D) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOPMENT.

(E) "GREEN ZONE" SHALL MEAN THE AREA OF STATEN ISLAND DEFINED BY THE FOLLOWING AREA BASED ON THE NEW YORK CITY DEPARTMENT OF CITY PLANNING ZONING MAPS: BEGINNING AT THE INTERSECTION OF THE NORTH SIDE OF THE FOOT OF THE GOETHALS BRIDGES AND THE US PIERHEAD AND BULKHEAD LINE; THENCE RUNNING EASTERLY 3,214.78 FEET ALONG AND PARALLEL TO NORTH SIDE OF THE GOETHALS BRIDGE EXTENSION TO THE CENTERLINE OF WESTERN AVENUE; THENCE RUNNING NORTH 93.71 FEET TO THE CENTER LINE OF GOETHALS ROAD NORTH;

1 THENCE RUNNING EAST 5,909.12 FEET ALONG AND PARALLEL TO THE SOUTH SIDE  
 2 OF GOETHALS ROAD NORTH TO CENTERLINE OF SOUTH AVENUE; THENCE RUNNING  
 3 SOUTH 433.81 FEET ALONG AND PARALLEL THE WEST SIDE OF SOUTH AVENUE TO  
 4 THE CENTERLINE OF FAHEY AVENUE; THENCE RUNNING EAST 424.89 FEET ALONG  
 5 AND PARALLEL TO THE SOUTH SIDE OF FAHEY AVENUE TO THE CENTERLINE OF  
 6 FELTON STREET; THENCE RUNNING SOUTH 1,314.02 FEET ALONG AND PARALLEL THE  
 7 WEST SIDE OF FELTON STREET TO THE CENTERLINE OF LAMBERTS LANE; THENCE  
 8 RUNNING SOUTH 790.62 ALONG THE FELTON STREET LINE TO THE INTERSECTION OF  
 9 GRAHAM AVENUE AND LANDER AVENUE; THENCE RUNNING SOUTH 3,413.10 FEET  
 10 ALONG AND PARALLEL TO THE WEST SIDE OF GRAHAM AVENUE TO THE CENTERLINE  
 11 OF VICTORY BOULEVARD; THENCE RUNNING SOUTHEAST 3,114.21 ALONG THE WEST  
 12 SIDE OF VICTORY BOULEVARD TO THE CENTERLINE OF TRAVIS AVENUE; THENCE  
 13 RUNNING EAST 5,030.20 FEET ALONG AND PARALLEL THE SOUTH SIDE OF TRAVIS  
 14 AVENUE TO THE CENTERLINE OF RICHMOND AVENUE; THENCE RUNNING SOUTH  
 15 12,265.02 ALONG AND PARALLEL TO THE WEST SIDE OF RICHMOND AVENUE TO THE  
 16 CENTERLINE OF ARTHUR KILL ROAD; THENCE RUNNING WEST 23,752.19 FEET ALONG  
 17 AND PARALLEL THE NORTH SIDE OF ARTHUR KILL ROAD TO THE CENTERLINE OF  
 18 ELLIS ROAD; THENCE RUNNING NORTH 3,571 FEET ALONG THE LINE OF ELLIS ROAD  
 19 TO THE POINT OF THE US PIERHEAD AND BULKHEAD LINE; THENCE RUNNING NORTH  
 20 47,725.83 FEET ALONG AND PARALLEL TO THE EAST SIDE OF THE US PIERHEAD  
 21 AND BULKHEAD LINE TO THE POINT AND PLACE OF THE BEGINNING.

22 S 974-C. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

23 (A) PROMULGATE REGULATIONS, IN CONSULTATION WITH THE COMMISSIONER OF  
 24 LABOR, FOR PROGRAM EVALUATION AND COORDINATE IMPLEMENTATION OF AN EVALU-  
 25 ATION SYSTEM, WHICH IS CAPABLE OF COMPILING AND ANALYZING ACCURATE AND  
 26 CONSISTENT INFORMATION NECESSARY FOR AN ASSESSMENT OF WHETHER STATUTORY  
 27 OBJECTIVES AND CRITERIA ARE BEING MET;

28 (B) DESIGNATE BUSINESSES AS MEETING THE CRITERIA OF A GREEN BUSINESS;  
 29 AND

30 (C) REVIEW PERFORMANCE OBJECTIVES AND PROGRESS IN MEETING OBJECTIVES.

31 S 3. Section 210 of the tax law is amended by adding a new subdivision  
 32 45 to read as follows:

33 45. GREEN ZONE TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A  
 34 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS CHAP-  
 35 TER. SUCH CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, SHALL BE  
 36 ALLOWED FOR A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE, OR A SOLE  
 37 PROPRIETOR OF A QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE OR A MEMBER  
 38 OF A PARTNERSHIP WHICH IS A QUALIFIED GREEN BUSINESS WITHIN A GREEN  
 39 ZONE.

40 (B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS  
 41 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE  
 42 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND  
 43 INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN  
 44 ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF  
 45 THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER  
 46 IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

47 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
 48 of the tax law is amended by adding a new clause (xxxiv) to read as  
 49 follows:

50 (XXXIV) GREEN ZONE TAX REDUCTION	AMOUNT OF CREDIT UNDER
51 CREDIT UNDER SUBSECTION	SUBDIVISION FORTY-FIVE OF
52 (UU)	SECTION TWO HUNDRED TEN

53 S 5. Section 606 of the tax law is amended by adding a new subsection  
 54 (uu) to read as follows:

55 (UU) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED  
 56 A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX

1 IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSI-  
2 NESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN  
3 BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A  
4 QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

5 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS  
6 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE  
7 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND  
8 INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN  
9 ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF  
10 THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER  
11 IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

12 S 6. Section 1456 of the tax law is amended by adding a new subsection  
13 (z) to read as follows:

14 (Z) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A  
15 CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED  
16 BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSINESS WITHIN  
17 A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN BUSINESS WITHIN  
18 A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A QUALIFIED GREEN  
19 BUSINESS WITHIN A GREEN ZONE.

20 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS  
21 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE  
22 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND  
23 INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN  
24 ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF  
25 THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER  
26 IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

27 S 7. Section 1511 of the tax law is amended by adding a new subdivi-  
28 sion (cc) to read as follows:

29 (CC) GREEN ZONE TAX REDUCTION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED  
30 A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX  
31 IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS A QUALIFIED GREEN BUSI-  
32 NESS WITHIN A GREEN ZONE, OR A SOLE PROPRIETOR OF A QUALIFIED GREEN  
33 BUSINESS WITHIN A GREEN ZONE OR A MEMBER OF A PARTNERSHIP WHICH IS A  
34 QUALIFIED GREEN BUSINESS WITHIN A GREEN ZONE.

35 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT FOR TAXABLE YEARS  
36 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, SHALL BE  
37 COMPUTED AT THIRTY PERCENT FOR EACH DOLLAR OF THE TOTAL BUSINESS AND  
38 INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE GREEN  
39 ZONE, AS SUCH TERM IS DEFINED IN SECTION NINE HUNDRED SEVENTY-FOUR-B OF  
40 THE GENERAL MUNICIPAL LAW. THIS CREDIT MAY ONLY BE TAKEN BY THE TAXPAYER  
41 IN ONE TAX YEAR AND ONCE USED MAY NOT BE USED AGAIN.

42 S 8. This act shall take effect immediately.