

# HOUSE . . . . . No. 3450

By Mr. Feeney of Boston, petition of Michael Paul Feeney relative to tax incentives for industrial air pollution control. Taxation.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Two.

### AN ACT RELATIVE TO TAX INCENTIVES FOR INDUSTRIAL AIR POLLUTION CONTROL.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 5 of chapter 59 of the General Laws is  
2 hereby amended by striking out clause Thirty-ninth.

1 SECTION 2. Said section 5 of said chapter 59 is hereby  
2 further amended by striking out clause Forty-fourth, inserted  
3 by section 2 of chapter 700 of the acts of 1966, and inserting  
4 in place thereof the following clause: —

5 *Forty-fourth.* Any structure, building, device, appliance,  
6 machinery, equipment or other property, whether consisting of  
7 real or tangible personal property, or a combination of both,  
8 which is constructed, installed or placed in operation, in whole  
9 or in part, for the purpose of eliminating industrial waste or  
10 reducing such waste to a level of toxicity that is not injurious  
11 to fish, fowl, animal life or aquatic vegetation and thereby  
12 abating or preventing the pollution of the waters of the com-  
13 monwealth or for the purpose of abating, preventing or  
14 eliminating industrial pollution of the atmosphere of the com-  
15 monwealth. This exemption shall apply to facilities for the  
16 treatment, neutralization or stabilization of industrial waste or  
17 industrial air pollution from a point immediately preceding the  
18 point of such treatment, neutralization or stabilization to the  
19 point of disposal, including the necessary pumping and trans-  
20 mitting facilities, but excluding such facilities installed for the  
21 primary purpose of salvaging materials which are usable in the

22 manufacturing process or are marketable. The term “industrial  
23 waste” and the term “industrial air pollution”, as used in this  
24 section, shall mean any liquid, gaseous, solid or waste sub-  
25 stance, or a combination thereof, resulting from any process of  
26 industry, manufacture, trade or business or from the develop-  
27 ment or recovery of any natural resources, which may cause  
28 or might reasonably be expected to cause pollution of the  
29 waters or the atmosphere of the commonwealth.

30 If any such structure, building, device, appliance, machinery,  
31 equipment or other property is used solely and in its entirety  
32 for the elimination or control of water or air pollution, the  
33 exemption granted hereunder shall be total; if, however, only a  
34 portion of such structure, building, device, appliance, machin-  
35 ery, equipment or other property is used for the elimination or  
36 control of water or air pollution, the exemption shall be  
37 prorated as follows: for structures and buildings, the ratio  
38 which the area or volume, as applicable, thereof used solely for  
39 pollution control bears to the entire area or volume; for de-  
40 vices, appliances, machinery, equipment or other property, the  
41 ratio which the operating time devoted solely to pollution  
42 control bears to the total operating time.

43 No exemption shall be granted under this clause unless the  
44 director of the division of water pollution control in the  
45 department of natural resources or the director of the air  
46 pollution control agency in the commonwealth, as the case  
47 may be, certifies to the assessors of the city or town involved  
48 that such structure, building, device, appliance, machinery,  
49 equipment or other property is effective in eliminating or  
50 reducing pollution to an acceptable level.

1 SECTION 3. Chapter 63 of the General Laws is hereby  
2 amended by striking out section 38D, as amended by chapter  
3 659 of the acts of 1967, and inserting in place thereof the  
4 following section: —

5 *Section 38D. (a)* In determining the net income subject to  
6 tax under this chapter a domestic or foreign business corpora-  
7 tion, at its election, may deduct the expenditures paid or  
8 incurred during the taxable year for the construction, recon-  
9 struction, erection or improvement of industrial waste treat-

10 ment facilities or industrial air pollution control facilities. The  
11 term "industrial waste treatment facilities" and the term "  
12 "industrial air pollution control facilities" shall mean facilities  
13 for the treatment, neutralization or stabilization of industrial  
14 waste or industrial air pollution from a point immediately  
15 preceding the point of such treatment, neutralization or stabili-  
16 zation to the point of disposal, including the necessary pump-  
17 ing and transmitting facilities, but excluding such facilities  
18 installed for the primary purpose of salvaging materials which  
19 are usable in the manufacturing process or are marketable. The  
20 term "industrial waste" and the term "industrial air pollution"  
21 shall mean any liquid, gaseous, solid or waste substance, or a  
22 combination thereof, resulting from any process of industry,  
23 manufacture, trade or business or from the development or  
24 recovery of any natural resources, which may cause or might  
25 reasonably be expected to cause pollution of the waters or the  
26 atmosphere of the commonwealth.

27 (b) Such deduction shall be allowed only —

28 (1) with respect to tangible property which is depreciable,  
29 pursuant to section one hundred and sixty-seven of the Federal  
30 Internal Revenue Code, having a situs in the commonwealth  
31 and used in the corporation's trade or business, the construc-  
32 tion, reconstruction, erection or improvement of which with  
33 respect to industrial waste treatment facilities was initiated on  
34 or after January first, nineteen hundred and sixty-six, and only  
35 for expenditures paid or incurred prior to January first, nine-  
36 teen hundred and seventy-four, and with respect to industrial  
37 air pollution control facilities was initiated on or after January  
38 first, nineteen hundred and seventy-two, and only for expendi-  
39 tures paid or incurred prior to January first, nineteen hundred  
40 and eighty, and

41 (2) on condition that such facilities with respect to indus-  
42 trial waste treatment facilities have been certified by the direct-  
43 or of the division of water pollution control in the department  
44 of natural resources as complying with applicable provisions of  
45 the water pollution control law and regulations, permits or  
46 orders issued by him pursuant to law, and with respect to  
47 industrial air pollution control facilities have been certified by  
48 the director of the air pollution control agency in the common-

49 wealth as complying with applicable provisions of the air pollu-  
50 tion control law and regulations, permits or orders issued by  
51 him pursuant to law, and

52 (3) on condition that the net income for the taxable year  
53 and all succeeding taxable years be computed without any  
54 deduction for such expenditures or for depreciation of the  
55 property other than the deductions allowed by this section,  
56 except to the extent that the cost or other basis of the  
57 property may be attributable to factors other than such ex-  
58 penditures, or in the case a deduction is allowable pursuant to  
59 this section for only a part of such expenditures, on condition  
60 that any deduction allowed under the Federal Internal Re-  
61 venue Code for such expenditures or for depreciation of the  
62 same property be proportionately reduced in computing net  
63 income for the taxable year and all succeeding taxable years.

64 (c) If expenditures with respect to an industrial waste treat-  
65 ment facility or an industrial air pollution treatment facility  
66 have been deducted as provided herein and if within ten years  
67 from the end of the taxable year in which such deduction was  
68 allowed such property or any part thereof is used for the  
69 primary purpose of salvaging materials which are usable in the  
70 manufacturing process or are marketable, the corporation shall  
71 report such change of use in its return for the first taxable year  
72 during which it occur, and the commissioner may recompute  
73 the tax for the year or years for which such deduction was  
74 allowed and may assess any additional tax resulting from such  
75 recomputation within the period of assessment applicable to  
76 such return.

77 If a deduction is allowed as herein provided for expenditures  
78 paid or incurred during any taxable year on the basis of a  
79 temporary certificate of compliance and if the corporation fails  
80 to obtain a permanent certificate of compliance upon comple-  
81 tion of the facilities with respect to which such temporary  
82 certificate was issued, the corporation shall report such failure  
83 in its return for the taxable year during which such facilities  
84 are completed, and the commissioner may recompute the tax  
85 for the year or years for which such deduction was allowed  
86 and may assess any additional tax resulting from such recompu-

87 tation within the period of assessment applicable to such  
88 return.

89 (d) In any taxable year when property is sold or otherwise  
90 disposed of, with respect to which a deduction has been al-  
91 lowed pursuant to this section, such deduction shall be disre-  
92 garded in computing gain or loss, and the gain or loss on the  
93 sale or other disposition of such property shall be the gain or  
94 loss resulting if the deduction provided by this section had not  
95 been elected and the cost or other basis of the property had  
96 been reduced by straight-line depreciation based on the useful  
97 life of the property; provided, however, that if such sale or  
98 other disposition of such property occurs within three years of  
99 the date such property is placed in service the basis shall be  
100 zero.

101 (e) An industrial waste treatment facility or an industrial air  
102 pollution treatment facility which qualifies for the deduction  
103 provided for by this section shall not be subject to taxation  
104 under the tangible property measure of the excise imposed by  
105 clause (1)(i) of subsection(a) of section thirty-two or clause  
106 (1)(i) of subsection (a) of section thirty-nine.

1 SECTION 4. Sections one and two of this act shall apply to  
2 taxes levied for the year nineteen hundred and seventy-two and  
3 thereafter. Section three shall apply to years ending on and after  
4 December thirty-one, nineteen hundred and seventy-two

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By the Committee on Education, and the Committee on the District of Columbia, in response to a resolution of the House of Representatives, passed July 2, 1908, relating to the report of the Commissioner of Education for the year 1907.

REPORT OF THE COMMISSIONER OF EDUCATION FOR THE YEAR 1907

As the Commissioner of Education for the year 1907, I have the honor to submit to you the following report, which is the result of my study and investigation during the year.

In the course of my study and investigation, I have been particularly interested in the progress of the various branches of education, and in the condition of the schools and of the teachers.

- 1. The progress of the various branches of education.
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Very respectfully,  
J. W. BRADLEY,  
Commissioner of Education.

Approved by the Senate of the District of Columbia, July 2, 1908.

