

By Mr. Cohen of Andover, petition of Gerald M. Cohen for legislation to amend the tax laws and for encouraging the development of new programs for the advancement of educational opportunities within the Commonwealth. Taxation.

The Commonwealth of Massachusetts

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

AN ACT AMENDING THE TAX LAWS OF THE COMMONWEALTH AND ENCOURAGING THE DEVELOPMENT OF NEW PROGRAMS FOR THE ADVANCEMENT OF EDUCATIONAL OPPORTUNITIES WITH IN THE COMMONWEALTH.

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

1 Chapter 63 of the General Laws is hereby amended by adding
2 after Section 31C the following new section: —

3 *Section 31D.* (a) In determining the excise due under this chap-
4 ter a domestic or foreign corporation classified as a manufacturing
5 or research and development corporation by the Commissioner of
6 Revenue shall be allowed a credit for all allowable expenditures
7 paid or incurred during the taxable year for the purpose of devel-
8 oping or maintaining a qualified educational program.

9 (b) Such credit shall not be in addition to any other exemption,
10 credit, deduction or depreciation related to such expenditures ex-
11 cept as provided for in the Federal Internal Revenue Code, as
12 amended and in effect for the taxable year.

13 (c) The deduction allowed under this section for any taxable
14 year shall not reduce the net income of the corporation below zero.

15 (d) As used in this section the following words and phrases shall
16 have the following meanings: —

17 (1) 'allowable expenditures' shall be limited to whatever is the
18 lower of the actual cost or the fair market value associated with: —

19 (i) the gift of property including land, buildings, equipment,
20 software and similar items for direct instructional use by an institu-

21 tion, training center or other establishment which conducts a
22 qualified educational program;

23 (ii) the provision at corporate expense of employees, consul-
24 tants or other independent contractors as program directors, ad-
25 ministrators, instructors or aides in a qualified educational pro-
26 gram; and

27 (iii) the provision of scholarships or other direct financial aid to
28 encourage the enrollment and participation of individuals in a
29 qualified educational program, provided that

30 (iv) any expenditures by an employer for which he is entitled to
31 a reimbursement equal to 75% or more of the expenditure through
32 any other provision of law shall not be entitled to a credit under this
33 section; and provided further that

34 (v) expenditures for tuition subsidies or aid shall not be entitled
35 to a credit under this section unless the tuition charges are for
36 participation in a qualified educational program.

37 (2) 'qualified educational program' shall mean a program for
38 learning or training located in Massachusetts and designed to teach
39 enrollees a specific and readily marketable skill related to a certified
40 skills shortage occupation in the Commonwealth, which program
41 is certified as a qualified educational program by the Board of
42 Higher Education, provided that

43 (i) in-company and on-the-job training programs normally con-
44 ducted by donor corporations shall not be eligible for certification
45 under this section.

46 (3) 'skills shortage occupation' shall mean an occupation which
47 has been certified by the Secretary of Economic Affairs in accord-
48 ance with accepted standards of professional labor market analysis
49 to be in compliance with the following conditions: —

50 (i) the demand for the occupation by employers located within
51 the Commonwealth is currently in substantial excess of the supply
52 of skilled or qualified persons available;

53 (ii) the need for the occupation is year-round and can reason-
54 ably be expected to continue for at least four years; and

55 (iii) the average hourly wages paid to employees in the occupation
56 in the Commonwealth are in reasonable accordance with the na-
57 tional average hourly rates paid to the members of this occupation,
58 or exceed one hundred and fifty percent of the minimum hourly
59 wage, whichever is greater.

60 (e) Before certifying a qualified educational program, the Board
61 of Higher Education shall determine that the program:

62 (i) is likely to lead to employment in a skills shortage occupation
63 as certified by the Secretary of Economic Affairs;

64 (ii) meets all applicable educational and occupational standards
65 and requirements; and

66 (iii) will be funded by expenditures from corporations which
67 meet all applicable equal opportunity and affirmative action re-
68 quirements.

69 (f) The Board of Higher Education shall certify qualified educa-
70 tional programs for a period not to exceed two years. The Board
71 may re-certify a program for additional periods, each not to
72 exceed two years, provided that before re-certification it shall
73 determine that all the requirements and conditions of this section
74 are met.

75 (g) In exercising its authority to promulgate rules and regula-
76 tions for the certifications of qualified educational programs the
77 Board of Higher Education shall consult with the Commissioner of
78 Education, the Secretary of Economic Affairs, the State Employ-
79 ment and Training Council and the Commissioner of Revenue.

80 (h) The Board of Higher Education shall issue a complete and
81 detailed annual report which lists all qualified educational pro-
82 grams certified in the preceding year, describes the nature of the
83 training provided, and indicates the number, age, race and sex of
84 the individuals trained, the placements obtained in each skills
85 shortage occupation, all allowable expenditures made by the don-
86 or corporations, and the revenue cost to the Commonwealth. The
87 personal identities of individuals participating in qualified educa-
88 tional programs shall be kept confidential in the annual report.
89 This report shall be submitted within ninety days after the end of
90 the preceding fiscal year to the Clerk of the House of Representa-
91 tives, the Clerk of the Senate, and the Governor.

92 (i) The Secretary of Economic Affairs shall certify skills short-
93 age occupations for a period not to exceed two years. The Secre-
94 tary may re-certify an occupation for additional periods, each not
95 to exceed two years, provided that before re-certification he shall
96 determine that all the requirements and conditions of this section
97 are met.

98 (j) The Secretary of Economic Affairs shall issue a complete and

99 detailed annual list of all skills shortage occupations certified in the
100 preceding year and a detailed description of the methodologies used
101 to make the certifications. This list and description shall be sub-
102 mitted within ninety days after the end of the preceding fiscal year
103 to the Clerk of the House of Representative, the Clerk of the
104 Senate, and the Governor.

105 (k) Any corporation entitled to a credit under this section for
106 any taxable year, the amount of which exceeds his total tax due for
107 the taxable year, may carry over the excess amount, as reduced
108 from year to year, and apply it to its tax liability for any one or
109 more of the next succeeding three taxable years.

110 (l) The credit allowed under this section shall be for the three
111 taxable years beginning on or after July first, nineteen hundred and
112 eighty and ending on or before June thirtieth, nineteen hundred
113 and eighty-four, provided, however, that any allowable carryover
114 may be used for the taxable years ending on or before June
115 thirtieth, nineteen hundred and eighty-seven.