

**SENATE . . . . . No. 1525**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Michael O. Moore***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing tax credits for hospitals providing charitable care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Leah Cole</i>	<i>12th Essex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>

**SENATE . . . . . No. 1525**

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By Mr. Moore, a petition (accompanied by bill, Senate, No. 1525) of Michael O. Moore, Leah Cole, Chris Walsh, Brian M. Ashe and others for legislation to provide tax credits for hospitals providing charitable care. Revenue.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1376 OF 2013-2014.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act providing tax credits for hospitals providing charitable care.

*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 6 of chapter 62 of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by inserting after subsection (r) the following subsection:

3           (s)(1) For tax years ending on or after December 31, 2016, a taxpayer subject to tax under  
4 this chapter that is the owner of a hospital licensed under section 51 of chapter 111 of the  
5 General Laws, but not including a taxpayer that is exempt from federal income taxes under the  
6 Internal Revenue Code, shall be allowed a credit against its tax due under this chapter in an  
7 amount equal to the aggregate cost amount of free or discounted services provided in the  
8 commonwealth by the taxpayer during the tax year pursuant to the hospital's charitable financial  
9 assistance policy, measured at cost.

10           (2) If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to  
11 the partners or shareholders in accordance with the determination of income and distributive  
12 share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code;  
13 provided that credit amounts used by an S corporation against its excise under chapter 63 of the  
14 General Laws are not allowed to reduce the tax on the shareholders imposed under this chapter.

15           (3) Any taxpayer entitled to a credit under this section for any taxable year, may carry  
16 over and apply to its tax for any one or more of the next succeeding five taxable years, the  
17 portion, as reduced from year to year, of its credit which exceeds its tax for the taxable year.

18           (4) The credit under this section shall, at the election of the taxpayer, be refundable to the  
19 extent provided in paragraph (5).

20           (5) At the written election of a taxpayer entitled to a credit under this section, the  
21 commissioner shall apply the credit against the liability of the taxpayer as determined on its  
22 return, as first reduced by any other available credits, and shall then refund to the taxpayer 100%  
23 of the balance of the credits.

24           (6) All or any portion of tax credits issued in accordance with the provisions of this  
25 section may be transferred, sold or assigned to other taxpayers with tax liabilities under this  
26 chapter. Any tax credit that is transferred, sold or assigned and taken against taxes imposed by  
27 this chapter shall not be refundable. Any amount of the tax credit that exceeds the tax due for a  
28 taxable year may be carried forward by the transferee, buyer or assignee to any of the 5  
29 subsequent taxable years from which a certificate is initially issued by the department of  
30 revenue.

31 (7) An owner, transferee or assignee desiring to make a transfer, sale or assignment shall  
32 submit to the commissioner a statement which describes the amount of tax credit for which the  
33 transfer, sale or assignment of tax credit is eligible. The owner, transferee or assignee shall  
34 provide to the commissioner such information as the commissioner may require for the proper  
35 allocation of the credit. The commissioner shall provide to the taxpayer a certificate of eligibility  
36 to transfer, sell or assign the tax credits. The commissioner shall not issue a certificate to a  
37 taxpayer that has an outstanding tax obligation with the commonwealth for any prior taxable  
38 year. A tax credit shall not be transferred, sold or assigned without a certificate.

39 (8) The commissioner of revenue shall promulgate such regulations as are necessary to  
40 implement this section.

41 SECTION 2. Chapter 63 of the General laws is hereby amended by inserting after  
42 section 38FF the following section:

43 Section 38GG (a) For tax years ending on or after December 31, 2016, a corporation  
44 subject to tax under this chapter that is the owner of a hospital licensed under section 51 of  
45 chapter 111 of the General Laws, but not including an organization that is exempt from federal  
46 income taxes under the Internal Revenue Code, shall be allowed a credit against its excise due  
47 under this chapter in an amount equal to the aggregate cost amount of free or discounted services  
48 provided in the commonwealth by the corporation during the tax year pursuant to the hospital's  
49 charitable financial assistance policy, measured at cost.

50 (b) The credit allowed hereunder for any taxable year shall not reduce the excise to less  
51 than \$456.

52 (c) In the case of corporations filing a combined return of income under section thirty-  
53 two B, a member of the combined group with an excess credit may apply its excess credit against  
54 the excise of another group member, to the extent that such other member can use additional the  
55 credit under the limitations of paragraphs (b). Unused, unexpired credit generated by a member  
56 corporation shall be carried over from year to year by the individual corporation that generated  
57 the credit.

58 (d) Any corporation entitled to a credit under this section for any taxable year, may carry  
59 over and apply to its excise for any one or more of the next succeeding five taxable years, the  
60 portion, as reduced from year to year, of its credit which exceeds its excise for the taxable year.

61 (e) The credit under this section shall, at the election of the taxpayer, be refundable to the  
62 extent provided in paragraph (f).

63 (f) At the written election of a taxpayer entitled to a credit under this section, the  
64 commissioner shall apply the credit against the liability of the taxpayer as determined on its  
65 return, as first reduced by any other available credits, and shall then refund to the taxpayer 100%  
66 of the balance of the credits.

67 (g) All or any portion of tax credits issued in accordance with the provisions of this  
68 section may be transferred, sold or assigned to other taxpayers with tax liabilities under this  
69 chapter or chapter 62. Any tax credit that is transferred, sold or assigned and taken against taxes  
70 imposed by this chapter or said chapter 62 shall not be refundable. Any amount of the tax credit  
71 that exceeds the tax due for a taxable year may be carried forward by the transferee, buyer or  
72 assignee to any of the 5 subsequent taxable years from which a certificate is initially issued by  
73 the department of revenue.

74           (h) An owner, transferee or assignee desiring to make a transfer, sale or assignment shall  
75 submit to the commissioner a statement which describes the amount of tax credit for which the  
76 transfer, sale or assignment of tax credit is eligible. The owner, transferee or assignee shall  
77 provide to the commissioner such information as the commissioner may require for the proper  
78 allocation of the credit. The commissioner shall provide to the taxpayer a certificate of eligibility  
79 to transfer, sell or assign the tax credits. The commissioner shall not issue a certificate to a  
80 taxpayer that has an outstanding tax obligation with the commonwealth for any prior taxable  
81 year. A tax credit shall not be transferred, sold or assigned without a certificate.

82           (i) The commissioner of revenue shall promulgate such regulations as are necessary to  
83 implement this section.