

SENATE No. 1525

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

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.

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

The Commonwealth of Massachusetts

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