

**SENATE . . . . . No. 853**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act to Modernize Determination of Need Review for Non-Acute Hospitals.

*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 25B of chapter 111 of the General Laws, as appearing in the 2006  
2 official edition, is hereby amended by striking out the definition “Expenditure minimum with  
3 respect to substantial capital expenditures” and inserting in place thereof the following  
4 definition:

5           "Expenditure minimum with respect to substantial capital expenditures", with respect to  
6 expenditures and acquisitions made by or for: (1) hospitals and comprehensive cancer centers as  
7 defined in section 1 of chapter 118G, only, \$7,500,000, except that expenditures for, or the  
8 acquisition of, major movable equipment not otherwise defined by the department as new  
9 technology or innovative services shall not require a determination of need and shall not be  
10 included in the calculation of the expenditure minimum; and (2) health care facilities, other than  
11 hospitals, and facilities subject to licensing under chapter 111B, with respect to: (a) expenditures  
12 for, or the acquisition of, medical, diagnostic or therapeutic equipment, \$400,000; and (b) all  
13 other expenditures and acquisitions, \$800,000; provided, however, that expenditures for, or the  
14 acquisition of, any replacement of medical, diagnostic or therapeutic equipment defined as new

15 technology or innovative services for which a determination of need has issued or which was  
16 exempt from determination of need, shall not require a determination of need and shall not be  
17 included in the calculation of the expenditure minimum; provided further, that expenditures and  
18 acquisitions concerned solely with outpatient services other than ambulatory surgery, not  
19 otherwise defined as new technology or innovative services by the department, shall not require  
20 a determination of need and shall not be included in the calculation of the expenditure minimum,  
21 unless the expenditures and acquisitions are at least \$25,000,000, in which case a determination  
22 of need shall be required. Notwithstanding the above limitations, hospitals only may elect at their  
23 option to apply for determination of need for expenditures and acquisitions less than the  
24 expenditure minimum.

25           SECTION 2: The Department of Public Health shall implement the provisions  
26 incorporated in Section 1 of this Act no later than 90 days after the effective date of the Act.