

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Moore, Richard (SEN)**

*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 passage of the accompanying bill:

**An Act Financing Health Care Through Moral Obligation Bonds**

PETITION OF:

NAME:

Moore, Richard (SEN)

DISTRICT/ADDRESS:

Worcester and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S02368 OF.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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**AN ACT FINANCING HEALTH CARE THROUGH MORAL OBLIGATION BONDS.**

*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. The Health and Educational Facilities Authority Act, as enacted by  
2 Chapter 614 of the Massachusetts Acts of 1968, as previously amended, is hereby further  
3 amended by inserting the following after sections 2-10(f) thereof:

4           (g) Community Hospital Capital Reserve Fund.

5           (i) For the benefit of nonprofit community hospitals within the commonwealth licensed by  
6 the department of public health, the Authority may create and establish one or more special  
7 funds, herein individually referred to as a Community Hospital Capital Reserve Fund, and to the  
8 extent so created, shall pay into each such Community Hospital Capital Reserve Fund any  
9 monies appropriated and made available by the commonwealth for the purposes of such fund,  
10 any proceeds of sale of notes or bonds to the extent provided in the resolution, trust agreement,  
11 or indenture of the Authority authorizing issuance thereof, any other monies or funds of the

12 Authority that the Authority determines to deposit in the fund and any other monies which may  
13 be available to the Authority only for the purpose of such fund from any other source or sources.  
14 All monies held in the Community Hospital Capital Reserve Fund, except as hereinafter  
15 provided, shall be used solely for the payment of the principal of bonds of the Authority which  
16 are secured by such Community Hospital Capital Reserve Fund as the same mature (which  
17 herein shall include becoming payable by sinking fund installment), the purchase of such bonds,  
18 the payment of interest on such bonds, or the payment of any redemption premium required to be  
19 paid when such bonds are redeemed prior to maturity; provided, however, that, monies in a  
20 Community Hospital Capital Reserve Fund shall not be withdrawn therefrom at any time in such  
21 amount as would reduce the amount of such Fund to less than the maximum amount of principal  
22 and interest maturing and becoming due in any succeeding calendar year on outstanding bonds  
23 which are secured by such Community Hospital Capital Reserve Fund, except for the purpose of  
24 paying the principal of and interest on such bonds maturing and becoming due or for the  
25 retirement of such bonds in accordance with the terms of any contract between the Authority and  
26 its bondholders and for the payment of which other monies pledged to secure such bonds are not  
27 available. Any income or interest earned by, or increment to, a Community Hospital Capital  
28 Reserve Fund due to the investment thereof shall be used by the Authority for the purposes of  
29 such Community Hospital Capital Reserve Fund.

30 (ii) The Authority shall not issue bonds which are secured by a Community Hospital Capital  
31 Reserve Fund at any time if the maximum amount of principal and interest maturing or  
32 becoming due in a succeeding calendar year on such bonds then to be issued and on all other  
33 outstanding bonds of the Authority which are secured by such Community Hospital Capital  
34 Reserve Fund will exceed the amount of such Community Hospital Capital Reserve Fund at the

35 time of issuance unless the Authority, at the time of issuance of such bonds, shall deposit in such  
36 Fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together  
37 with the amount then in such Fund, will be not less than the maximum amount of principal and  
38 interest maturing and becoming due in any succeeding calendar year on such bonds then to be  
39 issued and on all other outstanding bonds of the Authority which are secured by such  
40 Community Hospital Capital Reserve Fund.

41 (iii) To assure the continued operation and solvency of the Authority for the carrying out of  
42 the public purposes of this act, provision is made in paragraph (i) for the accumulation in a  
43 Community Hospital Capital Reserve Fund of an amount equal to the maximum amount of  
44 principal and interest maturing and becoming due in any succeeding calendar year on all  
45 outstanding bonds which are secured by such Community Hospital Capital Reserve Fund. In  
46 order further to assure such maintenance of a Community Hospital Capital Reserve Fund there  
47 shall be annually appropriated and paid to the Authority for deposit in such Community Hospital  
48 Capital Reserve Fund such sum, if any, as shall be certified by the executive director of the  
49 Authority to the governor as necessary to restore such Community Hospital Capital Reserve  
50 Fund to an amount equal to the maximum amount of principal and interest maturing and  
51 becoming due in any succeeding calendar year on the outstanding bonds which are secured by  
52 such Community Hospital Capital Reserve Fund. The executive director of the Authority shall  
53 annually, on or before December first, make and deliver to the governor his certificate stating the  
54 amount, if any, required to restore a Community Hospital Capital Reserve Fund to the amount  
55 aforesaid and the amount so stated, if any, shall be appropriated and paid to the Authority during  
56 the then current fiscal year of the commonwealth.

57 (iv) For the purposes of this subsection (g), in computing the amount of a Community  
58 Hospital Capital Reserve Fund, securities in which all or a portion of such Fund are invested  
59 shall be valued at par, or if purchased at less than par, at their cost to the Authority, unless  
60 otherwise provided in the resolution, trust agreement or indenture authorizing the issuance of  
61 bonds secured by the Fund.

62 (v) For the purposes of this subsection (g), the amount of any letter of credit, insurance  
63 contract, surety bond, or similar financial undertaking available to be drawn upon and applied to  
64 obligations to which money in the Community Hospital Capital Reserve Fund may be applied is  
65 deemed to be and shall be counted as money in said Fund. For the purposes of this subsection  
66 (g), in calculating the maximum amount of interest due in the future on variable rate bonds or  
67 bonds with respect to which the interest rate is not at the time of calculation determinable, the  
68 interest rate shall be calculated at the maximum interest rate on such bonds or such lesser interest  
69 rate as shall be certified by the Authority as an appropriate proxy for such variable or  
70 nondeterminable interest rate.”

71 (vi) Bonds secured by the Community Hospital Capital Reserve Fund shall be issued by  
72 the Authority solely for the benefit of nonprofit community hospitals within the commonwealth  
73 licensed by the department of public health.

74 SECTION 2. The Health and Educational Facilities Authority Act, as enacted by Chapter 614 of  
75 the Massachusetts Acts of 1968, as heretofor amended, is hereby further amended by deleting the  
76 last sentence of Section 2-12 thereof and inserting in its place the following: “Except as  
77 otherwise permitted pursuant to Section 2-10(g) of this act, the issuance of revenue bonds under  
78 the provision of this act shall not directly or indirectly or contingently obligate the

79 commonwealth or any political subdivision thereof to levy or to pledge any form of taxation  
80 whatever therefore or to make any appropriation of their payment."