

1 H.233

2 Introduced by Representative McFaun of Barre Town

3 Referred to Committee on

4 Date:

5 Subject: Health; hospital services; medical malpractice; loan forgiveness;
6 global budget; FQHCs

7 Statement of purpose: This bill would provide access to and coverage for
8 health services provided in hospitals. It would establish a global hospital
9 budget for the state and an individual hospital budget for each hospital in the
10 state and create a Vermont hospital security trust fund from which a negotiated
11 payment would be made to each hospital for health services provided. The bill
12 would create hospital service areas around the state and require the creation of
13 federally qualified health centers (FQHCs) and FQHC look-alike facilities in
14 each region to complement the services of the local hospital. It would extend
15 the duration of the commission on health care reform through July 1, 2016 and
16 direct the commission to monitor the creation of FQHCs and FQHC
17 look-alikes statewide. The bill would require health insurers to disclose to the
18 department of banking, insurance, securities, and health care administration the
19 rates they negotiate with providers and would direct the department to post the
20 information on its website. It would also make medical malpractice claims
21 subject to arbitration, establish a loan repayment program for primary care

1 providers and for health professionals practicing exclusively in Vermont
2 hospitals, and direct the secretary of human services to seek waivers and
3 exemptions from federal law as necessary to implement the Vermont hospital
4 security plan.

5 An act relating to global hospital budgets and health care reform

6 It is hereby enacted by the General Assembly of the State of Vermont:

7 Sec. 1. 33 V.S.A. chapter 19, subchapter 7 is added to read:

8 Subchapter 7. Vermont Hospital Security Plan

9 § 2051. PURPOSE

10 The purpose of this subchapter is to provide all Vermonters access to and
11 coverage for health services provided in hospitals and provide the opportunity
12 to reduce hospital and related administrative costs. The general assembly
13 recognizes that the health care system is in crisis, and that all Vermonters do
14 not have the financial ability to pay for increasing health insurance premiums
15 or for the rising costs of health care. Vermonters need access to hospital care,
16 regardless of ability to pay or insurance coverage. Additionally, the state must
17 seek financial sustainability of the health care system, including reducing
18 health care spending and transaction costs. The general assembly recognizes
19 that health care reform, in addition to Catamount Health, is needed to provide
20 coverage of essential health services to Vermonters.

1 § 2052. DEFINITIONS

2 As used in this subchapter:

3 (1) “Agency” means the agency of human services.

4 (2) “Commissioner” means the commissioner of banking, insurance,
5 securities, and health care administration.

6 (3) “Division” means the division of health care administration of the
7 department of banking, insurance, securities, and health care administration.

8 (4) “Health service” means any medically necessary treatment or
9 procedure to maintain, diagnose, or treat an individual’s physical or mental
10 condition, including services ordered by a health care professional and
11 medically necessary services to assist in activities of daily living.

12 (5) “Hospital” shall have the same meaning as in 18 V.S.A. § 1902 and
13 may include hospitals located out of state.

14 (6) “Secretary” means the secretary of the agency of human services.

15 (7) “Vermont resident” means an individual domiciled in Vermont as
16 evidenced by an intent to maintain a principal dwelling place in Vermont
17 indefinitely and to return to Vermont if temporarily absent, coupled with an act
18 or acts consistent with that intent.

19 § 2053. VERMONT HOSPITAL SECURITY PLAN

20 (a)(1) The agency of human services or designee shall administer the
21 Vermont hospital security plan to provide Vermont residents with access to

1 and coverage for health services received in a hospital and for payments to
2 hospitals for health services provided.

3 (2) Vermonters eligible for Catamount Health or a federally funded
4 health care program shall be eligible for coverage of any benefits provided by
5 the Vermont hospital security plan that are not covered by Catamount Health
6 or the federally funded health care program. For purposes of this subdivision,
7 “federally funded health care program” means Medicare, Medicaid, the
8 Vermont health access plan, Dr. Dynasaur, VPharm, VermontRx, Catamount
9 Health premium assistance, employer-sponsored insurance premium
10 assistance, another Medicaid-waiver program, or any other program covering
11 health benefits using federal funding.

12 (b) The Vermont hospital security plan shall:

13 (1) provide each hospital in the state with a negotiated annual payment
14 based upon the individual budget of the hospital for health services provided
15 by that hospital to all patients, including patients who are not Vermont
16 residents;

17 (2) provide for the collection of payments for health services provided
18 by hospitals in the state to patients who are not residents of the state, which
19 may be by the agency or by a third party administrator under contract with the
20 agency for this purpose; and

1 (3) provide for payments to hospitals not located in the state for health
2 services provided by them to Vermont residents.

3 (c) The agency shall establish by rule income-sensitized deductibles,
4 co-payments, an annual hospital care fee, or other cost-sharing amounts
5 applicable to the Vermont hospital security plan established by this subchapter.

6 (d) A beneficiary aggrieved by an adverse decision of the agency may
7 appeal to the human services board as provided in 3 V.S.A. § 3090.

8 (e) Vermont residents accessing health services at a hospital shall be
9 considered Medicare beneficiaries for purposes of chapter 65 of this title
10 (Medicare balance billing).

11 § 2054. GLOBAL HOSPITAL BUDGETS

12 (a) Annually, the commissioner of banking, insurance, securities, and
13 health care administration, in collaboration with the secretary, shall develop a
14 global hospital budget for the state and individual hospital budgets for each
15 hospital located in Vermont. The commissioner shall consider the portions of
16 the health resource allocation plan under 18 V.S.A. § 9405, the unified health
17 care budget under section 18 V.S.A. § 9406 applicable to hospitals, the
18 hospital budget review under 18 V.S.A. § 9456, the negotiated global hospital
19 payments under section 2055 of this title, and all other revenue received by
20 hospitals in the development of the global hospital budget. The global hospital
21 budget for the state shall be reported annually to the general assembly on or

1 before January 15 for the following fiscal year and shall not be effective until
2 approved or modified by the general assembly.

3 (b) The global hospital budget for the state shall serve as a spending cap
4 within which hospital costs may be controlled, resources directed, and quality
5 and access assured. The global hospital budget shall limit the total annual
6 growth of hospital costs to the Consumer Price Index plus three percent. The
7 commissioner shall ensure that the review of individual hospital budgets under
8 subchapter 7 of chapter 221 of Title 18 or the certificate of need requests under
9 subchapter 5 of chapter 221 of Title 18 are consistent with the global hospital
10 budget.

11 (c) The commissioner shall adopt by rule standards and procedures
12 necessary to implement this section.

13 § 2055. NEGOTIATED GLOBAL HOSPITAL PAYMENTS

14 The secretary shall negotiate with hospitals for a global hospital payment
15 for health services provided by the Vermont hospital security plan. The
16 payment amount shall be based upon the global hospital budget developed
17 under section 2054 of this title and other information necessary to the
18 determination of the appropriate payment, including all other revenue received
19 from other sources. The secretary shall adopt by rule standards and procedures
20 necessary to implement this section.

1 § 2056. VERMONT HOSPITAL SECURITY TRUST FUND

2 (a) The Vermont hospital security trust fund is hereby established as a
3 special fund in the state treasury for the purpose of financing health care
4 services provided by hospitals to beneficiaries of the Vermont hospital security
5 plan.

6 (b) Into the fund shall be deposited:

7 (1) transfers from the general fund, authorized by the general assembly;

8 (2) proceeds from grants, donations, contributions, and taxes and any
9 other sources of revenue as may be provided by statute or by rule;

10 (3) transfers of all federal receipts for health care purposes provided by
11 hospitals, including all Medicaid receipts and all Medicare receipts upon
12 federal approval; and

13 (4) revenue from the sources established to fund the Vermont hospital
14 security plan established under this subchapter.

15 (c) The fund shall be administered by the secretary pursuant to subchapter
16 5 of chapter 7 of Title 32, except that interest earned on the fund and any
17 remaining balance shall be retained in the fund. The secretary shall maintain
18 records indicating the amount of money in the fund at any time.

19 (d) All monies received by or generated to the fund shall be used only for
20 the administration and delivery of health care services provided by hospitals

1 covered through state health care assistance programs administered by the
2 agency, including the Vermont hospital security plan.

3 Sec. 2. 18 V.S.A. § 9437(1) is amended to read:

4 (1) the application is consistent with the health resource allocation plan
5 and, as applicable, the financial parameters set by the global hospital budget
6 established under 33 V.S.A. § 2054;

7 Sec. 3. 18 V.S.A. § 9456(c) is amended to read:

8 (c) Individual hospital budgets established under this section shall:

9 (1) be consistent with the health resource allocation plan;

10 (2) take into consideration national, regional, or instate peer group
11 norms, according to indicators, ratios, and statistics established by the
12 commissioner;

13 (3) promote efficient and economic operation of the hospital;

14 (4) reflect budget performances for prior years; ~~and~~

15 (5) include a finding that the analysis provided in subdivision (b)(9) of
16 this section is a reasonable methodology for reflecting a reduction in net
17 revenues for non-Medicaid payers; and

18 (6) be consistent with the global hospital budget established under
19 33 V.S.A. § 2054.

1 Sec. 4. FUNDING MECHANISM

2 (a)(1) A Vermont hospital security fund special committee is created to
3 recommend to the general assembly the appropriate funding mechanisms for
4 the Vermont hospital security plan.

5 (2) The committee shall consider at a minimum:

6 (A) how to operate the program in the event that Vermont is unable
7 to secure an exemption from the requirement to set up and operate a health
8 benefit exchange pursuant to the Patient Protection and Affordable Care Act of
9 2010, Public Law 111-148, as amended by the Health Care and Education
10 Reconciliation Act of 2010, Public Law 111-152;

11 (B) how to fund the program in the event that a Medicaid waiver is
12 not approved by the Centers for Medicare and Medicaid Services; and

13 (C) a variety of funding sources, including:

14 (i) an income tax;

15 (ii) a payroll tax;

16 (iii) premiums or cost-sharing measures;

17 (iv) a value-added tax;

18 (v) a sales tax; and

19 (vi) an annual hospital care fee or another consumption tax.

20 (b) The Vermont hospital security fund special committee shall consist of
21 the chair of the joint fiscal committee, the chairs of the house and senate

1 committees on appropriations, the chair of the house committee on ways and
2 means, the chair of the senate committee on finance, the chair or co-chairs of
3 the health access oversight committee, the chair of the house committee on
4 health care, the chair of the house committee on human services, the chair of
5 the senate committee on health and welfare, the secretary of the agency of
6 human services, and the commissioner of banking, insurance, securities, and
7 health care administration or their designees. The committee may meet for no
8 more than six meetings or public hearings and shall have such powers as are
9 needed to carry out the purposes of this section. Committee members who are
10 not members of the general assembly or state employees shall be entitled to per
11 diem compensation and expenses as provided in section 32 V.S.A. § 1010.
12 Committee members who are members of the general assembly shall be
13 entitled to compensation and reimbursement for expenses pursuant to section
14 2 V.S.A. § 406.

15 (c) The Vermont hospital security fund special committee shall issue a
16 report with a recommendation on funding the Vermont hospital security plan to
17 the house committees on appropriations, on health care, on human services,
18 and on ways and means and the senate committees on appropriations, on
19 finance, and on health and welfare no later than January 15, 2012.

1 Sec. 5. FEDERAL WAIVERS

2 (a) The secretary of human services shall apply for a federal Medicare
3 waiver no later than September 1, 2011 to allow the state to include Medicare
4 funds for hospital services in the hospital security trust fund established under
5 subchapter 7 of chapter 19 of Title 33 and to modify the payment standards or
6 amounts in order to include Medicare funds in the global hospital budget
7 established under 33 V.S.A. § 2054.

8 (b) The secretary of human services shall apply for a federal Medicaid
9 waiver no later than September 1, 2011 to allow the state to modify the
10 payment standards or amounts in order to include Medicaid funds in the global
11 hospital budget established under 33 V.S.A. § 2054.

12 Sec. 6. FEDERAL EXEMPTION

13 (a) The secretary of human services shall seek an exemption from the
14 requirement to set up and operate a health benefit exchange pursuant to the
15 Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as
16 amended by the Health Care and Education Reconciliation Act of 2010, Public
17 Law 111-152.

18 (b) If by December 31, 2011, the secretary of human services has not been
19 successful in obtaining an exemption from the exchange requirement, the
20 secretary shall seek a limited exemption from such requirement to enable
21 Vermont to:

- 1 (1) exclude hospital services from exchange plans; and
2 (2) receive federal funds to deposit in the Vermont hospital security trust
3 fund in an amount sufficient to pay the estimated cost of providing hospital
4 services for individuals eligible for federal subsidies under the exchange.

5 (c) If the secretary of human services is unable to obtain an exemption
6 from the exchange requirement, he or she shall seek a waiver from the
7 exchange requirement to take effect on the first day that such a waiver is
8 available from the U.S. Department of Health and Human Services.

9 Sec. 7. HOSPITAL SERVICE AREAS; FEDERALLY QUALIFIED

10 HEALTH CENTER (FQHC) LOOK-ALIKES

11 (a) The commissioner of Vermont health access shall divide the state into
12 14 distinct geographic regions based on their adjacency to a Vermont hospital.
13 These regions shall be known as “hospital service areas,” and each city and
14 town in the state shall be assigned to one hospital service area.

15 (b) The commissioner shall designate an employee of the department of
16 Vermont health access to coordinate with each hospital service area to set up
17 new federally qualified health centers (FQHCs) or FQHC look-alike facilities
18 to serve the residents of that region and to complement the services available
19 from existing FQHCs and FQHC look-alikes, if any, and from the local
20 hospital. The commissioner’s designee shall solicit input from stakeholders
21 from within the hospital service area, including:

1 (1) local residents;

2 (2) representatives of the local hospital;

3 (3) health care professionals;

4 (4) members of the community health teams;

5 (5) members of the general assembly representing districts located
6 within the hospital service area; and

7 (6) other interested parties.

8 (c)(1) The commissioner's designee, in consultation with the stakeholders
9 identified in subsection (b) of this section, shall determine:

10 (A) the number of new FQHCs and FQHC look-alikes needed to
11 fully meet the health care needs of the residents of the hospital service area;

12 (B) where best to locate the new FQHCs and FQHC look-alikes in
13 order to fully meet the health care needs of residents across the hospital service
14 area and to ensure that they receive the appropriate care in the appropriate
15 setting at the appropriate time; and

16 (C) how best to conduct publicity and outreach to inform local
17 residents of the availability of services from the FQHCs and FQHC
18 look-alikes.

19 (2) The commissioner's designee shall also solicit input from the
20 director of the Blueprint for Health regarding the location of the new FQHCs

1 and FQHC look-alikes and how best to ensure coordination of their services
2 with the Blueprint, including the role of the community health teams.

3 (d)(1) The commission on health care reform shall be responsible for
4 monitoring implementation of this section.

5 (2) No later than September 15 of each year, beginning in 2011, the
6 commissioner of Vermont health access shall report to the commission on
7 health care reform regarding the status of efforts to create hospital service
8 areas and to establish FQHCs and FQHC look-alikes in each such area.

9 (3) No later than November 15, 2014, the commissioner of Vermont
10 health access shall recommend to the commission on health care reform
11 additional steps for improving health care delivery and cost containment in the
12 hospital service areas.

13 (e) For purposes of carrying out this section, it is the intent of the general
14 assembly to invest \$5,000,000.00 annually over five years, beginning in fiscal
15 year 2012, with the goal of having all new FQHCs and FQHC look-alikes
16 established by the end of the five-year period. In addition, the commissioner
17 of Vermont health access and the commission on health care reform may seek
18 grants or other sources of revenue from public or private entities for the
19 purpose of carrying out the provisions of this section.

1 (f) As used in this section, “FQHC look-alike” means a health center that
2 operates and provides services similarly to an FQHC but does not receive the
3 same federal grant pursuant to section 330 of the Public Health Service Act.

4 Sec. 8. 2 V.S.A. § 902 is amended to read:

5 § 902. DUTIES

6 (a) Beginning in the interim of the 2005 legislative session through July 1,
7 ~~2011~~ 2016, the commission shall:

8 (1) monitor the development, implementation, and ongoing operation of
9 health care reform initiatives as defined in 3 V.S.A. § 2222a and the initiatives
10 contained in No. 191 of the Acts of the 2005 Adj. Sess. (2006);

11 (2) study areas of health care reform as required by the general
12 assembly; ~~and~~

13 (3) receive input and make recommendations, generally, to the house
14 committees on health care and on ways and means, the senate committees on
15 health and welfare and on finance, and the general assembly regarding the
16 long-term development of policies and programs designed to ensure that, by
17 2009, Vermont has an integrated system of care that provides all Vermonters
18 access to affordable, high quality health care that is financed in a fair and
19 equitable manner, including the following:

20 (A) extending universal access to diagnostic or other services to all
21 Vermonters;

1 Sec. 9. 8 V.S.A. chapter 107, subchapter 4A is added to read:

2 Subchapter 4A. Rate Transparency

3 § 4093. PURPOSE

4 The state of Vermont has a compelling interest in promoting cost
5 containment in health care for Vermont residents and enabling them to identify
6 the costs of and charges for health care services across providers.

7 § 4094. RATE TRANSPARENCY

8 (a) As used in this section:

9 (1) "Health care facility" means all persons or institutions, including
10 mobile facilities, whether public or private, proprietary or nonprofit, which
11 offer diagnosis, treatment, inpatient, or ambulatory care to two or more
12 unrelated persons, and the buildings in which those services are offered. The
13 term shall not apply to any institution operated by religious groups relying
14 solely on spiritual means through prayer for healing, but shall include:

15 (A) hospitals, including general hospitals, mental hospitals, chronic
16 disease facilities, birthing centers, maternity hospitals and psychiatric facilities,
17 including any hospital conducted, maintained, or operated by the state of
18 Vermont, or its subdivisions, or a duly authorized agency thereof;

19 (B) nursing homes, health maintenance organizations, home health
20 agencies, outpatient diagnostic or therapy programs, kidney disease treatment
21 centers, mental health agencies or centers, diagnostic imaging facilities,

1 independent diagnostic laboratories, cardiac catheterization laboratories,
2 radiation therapy facilities, or any inpatient or ambulatory surgical, diagnostic,
3 or treatment center.

4 (2) “Health care professional” means an individual, partnership,
5 corporation, facility, or institution licensed or certified or authorized by law to
6 provide professional health care services.

7 (3) “Health insurer” means any insurance company that provides health
8 insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital
9 and medical service corporations, and health maintenance organizations. The
10 term does not apply to coverage for specified disease or other limited benefit
11 coverage.

12 (b) Health insurers doing business in Vermont shall file with the
13 department of banking, insurance, securities, and health care administration
14 annually, on or before September 1, the fee schedules they have negotiated
15 with each health care facility and health care professional under contract with
16 the insurer to provide services to Vermont residents.

17 (c) On or before October 1 of each year, the department of banking,
18 insurance, securities, and health care administration shall update the fee
19 schedules it receives pursuant to subsection (b) of this section and post the
20 updated information on the department’s website to enable consumers to
21 compare the costs of health care services across providers.

1 Sec. 10. Sec. 50 of No. 160 of the Acts of the 1991 Adj. Sess. (1992) is
2 amended to read:

3 Sec. 50. EFFECTIVE DATE

4 Secs. 46, 47, 48, and 49, amending chapter 215 of Title 12 to provide for
5 mandatory arbitration in medical malpractice cases and admission of practice
6 guidelines, shall take effect on ~~the effective date of a universal access health~~
7 ~~care system enacted by the general assembly~~ July 1, 2011.

8 Sec. 11. 18 V.S.A. § 10b is added to read:

9 § 10b. PRIMARY CARE PROVIDER AND HOSPITALIST LOAN

10 REPAYMENT FUND

11 (a) There is hereby established a special fund to be known as the Vermont
12 primary care provider and hospitalist loan repayment fund which shall be used
13 for the purpose of ensuring a stable and adequate supply of physicians and
14 advanced practice registered nurses who focus their practice on providing
15 primary care services and attending to patients in Vermont's hospitals.

16 (b) The fund shall be established and held separate and apart from any
17 other funds or moneys of the state and shall be used and administered
18 exclusively for the purpose of this section. The money in the fund shall be
19 invested in the same manner as permitted for investment of funds belonging to
20 the state or held in the treasury. The fund shall consist of the following:

1 (1) Such sums as may be appropriated or transferred thereto from time
2 to time by the general assembly, the state emergency board, or the joint fiscal
3 committee during such times as the general assembly is not in session.

4 (2) Interest earned from the investment of fund balances.

5 (3) Any other money from any other source accepted for the benefit of
6 the fund.

7 (c) The fund shall be administered by the department of health, which shall
8 make funds available to the University of Vermont College of Medicine area
9 health education centers (AHEC) program for loan repayment awards. The
10 commissioner may require certification of compliance with this section prior to
11 the making of an award.

12 (d) AHEC shall administer awards in such a way as to comply with the
13 requirements of Section 108(f) of the Internal Revenue Code.

14 (e) AHEC shall make loan repayment awards in exchange for a service
15 commitment by primary care providers and hospitalists and shall define the
16 service obligation in a contract with the individual recipient. Payment awards
17 shall be made directly to the provider's or hospitalist's educational loan
18 creditor.

19 (f) Loan repayment awards shall only be available for a primary care
20 provider or hospitalist who:

21 (1) is a Vermont resident;

1 (2) works as a primary care provider in a Vermont-based practice or
2 serves in a Vermont hospital;

3 (3) accepts patients with coverage under Medicaid, Medicare, or other
4 state-funded health care benefit programs, if applicable; and

5 (4) has outstanding educational debt acquired in the pursuit of an
6 undergraduate or graduate degree from an accredited college or university that
7 equals or exceeds the amount of the loan repayment award.

8 (g) Additional eligibility and selection criteria will be developed annually
9 by the commissioner in consultation with AHEC and may include local goals
10 for improved service, community needs, or other awarding parameters.

11 (h) The commissioner may adopt regulations in order to implement the
12 program established in this section.

13 (i) As used in this section:

14 (1) “Advanced practice registered nurse” shall have the same meaning
15 as in 26 V.S.A. § 1572(4).

16 (2) “Hospital” means a place devoted primarily to the maintenance and
17 operation of diagnostic and therapeutic facilities for in-patient medical or
18 surgical care of individuals suffering from illness, disease, injury, or deformity
19 or for obstetrics.

20 (3) “Hospitalist” means a physician or advanced practice registered
21 nurse who treats solely hospitalized patients.

1 (4) "Physician" shall have the same meaning as in 26 V.S.A. § 1311(1).

2 (5) "Primary care provider" means a physician or advanced practice
3 registered nurse specifically trained for and skilled in first-contact and
4 continuing care for individuals with signs, symptoms, or health concerns, not
5 limited by problem origin, organ system, or diagnosis.

6 Sec. 12. APPROPRIATION

7 In fiscal year 2013, the sum of \$500,000.00 is appropriated to the
8 department of health from the general fund to be deposited in the Vermont
9 hospitalist loan repayment fund pursuant to 18 V.S.A. § 10b.

10 Sec. 13. EFFECTIVE DATE

11 This act shall take effect upon passage, except that the Vermont hospital
12 security plan shall be implemented no later than January 1, 2013, provided that
13 if the secretary of human services is unable to secure an exemption from the
14 exchange requirement pursuant to Sec. 6(a) of this act by December 31, 2011,
15 the Vermont hospital security plan shall be implemented no later than six
16 months following the first to occur of receipt of an exemption pursuant to
17 Sec. 6(a) or (b) of this act or the effective date of an exchange waiver from the
18 U.S. Department of Health and Human Services pursuant to Sec. 6(c) of this
19 act.