

1 S.181

2 Introduced by Senator Bartlett

3 Referred to Committee on

4 Date:

5 Subject: Health; hospitals; cost containment; global budget; global payment;  
6 insurer assessment

7 Statement of purpose: This bill proposes to contain the costs of hospital  
8 services through providing a global payment for inpatient services and strict  
9 budgets for hospitals.

10 An act relating to cost containment in hospitals

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

12 Sec. 1. 18 V.S.A. chapter 221, subchapter 8 is added to read:

13 Subchapter 8. Hospital Revenue and Budget Approval

14 § 9461. PURPOSE

15 The purpose of this subchapter is to ensure that the growth in health care  
16 spending for and costs of inpatient hospital services are contained to a  
17 sustainable growth rate.

18 § 9462. DEFINITIONS

19 In this subchapter:

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

3           (2) “Department” means the department of banking, insurance,  
4 securities, and health care administration.

5           (3) “Health insurer” shall have the same meaning as “health insurer” in  
6 subdivision 9402.

7           (4) “Hospital” shall have the same meaning as in section 1902 of this  
8 title.

9           § 9463. GLOBAL HOSPITAL BUDGETS

10           (a) For each hospital fiscal year, beginning with hospital fiscal year 2011,  
11 the department shall develop a global hospital budget for each hospital located  
12 in Vermont. When developing the global hospital budget for each hospital, the  
13 department shall consider:

14           (1) whether a hospital service area has limited or excessive hospital  
15 resources and any recommendations in the health resource allocation plan  
16 under section 9405 of this title;

17           (2) the unified health care budget under section 9406 of this title, as  
18 applicable to hospitals;

19           (3) the global hospital payment under section 9464 and 9465 of this title,  
20 including the amount of the hospital’s share of the payment;

1           (4) the portion of the appropriation to the office of Vermont health  
2           access for hospital services provided to individuals enrolled in Medicaid, the  
3           Vermont health access plan, or Dr. Dynasaur, including the amount of the  
4           hospital's share; and

5           (5) estimated revenue projected to be received by hospitals from  
6           services paid for by out-of-state individuals and entities, self-insured  
7           employers, and Medicare.

8           (b) For hospital fiscal year 2011 and thereafter, the global hospital budget  
9           developed under subsection (a) of this section shall serve as a spending cap  
10           within which each hospital's costs are controlled, its resources are directed,  
11           and quality and access are ensured. The department shall ensure that  
12           certificate of need approvals are consistent with the global hospital budgets and  
13           limit the growth in hospital costs as provided for in this section. The  
14           department shall make recommendations in the health resource allocation plan  
15           to ensure that services are available within a reasonable geographic radius.

16           (c)(1) The department shall adopt rules for the implementation of this  
17           subchapter, including specifying the circumstances under which a hospital may  
18           seek amendment of its budget after approval upon a showing of need based  
19           upon exceptional or unforeseen circumstances in accordance with the criteria  
20           and processes established under this section.

1           (2) The department may adopt rules for the development of a voluntary  
2           three-year global hospital budget process to facilitate long-term planning and  
3           to moderate variation in utilization. The rules shall include a process for  
4           annual budget adjustment within the three-year period.

5           (d) A hospital aggrieved by an adverse decision of the department may  
6           appeal to the department.

7           (e) It is the general assembly's intent that hospital cost-containment  
8           conduct is afforded state action immunity under applicable federal and state  
9           antitrust laws, if:

10           (1) the commissioner requires or authorizes the conduct as a condition  
11           of receiving the global hospital payment established by the commissioner  
12           under this section;

13           (2) the conduct is in accordance with standards and procedures  
14           prescribed by the commissioner; and

15           (3) the conduct is actively supervised by the commissioner.

16           § 9464. STATEWIDE GLOBAL HOSPITAL PAYMENT

17           (a) The department shall calculate a statewide global hospital payment for  
18           inpatient hospital services provided by each hospital to Vermont residents with  
19           coverage through Medicaid, the Vermont health access plan, Dr. Dynasaur, or  
20           a health insurer regulated by the department. Each hospital's share of the  
21           global hospital payment shall be based on the global hospital budgets

1 established under section 9463 of this title and other information necessary to  
2 the determination of the appropriate payment, including revenue received from  
3 other sources and the population served by that hospital. The statewide global  
4 hospital payment shall be reflected as a specific line item in the department's  
5 annual budget submitted to the general assembly. Upon request, the  
6 department shall provide the amount of each hospital's share of the global  
7 hospital payment.

8 (b) The department shall determine the types of inpatient hospital services  
9 provided to Vermont residents to be covered by the global hospital payment.

10 (c) The department shall remit each hospital's share of the global hospital  
11 payment to the hospital on an annual basis from the Vermont health trust fund  
12 established in section 9469 of this title.

13 § 9465. INDIVIDUAL GLOBAL PAYMENTS TO OUT-OF-STATE

14 HOSPITALS

15 (a) The department may negotiate an individual global hospital payment  
16 contract with any out-of-state hospital that regularly treats a sufficient volume  
17 of Vermont residents to ensure that Vermont residents may receive inpatient  
18 hospital coverage at these hospitals for the services covered by the global  
19 hospital payment. The department may also contract with out-of-state  
20 hospitals for the provision of specialized inpatient hospital services that are not  
21 available locally to Vermonters.

1        (b) The department shall pay the amount charged for a covered, medically  
2        necessary inpatient hospital service for which the individual received a referral  
3        or for an emergency health service received in an out-of-state hospital with  
4        which the department has not established an individual global payment  
5        contract. The department shall develop a reference pricing system for  
6        nonemergency inpatient hospital services which are received in an out-of-state  
7        hospital with which the department has not contracted.

8        (c) Payments under this section shall be made from the Vermont health  
9        trust fund established in section 9469 of this title.

10       § 9466. HOSPITAL DUTIES

11       Hospitals shall file the following information at the time and place and in  
12       the manner established by the commissioner:

13           (1) financial information, including costs of operation, revenues, assets,  
14           liabilities, fund balances, other income, rates, charges, units of services, and  
15           wage and salary data;

16           (2) scope-of-service and volume-of-service information, including  
17           inpatient services, outpatient services, and ancillary services by type of service  
18           provided;

19           (3) utilization information;

20           (4) new hospital services and programs proposed for the forthcoming  
21           fiscal year, an explanation of the necessity of each such service or program.

1 and details on how each such service or program may be funded within limited  
2 spending growth;

3 (5) known depreciation schedules on existing buildings, a four-year  
4 capital expenditure projection, and a one-year capital expenditure plan; and

5 (6) such other information as the commissioner may require.

6 § 9467. HOSPITAL INPATIENT SERVICES FEE

7 (a)(1) Beginning August 1, 2010, and annually thereafter, each health  
8 insurer shall pay a fee into the Vermont health trust fund established in section  
9 9469 of this title in the amount of the insurer's per capita share of the global  
10 hospital payments established in sections 9464 and 9465 of this title. The  
11 annual fee shall be paid in quarterly installments on October 1, January 1,  
12 March 1, and July 1.

13 (2) On or before September 1, 2010, and annually thereafter, the  
14 commissioner shall publish a list of health insurers subject to the fee imposed  
15 by this section, including the amounts owed.

16 (b) The commissioner may adopt rules and issue orders as are necessary to  
17 carry out the purposes of this section, including those related to administration  
18 of the Vermont health trust fund and collection of the fee established in  
19 subsection (a) of this section.

1     § 9468. ENFORCEMENT

2         (a) If a hospital violates a provision of this subchapter, the commissioner  
3         may maintain an action in the superior court of the county in which the  
4         hospital is located to enjoin, restrain, or prevent such violation.

5         (b) After notice and an opportunity for hearing, the commissioner may  
6         impose on a person who knowingly violates a provision of this subchapter, or a  
7         rule adopted pursuant to this subchapter, a civil administrative penalty of no  
8         more than \$40,000.00, or in the case of a continuing violation, a civil  
9         administrative penalty of no more than \$100,000.00 or one-tenth of one  
10        percent of the gross annual revenues of the hospital, whichever is greater. This  
11        subsection shall not apply to violations of subsection (d) of this section caused  
12        by exceptional or unforeseen circumstances.

13        (c)(1) The commissioner shall require the officers and directors of a  
14        hospital to file under oath, on a form and in a manner prescribed by the  
15        commissioner, any information designated by the commissioner and required  
16        pursuant to this subchapter. The authority granted to the commissioner under  
17        this subsection is in addition to any other authority granted to the  
18        commissioner under law.

19        (2) A person who knowingly makes a false statement under oath or who  
20        knowingly submits false information under oath to the commissioner or to the  
21        public oversight commission or to a hearing officer appointed by the

1 commissioner or who knowingly testifies falsely in any proceeding before the  
2 commissioner or the public oversight commission or a hearing officer  
3 appointed by the commissioner shall be guilty of perjury and punished as  
4 provided in section 2901 of Title 13.

5 § 9469. VERMONT HEALTH TRUST FUND

6 (a) The Vermont health trust fund is established in the state treasury for the  
7 purpose of establishing a special fund for the global hospital payments  
8 established by sections 9464 and 9465 of this title.

9 (b) Into the fund shall be deposited:

10 (1) the hospital inpatient services fee established in section 9467 of this  
11 title;

12 (2) transfers from the global commitment fund of the portion of the  
13 appropriation to the office of Vermont health access attributable to inpatient  
14 hospital spending for individuals enrolled in Medicaid, the Vermont health  
15 access plan, or Dr. Dynasaur;

16 (3) transfers or appropriations from the general fund, authorized by the  
17 general assembly; and

18 (4) the proceeds from grants, donations, contributions, and taxes and any  
19 other sources of revenue as may be provided by statute or by rule.

20 (c) The fund shall be administered pursuant to subchapter 5 of chapter 7 of  
21 Title 32, except that interest earned on the fund and any remaining balance

1 shall be retained in the fund. The department shall maintain records indicating  
2 the amount of money in the fund at any time.

3 (d) If permitted under federal law and any Medicaid waiver, including the  
4 Global Commitment for Health Medicaid Section 1115 waiver, the monies  
5 received by or generated to the fund may be matched by federal funds.

6 Sec. 2. IMPLEMENTATION

7 When calculating the global hospital budget and global hospital payment in  
8 the first year, the department of banking, insurance, securities, and health care  
9 administration shall consider the current budgets of hospitals and reasonable  
10 growth trends, but shall adjust the budget to reflect an anticipated reduction in  
11 administrative costs attributable to reduced billing, collection, and other  
12 functions made obsolete by the global hospital payment.

13 Sec. 3. REPEAL

14 Subchapter 7 of chapter 221 of Title 18 (hospital budget reviews) is  
15 repealed on October 1, 2010 (hospital fiscal year 2011).

16 Sec. 4. EFFECTIVE DATE

17 This act shall take effect upon passage.