1	Introduced by Committee on Health Care
2	Date:
3	Subject: Health; hospitals; health insurers; Green Mountain Care Board;
4	hospital observer
5	Statement of purpose of bill as introduced: This bill proposes to authorize the
6	Green Mountain Care Board to reduce a health insurer's reimbursement rates
7	to one or more hospitals if the health insurer is at imminent risk of insolvency.
8	The bill would permit the Board to reduce a hospital's budget for the
9	forthcoming fiscal year to account for the hospital's budget overage in the
10	previous fiscal year. The bill would also allow the Board to appoint an
11	independent observer to oversee a hospital and its operations if the Board finds
12	the hospital has made a material misrepresentation or is out of compliance with
13	its budget and the Board believes that appointing an independent observer is in
14	the public interest.
15 16	An act relating to Green Mountain Care Board authority to adjust a hospital's reimbursement rates and to appoint a hospital observer
17	It is hereby enacted by the General Assembly of the State of Vermont:
18	Sec. 1. 18 V.S.A. § 9384 is added to read:
19	§ 9384. REDUCTION OR REALLOCATION OF REIMBURSEMENT

20 RATES; RISKS TO HEALTH INSURER SOLVENCY

(dr req 25-0975 – draft 3.1)
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1	(a) As used in this section:
2	(1) "Hospital" has the same meaning as in section 9451 of this title.
3	(2) "Hospital network" means a system comprising two or more
4	affiliated hospitals, and may include other health care professionals and
5	facilities, that derives 50 percent or more of its operating revenue, at the
6	consolidated network level, from Vermont hospitals and in which the affiliated
7	hospitals deliver health care services in a coordinated manner using an
8	integrated financial and governance structure.
9	(b) If the Green Mountain Care Board determines, after consultation with
10	the Commissioner of Financial Regulation, that a domestic health insurer faces
11	an acute and immediate threat to its solvency because its risk-based capital
12	level has triggered an authorized control a regulatory action level event
13	pursuant to 8 V.S.A. § 8304, the Board may order a reduction of the insurer's
14	reimbursement rates to one or more Vermont hospitals as set forth in
15	subsection (c) of this section until such time as the amount of the insurer's
16	risk-based capital exceeds the company action level risk-based capital
17	threshold defined in 8 V.S.A. § 8301.
18	(c)(1) The Board shall only order a reduction in the reimbursement rates to
19	a hospital that meets one or more both of the following criteria:
20	

20 (A) the hospital has more than $\frac{125}{135}$ days' cash on hand:

1	(B) the hospital and had a positive operating margin in the previous
2	fiscal year; or
3	(B) the hospital is a member of a hospital network that, at the
4	consolidated network level, has more than 125 135 days' cash on hand or had a
5	positive operating margin in the previous fiscal year, or both.
6	(2) The Board shall order a reduction in reimbursement rates to a
7	hospital pursuant to this subsection only to the extent necessary to remediate
8	the threat to the domestic health insurer's solvency.
9	(3) In no event shall a reduction ordered by the Board pursuant to this
10	section result in a decrease to a hospital's or hospital network's projected days'
11	cash on hand to below 125 days.
12	Sec. 2. 18 V.S.A. § 9456 is amended to read:
13	§ 9456. BUDGET REVIEW
14	* * *
15	(c) Individual hospital budgets established under this section shall:
16	* * *
17	(4) reflect budget performances for prior years reconcile any significant
18	deviation in revenue during the previous fiscal year in excess of the budget
19	established for the hospital pursuant to this section, using a methodology
20	established by the Board;

1	* * *
2	(f)(1) The Board may, upon application, adjust a budget established under
3	this section upon a showing of need based upon exceptional or unforeseen
4	circumstances in accordance with the criteria and processes established under
5	section 9405 of this title.
6	(2) The Board may, on its own initiative, adjust the commercial health
7	insurance reimbursement rates payable to a hospital at any time during the
8	hospital's fiscal year in order to ensure that the hospital operates within the
9	budget established under this section.
10	(g)(1) The Board may request, and a hospital shall provide, information
11	determined by the Board to be necessary to determine whether the hospital is
12	operating within a budget established under this section. For purposes of this
13	subsection, subsection (h) of this section, and subdivision 9454(a)(7) of this
14	title, the Board's authority shall extend to an affiliated corporation or other
15	person in the control of or controlled by the hospital to the extent that such
16	authority is necessary to carry out the purposes of this subsection, subsection
17	(h) of this section, or subdivision 9454(a)(7) of this title. As used in this
18	subsection, a rebuttable presumption of "control" is created if the entity,
19	hospital, or other person, directly or indirectly, owns, controls, holds with the
20	power to vote, or holds proxies representing 20 percent or more of the voting

1	securities or membership interest or other governing interest of the hospital or
2	other controlled entity.
3	(2)(A) The Board may, upon finding that a hospital has made a material
4	misrepresentation in information or documents provided to the Board or that a
5	hospital is materially noncompliant with the budget established by the
6	Board pursuant to this section, appoint an independent observer with respect
7	to any matter related to the Board's review or enforcement under this section if
8	the Board believes that doing so is in the public interest. At the direction of the
9	Board, the independent observer may monitor the hospital's operations, obtain
10	information from the hospital, and report findings and recommendations to the
11	Board.
12	(B) An independent observer appointed pursuant to this subdivision
13	(2) shall have the right to receive copies of all materials related to the Board's
14	review under this section and the hospital shall provide any information
15	requested by the independent observer, including any information regarding
16	the hospital's participation in a hospital network. The independent observer
17	shall share information provided by the hospital with the Board and with the
18	Office of the Health Care Advocate in accordance with subdivision (d)(3) of
19	this section but shall not otherwise disclose any confidential or proprietary
20	information that the independent observer obtained from the hospital.

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1	(C) The Board may order a hospital to pay for all or a portion of the
2	costs of an independent-observer appointed for the hospital pursuant to this
3	subdivision (2).
4	* * *
5	Sec. 3. INDEPENDENT HOSPITAL OBSERVER AUTHORITY;
6	PROSPECTIVE REPEAL
7	18 V.S.A. § 9456(g)(2) (authority to appoint independent hospital
8	observer) is repealed on January 1, 2030.
9	Sec. <mark>4</mark> . EFFECTIVE DATE
10	This act shall take effect on passage.