

1 H.100

2 Introduced by Representatives Obuchowski of Rockingham, Botzow of
3 Pownal, Clarkson of Woodstock, Deen of Westminster, Fisher
4 of Lincoln, French of Randolph, Hooper of Montpelier, Lippert
5 of Hinesburg, Macaig of Williston, Mrowicki of Putney, Nuovo
6 of Middlebury, Partridge of Windham, Poirier of Barre City,
7 Shand of Weathersfield, Sharpe of Bristol, Trombley of Grand
8 Isle, Zenie of Colchester and Zuckerman of Burlington

9 Referred to Committee on

10 Date:

11 Subject: Health care; universal access; reform; department organization

12 Statement of purpose: This bill proposes to establish the goal of universal
13 access to essential health care services in Vermont through a publicly financed,
14 integrated, regional health care delivery system; provide mechanisms for cost
15 containment in the system; and provide a framework, schedule, and process to
16 achieve that goal.

17 An act relating to health care financing and universal access to health care
18 in Vermont

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

1 Sec. 1. FINDINGS

2 The general assembly hereby finds that:

3 (1) Vermont's health care infrastructure and services are public goods
4 that are essential to the well-being of every Vermonter, and yet the
5 infrastructure and services, including hospitals and other care systems, are
6 financially threatened.

7 (A) The financial danger to Vermont's nonprofit hospitals is
8 evidenced by extremely narrow operating margins, rising costs, and increasing
9 levels of uncompensated care.

10 (B) Hospital budgets are challenged by uneven and uncertain
11 reimbursements received from a multitude of payers and by the escalating
12 costs associated with insurance administration and bill collection.

13 (C) Competition between hospitals for market share has forced
14 hospitals to make decisions purely on the basis of financial concerns, rather
15 than on the basis of community needs.

16 (D) The closing or for-profit conversion of any of Vermont's
17 hospitals would severely impact Vermonters' access to quality health care
18 services.

19 (E) Primary care and preventive services in Vermont have become
20 more difficult to sustain because reimbursement rates favor advanced and
21 specialty care over primary care.

1 (F) Fewer medical students are choosing to practice primary care,
2 and many Vermont primary care physicians are nearing retirement.

3 (G) Insurance administration and bill collection have become
4 increasing burdens for primary care physicians, detracting from clinical
5 practice.

6 (H) Increasing numbers of uninsured patients pose high stakes ethical
7 dilemmas for physicians and other health professionals making treatment
8 decisions.

9 (I) Prevention, which can save lives as well as money, is
10 short-changed as primary care options are diminished.

11 (2) Health care costs are rising at an unsustainable rate, causing
12 hardships to individuals, families, businesses, taxpayers, and public
13 institutions, and uncontrolled costs are threatening to paralyze the economy of
14 the state of Vermont.

15 (A) In 2008, total Vermont health care spending is projected to be
16 \$4.58 billion.

17 (B) Health care costs have risen an average of 9–10 percent per year
18 over the past 30–40 years, with the rate rising to 12–13 percent in more recent
19 years. These figures are well above the Consumer Price Index and, moreover,
20 exceed by far the state's capacity to pay for health care costs as measured
21 against the state's gross state product and personal income. For example,

1 between 2001 and 2006, health care spending in Vermont grew at an average
2 annual rate of eight percent, while personal income grew at four percent and
3 the gross state product grew at three percent. Between 2001 and 2006, health
4 care spending increased approximately 48 percent, from \$2.5 billion to \$3.7
5 billion, while over the same period personal income rose approximately 20
6 percent and the gross state product rose approximately 16 percent.

7 (C) The department of banking, insurance, securities, and health care
8 administration projects that health care spending for Vermont residents will
9 exceed \$5 billion by 2010.

10 (D) Over one-half of bankruptcies nationally are associated with high
11 medical expenses. In approximately three-quarters of health-related
12 bankruptcies, the patient had insurance.

13 (E) In 2006, the state of Vermont spent \$6,321.00 per capita on
14 health care, more than any nation in the Organization for Economic
15 Cooperation and Development—except the United States itself—when
16 measured as a proportion of gross domestic product.

17 (F) Vermont's health care spending was 16 percent of the gross state
18 product in 2006.

19 (G) The cost of health care has a strong negative impact on the ability
20 of Vermont businesses and employers to compete in national and international
21 markets.

1 (3) The current financing of health care is complex, fragmented, and
2 inequitable.

3 (A) The current financing of health care is accomplished through an
4 inefficient and uncoordinated patchwork of public programs, private sector
5 employer-sponsored self-insurance, commercial insurance, and individual
6 payers.

7 (B) In general, costs fall disproportionately on those with serious
8 health conditions, on those with moderate and lower incomes, and on those
9 who pay for care out of pocket because they have no health insurance.

10 (C) The current financing of health care in Vermont creates
11 incentives and disincentives within the system that often contradict the
12 standards of best medical practice.

13 (D) The fragmented financing of health care results in a lack of
14 coordination and accountability among health care professionals, payers, and
15 patients at both the regional and statewide levels. The ability of the system to
16 provide the highest quality of care to the greatest number of people and to
17 respond to rapid changes in technology and medical advances is compromised.

18 (4) For a growing number of Vermonters, health care is unaffordable
19 and therefore not available without incurring serious debt.

1 (A) Over 60,000 Vermonters have no health insurance. As a result,
2 these citizens often do not receive care in the most timely and effective
3 manner.

4 (B) Lack of insurance is associated with an increased rate of illness
5 and a shorter life expectancy.

6 (C) Premium cost increases have contributed to the growing rate of
7 underinsurance, with more and more Vermonters purchasing high-deductible
8 and less comprehensive plans.

9 (D) The disparities in coverage result in an unreasonable rationing of
10 available health care services.

11 (E) The costs of health services provided to individuals who are
12 unable to pay are shifted onto others. Those who bear the burden of this cost
13 shift have an increasingly difficult time affording their own health care costs,
14 including premiums.

15 (5) Although the quality of health care services in Vermont is generally
16 very good, there is a need to improve quality, efficiency, and safety.

17 (A) Nationwide, there are an unacceptable number of adverse events
18 attributable to medical errors, according to an Institute of Medicine report.
19 Vermont is not immune to this problem.

20 (B) Disease and injury prevention, health promotion, and health
21 protection continue to be overlooked as investments in public health.

1 Sec. 2. 3 V.S.A. § 212(23) is added to read:

2 (23) The department of health care administration

3 Sec. 3. 18 V.S.A. chapter 8 is added to read:

4 CHAPTER 8. HEALTH CARE SERVICES AND ADMINISTRATION

5 Subchapter 1. General Provisions

6 § 401. GUIDELINES FOR HEALTH CARE REFORM

7 The general assembly adopts the following guidelines as a framework for
8 reforming health care in Vermont:

9 (1) The health care infrastructure, including hospitals, primary care, and
10 other services, must be preserved so that Vermonters continue to have care
11 available to them within their own communities.

12 (2) A system for eliminating unnecessary expenditures and containing
13 costs must be implemented so that health care spending does not bankrupt the
14 Vermont economy.

15 (3) The financing of health care in Vermont must be sufficient,
16 equitable, fair, and sustainable, and such financing is best obtained when
17 broad-based taxes replace insurance premiums and out-of-pocket payments.

18 (4) Universal access to health care is a public good, and therefore it is
19 the policy of the state of Vermont to ensure universal access to, and coverage
20 for, essential health care services for all Vermonters.

1 (5) Vermont's health delivery system must model continuous
2 improvement of health care quality and safety and, therefore, the system must
3 be accountable in access, cost, quality, and reliability.

4 § 402. GOALS OF HEALTH CARE REFORM

5 Consistent with the adopted guidelines for reforming health care in
6 Vermont, the general assembly adopts the following goals:

7 (1) Vermont's nonprofit community hospital system will be preserved
8 through a system of negotiated payments, which are drawn from public
9 revenues and which are based on annual global budgets.

10 (2) Vermont's primary care providers will be adequately compensated
11 from public revenues through a uniform payment system, which eliminates
12 multiple insurers and reduces administrative burdens on providers.

13 (3) Health care in Vermont will be organized and delivered in a
14 patient-centered manner through community-based systems that:

15 (A) are integrated with each other;

16 (B) focus on meeting community health needs;

17 (C) match service capacity to community needs;

18 (D) coordinate and integrate care across the health care continuum;

19 (E) provide information on costs, quality, outcomes, and patient
20 satisfaction;

1 (F) use financial incentives and organizational structure to achieve
2 specific objectives; and

3 (G) improve continuously the quality of care provided.

4 (4) To ensure financial sustainability of Vermont's health care system,
5 the state is committed to slowing the rate of growth of health care costs to
6 seven percent or less by the year 2014.

7 (5) Health care costs will be controlled by:

8 (A) a reduction in the number of payers of health care services and,
9 therefore, the simplification of reimbursement mechanisms throughout the
10 health care system;

11 (B) paying hospitals on the basis of annually negotiated global
12 budgets;

13 (C) the elimination of administrative costs associated with private
14 insurance and bill collection;

15 (D) the collective purchase of pharmaceuticals and other supplies
16 through the establishment of a state drug formulary;

17 (E) the alignment of health care professional reimbursement with
18 best practices and outcomes rather than utilization;

19 (F) efficient health facility planning, particularly with respect to
20 technology;

1 (G) reductions in the prevalence of defensive medicine along with the
2 prudent and efficient utilization of medical technology;

3 (H) encouraging the appropriate distribution of primary care services
4 throughout the state; and

5 (I) removing competitive pressure between hospitals and other
6 facilities.

7 (6) To ensure fair financing of Vermont's health care system, all
8 services covered by a state sponsored benefits package will be financed
9 primarily from broad-based taxes.

10 (7) To alleviate the historical dependence of health care access on
11 employment, employers will be relieved of the burden of purchasing private
12 health insurance for their employees. Instead, employers will be required to
13 contribute a fair share of taxes toward the health care needs of the general
14 population.

15 (8) All Vermont residents, subject to reasonable residency requirements,
16 will be covered under a publicly sponsored benefits package, regardless of
17 their age, employment, economic status, or their town of residency, even if
18 they require health care while outside Vermont.

19 (9) All essential health services will be covered under the publicly
20 sponsored benefits package. A process will be developed to define essential
21 health services, taking into consideration scientific evidence, available funds,

1 and the values and priorities of Vermonters. Coverage will follow the
2 individual from birth to death and be responsive and seamless through
3 employment and life changes.

4 (10) Vermonters' health outcomes and key indicators of public health
5 will show continuous improvement across all segments of the population.

6 (11) The number of adverse events from medical errors will be reduced.

7 (12) Disease and injury prevention, health promotion, and health
8 protection will be incorporated into a publicly sponsored health care system.

9 § 403. DEFINITIONS

10 As used in this chapter:

11 (1) "Board" means the Vermont health care board established by section
12 407 of this title to develop policy, approve reimbursement rates, hear appeals
13 and perform other quasi-judicial functions relating to the administration and
14 implementation of VermontCare under this chapter.

15 (2) "Department" means the department of health care administration
16 established by section 404 of this title to administer the publicly sponsored
17 health care benefits package established under this chapter.

18 (3) "Health care professional" means an individual, partnership,
19 corporation, facility, or institution licensed or certified or authorized by law to
20 provide professional health care services.

1 (4) “Health service” means any medically necessary treatment or
2 procedure to maintain, diagnose, or treat an individual’s physical or mental
3 condition, including services provided pursuant to a physician’s order and
4 services to assist in activities of daily living.

5 (5) “Hospital” shall have the same meaning as in section 1902 of this
6 title and may include a hospital located outside Vermont.

7 (6) “Hospital service” means any health service received in a hospital
8 and any associated costs for professional services.

9 (7) “Preventive care” means screening, counseling, treatment, or
10 medication determined by scientific evidence to be effective in preventing or
11 detecting disease.

12 (8) “Primary care” means health services provided by health care
13 professionals specifically trained for and skilled in first-contact and continuing
14 care for individuals with signs, symptoms, or health concerns, not limited by
15 problem origin, organ system, or diagnosis. Primary care services include
16 health promotion, preventive care, health maintenance, counseling, patient
17 education, case management, and the diagnosis and treatment of acute and
18 chronic illnesses in a variety of health care settings.

19 (9) “VermontCare” means the package of essential health services
20 established pursuant to this chapter.

1 (10) “Vermont resident” means an individual domiciled in Vermont as
2 evidenced by an intent to maintain a principal dwelling place in Vermont
3 indefinitely and to return to Vermont if temporarily absent, coupled with an act
4 or acts consistent with that intent. The health care board shall establish
5 specific criteria to demonstrate residency.

6 Subchapter 2. Governance

7 § 404. DEPARTMENT OF HEALTH CARE ADMINISTRATION

8 (a) On July 1, 2009, the department of health care administration is created
9 and shall have the powers and duties established by this chapter. The
10 department is the successor to and continuation of the division of health care
11 administration of the department of banking, insurance, securities, and health
12 care administration under chapter 221 of this title; the office of Vermont health
13 access under section 3088 of Title 3; and the division of rate setting under
14 chapter 9 of Title 33; and shall continue the duties of those departments as
15 established in chapter 107 of Title 8, chapter 221 of this title, and chapters 9
16 and 19 of Title 33.

17 (b) The department shall be under the direction and supervision of a
18 commissioner who shall be appointed by the governor with the advice and
19 consent of the senate and shall serve at the pleasure of the governor.

1 (c) The department shall carry out its duties in such a way as to further the
2 public good and shall follow the guidelines and goals established under this
3 chapter.

4 (d) A health care quality unit is established in the commissioner's office
5 and is responsible for establishing policy and procedures to improve, promote,
6 and ensure quality of care and patient safety. The unit shall provide policy
7 advice and oversight to the department to ensure that the department's
8 functions are carried out in such a way as to promote quality and safety. The
9 unit shall also collaborate with government and private entities and
10 organizations which are engaged in efforts to improve quality of care.

11 § 405. AUTHORITY OF THE COMMISSIONER

12 (a) The commissioner shall be responsible to the governor and shall plan,
13 coordinate, and direct the functions vested in the department. The
14 commissioner shall prepare and submit to the governor an annual budget and
15 shall prepare and submit to the governor and the general assembly in
16 November of each year a report concerning the operations of the department
17 for the preceding state fiscal year and the future goals and objectives of the
18 department.

19 (b) The commissioner shall establish such divisions as are necessary to
20 carry out the duties of the department under this chapter and may establish
21 advisory panels as necessary to further the goals of this chapter. The

1 commissioner may employ professional and support staff necessary to carry
2 out the functions of the department and may employ consultants and contract
3 with individuals and entities for the provision of services.

4 (c) The commissioner may, subject to the provisions of section 5 of Title
5 32, apply for and accept gifts, grants, or contributions from any person for
6 purposes consistent with this chapter.

7 (d) The commissioner shall meet regularly with representatives of the
8 community health boards established in section 408 of this title, professional
9 organizations, consumer groups and other statewide organizations in order to
10 ensure that there is public input into the implementation and ongoing
11 administration of the provisions of this chapter.

12 (e) The commissioner shall consult and collaborate with the secretary of
13 human services and the commissioner of education to ensure the effective and
14 efficient operation of the provisions of this chapter.

15 (f) The commissioner may delegate the powers and assign the duties
16 transferred from other departments, offices, and divisions to the department of
17 health care administration in such a manner as the commissioner deems
18 appropriate.

19 (g) The commissioner may adopt rules pursuant to chapter 25 of Title 3 to
20 implement VermontCare as established by this chapter.

21 (h) Subject to the approval of the general assembly, the commissioner may

1 apply for any waivers of federal law or regulation necessary to carry out the
2 provisions of this chapter.

3 § 406. DUTIES OF THE DEPARTMENT

4 In addition to the duties transferred pursuant to subsection 404(a) of this
5 title, the department of health care administration shall:

6 (1) As directed by the health care board, implement a system of payment
7 methodologies and amounts for hospitals and health care professionals under
8 this chapter.

9 (2) Implement the cost reduction targets established under subsection
10 410(c) of this title.

11 (3) Conduct planning and analysis, including designing and
12 implementing procedures to evaluate, measure, and report to the governor and
13 general assembly whether the guidelines under section 401 of this title and the
14 goals under section 402 of this title are being met.

15 (4) Establish and maintain a database with information needed to carry
16 out the commissioner's duties and obligations.

17 (5) Administer any spending for VermontCare established under this
18 chapter, which may include any billing or collection functions necessary to
19 implement this chapter.

20 (6) Establish a Vermont drug formulary, which will negotiate discounts
21 from manufacturers and establish uniform standards for prescription drug

1 utilization under VermontCare.

2 § 407. HEALTH CARE BOARD

3 (a) On July 1, 2009, a Vermont health care board is created and shall have
4 the powers and duties established by this chapter. The board shall receive
5 administrative support from the department. The board shall consist of one
6 member appointed by the governor, one member appointed by the speaker of
7 the house of representatives, and one member appointed by the president pro
8 tempore of the senate. The initial term of the member appointed by the
9 governor shall be three years, the initial term of the member appointed by the
10 speaker of the house shall be two years, and the initial term of the member
11 appointed by the president pro tempore of the senate shall be one year.
12 Thereafter, each term shall be for three years. Members shall be removed only
13 for cause. The member appointed by the governor shall be the chair. All
14 members shall be part-time state employees. All members shall be exempt
15 from the state classified system. A person in the employ of or holding any
16 official relation to any health care provider subject to the supervision of the
17 board, or engaged in the management of such health care provider, or owning
18 stock, bonds, or other securities thereof, or who is, in any manner, connected
19 with the operation of such health care provider shall not be a member of the
20 board; nor shall any person holding the office of member personally or in
21 connection with a partner or agent render professional health care services or

1 make or perform any business contract with any health care provider subject to
2 the board's supervision if such service or contract relates to the business of the
3 health care provider, except contracts made as an individual or family in the
4 regular course of obtaining health care services.

5 (b) The board shall:

6 (1) Develop the package of essential health services to be covered under
7 VermontCare pursuant to section 409 of this title. The board shall ensure the
8 package of essential health services will provide a choice of services and of
9 health care professionals, contain costs over time, and improve the quality of
10 care and health outcomes. In developing the package of essential health
11 services, the board shall:

12 (A) engage in a public process designed to respond to Vermonters'
13 health care values and priorities;

14 (B) consider the current range of health services received by
15 Vermonters through public and private benefit packages;

16 (C) consider credible evidence-based scientific research and
17 comments by health care professionals both nationally and internationally
18 concerning clinical efficacy and risk;

19 (D) consider health care ethics;

20 (E) consider the cost-effectiveness of health services and technology;

21 (F) consider revenues anticipated to be available to finance

1 VermontCare;

2 (G) consider the state health plan and the health resource allocation
3 plan established under section 9405 of this title; and

4 (H) consider any Vermont-specific initiatives.

5 (2) Establish a system of payment methodologies and amounts for
6 hospitals and health care professionals under this chapter.

7 (c) On or before February 1, 2011, the board shall propose to the general
8 assembly the package of essential health services to be covered under
9 VermontCare, to begin July 1, 2013.

10 (d) The board shall have the authority provided, and its proceedings shall be
11 governed by provisions of the Administrative Procedure Act relating to
12 contested cases in chapter 25 of Title 3.

13 (e) Beginning July 1, 2011, the board shall have jurisdiction to:

14 (1) hear contested cases for aggrieved parties of an adverse decision
15 under chapter 19 of Title 33 and under this chapter;

16 (2) hear consumer complaints relating to health services;

17 (3) approve or amend reimbursement rates and methodologies
18 established under this chapter, including global hospital budgets under section
19 414 of this title; and

20 (4) approve or amend certificate of need proposals under subchapter 5 of
21 chapter 221 of this title, the unified health care budget under section 9406 of

1 this title, and hospital budget reviews under subchapter 7 of chapter 221 of this
2 title.

3 § 408. INTEGRATED SYSTEMS OF CARE; COMMUNITY HEALTH

4 BOARDS

5 (a) The delivery of health care in Vermont shall be integrated in order to
6 provide a coordinated continuum of services to the citizens of Vermont and to
7 improve health outcomes. Communities will integrate their health care
8 systems by organizing existing health care professionals, health care
9 institutions, and community members into a community health board, which
10 will act to assess, prioritize, and define community health needs.

11 (b) Based on a plan adopted by the general assembly, there shall be
12 established a community health board in each region of the state. There shall
13 be no fewer than three regions. The community health boards shall be
14 implemented no later than January 1, 2011.

15 (c) Each community health board shall have the following duties: solicit
16 public input; conduct a community needs assessment for incorporation into the
17 health resources allocation plan; plan for community health needs based on the
18 community needs assessment; develop budget recommendations and resource
19 allocations for the region; and provide oversight and evaluation regarding the
20 delivery of care in its region.

Subchapter 3. VermontCare

§ 409. VERMONTCARE; IMPLEMENTATION DATES

(a) The department of health care administration shall implement VermontCare to provide Vermont residents coverage for hospital services no later than July 1, 2011 and coverage for primary and preventive health services no later than July 1, 2012.

(b) No later than July 1, 2013, VermontCare shall include all other essential health services in addition to primary care, preventive care, and hospital services to Vermont residents.

§ 410. BUDGET FOR PACKAGE OF HEALTH SERVICES

(a) After approval of the package of health services by the general assembly pursuant to subsection 407(c) of this title, the department shall develop a budget for the package based on the payment methodologies under section 411 of this title, negotiated payment amounts under section 412 of this title, and the cost containment targets under subsection (c) of this section.

(b) For each state fiscal year, beginning with state fiscal year 2012, the department shall propose its budget for the package of health services to the general assembly on or before January 15 of each year, including recommended expenditures during the next succeeding state fiscal year broken down by health care sector and region, and anticipated revenues available to support such expenditures.

1 (c) To further the goals established in section 402 of this title, the
2 department shall develop and issue a cost containment target for each health
3 care sector. The cost containment target shall be considered when negotiating
4 payment amounts under section 412 of this title.

5 § 411. PAYMENT METHODOLOGIES FOR HEALTH CARE

6 PROFESSIONALS AND HOSPITALS

7 (a) Under the direction of the board, by February 1, 2010, the department
8 shall determine by rule pursuant to chapter 25 of Title 3 the type of payment
9 method to be used for each health care sector which provides health services
10 under VermontCare. The payment methods shall be in alignment with the
11 goals of this chapter and shall encourage cost-containment, provision of high
12 quality, evidence-based health services in an integrated setting, patient
13 self-management, and healthy lifestyles. In developing the payment methods,
14 the board shall consult with health care professionals prior to the department
15 filing draft rules for comment.

16 (b) The board shall consider the following payment methods:

17 (1) periodic payments based on approved annual global budgets;

18 (2) capitated payments;

19 (3) incentive payments to health care professionals based on
20 performance standards, which may include evidence-based standard
21 physiological measures, or if the health condition cannot be measured in that

1 manner, a process measure, such as the appropriate frequency of testing or
2 appropriate prescribing of medications;

3 (4) fee supplements if necessary to encourage specialized health care
4 professionals to offer a specific, necessary health service which is not available
5 in a specific geographic region; and

6 (5) fee for service.

7 § 412. PAYMENT AMOUNTS

8 (a) The intent of this section is to ensure reasonable payments to health
9 care professionals and to eliminate the shift of costs between the payers of
10 health services by ensuring that the amount paid to health care professionals
11 under VermontCare is sufficient.

12 (b) The department shall negotiate with hospitals, health care professionals,
13 and groups of health care professionals to establish payment amounts for
14 health services provided by VermontCare. The amounts shall be sufficient to
15 provide reasonable access to health services, provide sufficient uniform
16 payment to health care professionals, and encourage the financial stability of
17 health care professionals. In determining the payment amounts, the board shall
18 consider:

19 (1) the advice and recommendations of the board;

20 (2) the actual cost of the health service;

21 (3) expected revenues;

1 (4) cost containment targets; and

2 (5) shared costs between affiliated health care professionals.

3 (c) The department shall negotiate with each hospital to establish a global
4 hospital payment for health services covered by VermontCare and provided by
5 the hospital. The department shall consider the global hospital budget under
6 section 414 of this title and other information necessary to the determination of
7 the appropriate payment, including all revenue received from other sources.
8 The global hospital payment shall be reflected as a specific line item in the
9 department's annual budget submitted to the general assembly.

10 (d) The department shall negotiate a contract including payment methods
11 and amounts with any out-of-state hospital that regularly treats a sufficient
12 volume of Vermont residents to provide health services under VermontCare.
13 The department may also contract with out-of-state hospitals for the provision
14 of specialized health services under VermontCare that are not available locally
15 to Vermonters.

16 (e) The department shall pay the amount charged for a medically necessary
17 health service for which the individual received a referral or for an emergency
18 health service customarily covered by VermontCare received in an out-of-state
19 hospital with which the department has not established a contract. The
20 department shall develop a reference pricing system for nonemergency health

1 services usually covered by VermontCare which are received in an out-of-state
2 hospital with which the department has not contracted.

3 (f) To facilitate negotiation of payment amounts under this section, the
4 commissioner may approve the creation of one or more health care
5 professional bargaining groups, consisting of health care professionals who
6 choose to participate. The commissioner shall adopt by rule criteria for
7 forming and approving bargaining groups, and criteria and procedures for
8 negotiations authorized by this section. In authorizing the activities provided
9 for in this section, the general assembly intends to displace state and federal
10 antitrust laws by granting state action immunity for actions that might
11 otherwise be considered to be in violation of state or federal antitrust laws.

12 § 413. VERMONTCARE TRUST FUND

13 (a) The VermontCare trust fund is hereby established in the state treasury
14 for the purpose of establishing a special fund to be the single source to finance
15 health care coverage for beneficiaries of VermontCare as established under this
16 subchapter.

17 (b) Into the fund shall be deposited:

18 (1) transfers or appropriations from the general fund, authorized by the
19 general assembly; and
20 (2) the proceeds from grants, donations, contributions, and taxes and any
21 other sources of revenue as may be provided by statute or by rule.

1 (c) The fund shall be administered pursuant to subchapter 5 of chapter 7 of
2 Title 32, except that interest earned on the fund and any remaining balance
3 shall be retained in the fund. The department of health care administration
4 shall maintain records indicating the amount of money in the fund at any time.

5 (d) All monies received by or generated to the fund shall be used only for
6 the administration and delivery of health care covered through the
7 VermontCare program administered by the department of health care
8 administration under this subchapter.

9 (e) To the extent permitted under federal law and any Medicaid waiver,
10 including the Global Commitment Medicaid waiver, the monies received by or
11 generated to the fund shall be matched by federal funds.

12 § 414. GLOBAL HOSPITAL BUDGETS

13 (a) For each hospital fiscal year, beginning with hospital fiscal year 2012,
14 the department shall develop a global hospital budget for each hospital located
15 in Vermont. When developing the global hospital budget, the department shall
16 consider the health resource allocation plan under section 9405 of this title and
17 the unified health care budget under section 9406 of this title, as applicable to
18 hospitals, the hospital budget review under section 9456 of this title, the global
19 hospital payments under subsection 412(c) of this title, and all other revenue
20 received by hospitals. The global hospital budget shall be submitted to the

1 board for approval with sufficient time for the board to approve the budget no
2 later than September 1 prior to the hospital fiscal year.

3 (b) For hospital fiscal year 2012 and thereafter, the global hospital budget
4 developed under subsection (a) of this section shall serve as a spending cap
5 within which hospital costs are controlled, resources directed, and quality and
6 access assured. The global hospital budget shall limit the total annual growth
7 of hospital costs to the Consumer Price Index plus three percent. Prior to
8 hospital fiscal year 2012, the growth rate of the Consumer Price Index plus
9 three percent shall serve as a target amount. The department shall ensure that
10 hospital budget reviews and certificates of need are consistent with the global
11 hospital budget.

12 (c) The department shall adopt rules specifying the circumstances under
13 which a hospital may seek amendment of its budget after approval by the
14 board. An amendment to a hospital's budget shall be reviewed by the
15 department before submission to the board for approval.

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

20 (e) A hospital or health care professional aggrieved by an adverse decision
21 of the department may appeal to the board.

1 § 415. ADMINISTRATION; ENROLLMENT

2 (a) The department shall administer VermontCare or, under an open
3 bidding process, solicit and receive bids from insurance carriers or third-party
4 administrators for administration.

5 (b) Nothing in this chapter shall require an individual to enroll in
6 VermontCare. Notwithstanding this provision, an individual who qualifies for
7 enrollment and who seeks services covered by VermontCare shall be
8 automatically enrolled.

9 (c) Nothing in this chapter shall require an individual covered by health
10 insurance to terminate that insurance. Notwithstanding this provision, after
11 July 1, 2013, private insurance companies shall hereby be prohibited from
12 selling health insurance policies in Vermont that cover services already
13 covered by VermontCare.

14 (d) An individual may elect to maintain supplemental health insurance if
15 the individual so chooses, provided that after July 1, 2013, the supplemental
16 insurance covers only services that are not already covered by VermontCare.

17 (e) Vermonters shall not be billed any additional amount for health services
18 covered by VermontCare.

19 (f) The assistance provided under this chapter shall be the secondary payer
20 with respect to any health service that may be covered in whole or in part by
21 Title XVIII of the Social Security Act (Medicare) or by any other health

1 benefit plan funded solely with federal funds, such as federal health benefit
2 plans offered by the Veterans' Administration or to federal employees.

3 (g) The department shall ensure that VermontCare complies with the
4 provisions of Title XIX of the Social Security Act (Medicaid) unless the
5 department, after approval of the general assembly, seeks and receives a
6 federal waiver.

7 (h) Any prescription drug coverage offered by VermontCare required by
8 this chapter shall be consistent with the standards and procedures applicable to
9 the pharmacy best practices and cost control program established by sections
10 1996 and 1998 of Title 33 and the state drug formulary.

11 (i) The department or plan administrator shall make available the necessary
12 information, forms, and billing procedures to health care professionals to
13 ensure payment for health services covered under VermontCare.

14 (j) An individual aggrieved by an adverse decision of the department or
15 plan administrator may appeal to the board.

16 Sec. 4. TRANSFER OF POSITIONS

17 (a) Effective October 1, 2009 and consistent with the provisions of this act,
18 the secretary of administration shall transfer to the department of health care
19 administration and place under the supervision of the department's
20 commissioner:

1 (1) All employees, contracts, consultants, and positions of the office of
2 Vermont health access under section 3088 of Title 3 and the remaining
3 balances of all appropriation amounts for personal services and operating
4 expenses.

5 (2) All employees, contracts, consultants, and positions of the division
6 of rate setting under chapter 9 of Title 33 and the remaining balances of all
7 appropriation amounts for personal services and operating expenses.

8 (3) All employees, contracts, consultants, and positions of the division
9 of health care administration pursuant to chapter 221 of Title 18 and the
10 remaining balances of all appropriation amounts for personal services and
11 operating expenses.

12 (b) On or before November 1, 2009, the secretary of administration, in
13 consultation with the commissioner of health care administration, shall provide
14 a detailed report to the joint fiscal committee of all the transfers made under
15 this section.

16 Sec. 5. STATUTORY REVISION AND RECODIFICATION

17 The legislative council shall revise the Vermont Statutes Annotated as
18 necessary to reflect the purposes of this act, including recodification of the
19 provisions in chapter 107 of Title 8, chapters 9 and 19 of Title 33, and chapter
20 221 of Title 18, and the renaming throughout the statutes of the department of

1 banking, insurance, securities, and health care administration as the department
2 of banking, insurance, and securities.

3 Sec. 6. APPROPRIATION; POSITIONS

4 (a) Fiscal year 2009. The amount of \$60,000.00 is appropriated from the
5 general fund to the secretary of administration in fiscal year 2009 for the health
6 care board established in section 407 of Title 18 by Sec. 2 of this act.

7 (b) Fiscal year 2010. The amount of \$120,000.00 is appropriated from the
8 general fund to the department of health care administration in fiscal year 2010
9 for the purposes of establishing the department of health care administration.

10 Beginning in fiscal year 2010, there are established in the department two new
11 exempt positions: one commissioner of the department of health care
12 administration and one staff assistant. These positions shall be transferred and
13 converted from existing vacant positions in the executive branch of state
14 government.

15 (c) The department of health care administration is authorized to seek
16 matching funds to assist with carrying out the purposes of this act. In addition,
17 it may accept any and all donations, gifts, and grants of money, equipment,
18 supplies, materials, and services from the federal or any local government, or
19 any agency thereof and from any person, firm, or corporation for any of its
20 purposes and functions under this act and may receive and use the same subject

1 to the terms, conditions, and regulations governing such donations, gifts, and
2 grants.

3 Sec. 7. REPEAL

4 (a) Section 9403 of Title 18 (division of health care administration of the
5 department of banking, insurance, securities, and health care administration),
6 section 3088 of Title 3 (the office of Vermont health access), and section 902
7 of Title 33 (the division of rate setting) are repealed October 1, 2009, and the
8 divisions and offices are transferred to the department of health care
9 administration established in this act.

10 (b) Section 4080f of Title 8 (Catamount Health) is repealed on July 1, 2011
11 with respect to hospital services, on July 1, 2012 with respect to primary and
12 preventive care services, and on July 1, 2013 with respect to all other services
13 covered by VermontCare.

14 (c) Section 4080c of Title 8 (health insurance safety net) is repealed on July
15 1, 2013.

16 (d) Chapter 25 of Title 21 (employers' health care premium contribution) is
17 repealed on July 1, 2013.

18 (e) Section 1986 of Title 33 (Catamount fund) is repealed on July 1, 2013
19 and any monies remaining in the fund shall be transferred to the general fund.

1 Sec. 8. EFFECTIVE DATES AND TRANSITION

2 (a) This act shall take effect upon passage.

3 (b) The commissioner of the department of health care administration shall
4 be appointed within 60 days after passage.

5 (c) Unless explicitly repealed by this act, current law and regulation are
6 intended to remain effective and operational, and these functions shall remain
7 with the agency, department, or division designated by law or its successor in
8 interest.