

In recent years drug costs have grown far faster than other health care services, last year growing 8.1% compared to overall health spending growth of 4.8%. Forty five new drugs were approved in the US last year, up from 41 the year before and 27 in 2013.<sup>i</sup> Those increases are straining government budgets, squeezing out resources for other priority areas. When asked about their top concerns affecting Medicaid spending, state officials most often cite pharmaceutical costs.<sup>ii</sup> As Congress has not been able to act to control costs, states are moving into the gap. Drug costs and prices are complex and much is hidden from view, which makes finding solutions difficult. While many states are considering drug price transparency legislation, this June [Vermont became the first state](#) to pass a law requiring drug companies to explain large price increases.

At CSG-ERC’s Annual Meeting in August 2016, policymakers from the region

**Engaging the industry among all the stakeholders in developing the bill was key.**

-- Rep. Chris Pearson

expressed great interest in the details of Vermont’s bill -- how it evolved, what it includes, how Vermont was able to

pass legislation over the objections of a very strong lobby, where the process stands now, and what state leaders

hope to accomplish with the information. Those questions were posed to Vermont policymakers for this report.

**What precipitated Vermont’s law?**

According to legislative sources, the process started with a January presentation by Congressman Peter Welch (VT) to Vermont Senate and House health committees outlining the problem. He

reported that drug spending in Vermont rose more than nineteen percent from 2014

**Drug costs are like a rubber band that keeps stretching and stretching. Eventually it’s going to break.**

-- Rep. Bob Bancroft

to 2015 and coverage of only one new drug for cystic fibrosis is expected to cost Vermont Medicaid over \$3 million. Congressman Welch Co-Chairs a Congressional task force on drug prices that has outlined several federal policy options to control costs. But he noted that changes at the federal level were unlikely without state action. He outlined state policy options for prescription cost control, including price transparency legislation to help “consumers make better-informed decisions about their purchases and aiding state price negotiations.”

This spring, the House Committee on Health Care drafted comprehensive

legislation, H866, which would have required drug manufacturers to disclose costs for research, development, acquisition and other costs and how they relate to drug prices. During hearings and discussions about the bill, concerns were raised that the language was too broad for companies to comply with, could produce ambiguous answers, and might trigger a lawsuit.

Over the session legislators worked together to craft language addressing concerns. The final language requires manufacturers to explain increases in costs for a specific set of drugs with rapid price increases. It was felt that this question would be easier for companies to answer and would be less likely to trigger legal action. S 216, which became Act 165, was amended to include the final drug price transparency language.

**What is in the law and where does the process stand now?**

Vermont Act 165, An Act Relating to Prescription Drugs, was signed into law June 2, 2016. Under the law, the Green Mountain Care Board, Vermont’s agency for health regulation, evaluation and innovation, will annually identify up to fifteen drugs for price transparency. The law targets drugs that represent significant costs to the state and for which wholesale prices have risen by 50 percent or more over the last five years or by 15 percent over the last twelve months. Vermont’s Attorney General

will then require manufacturers of the listed drugs to provide information to justify the price increases. Under the law, the Attorney General will draft an annual report, posted online, by December 1st of each year for the General Assembly on the information they receive.

The list of drugs for this year, including manufacturer and therapeutic class, was posted August 22, 2016 and includes the ten drugs listed below.

Brand name	Example use	1 year avg. % change	5 year avg. % change
Abilify	antipsychotic		55.27%
Lantus	diabetes		89.83%
Humira	arthritis	27.95%	113.79%
Enbrel	arthritis	16.42%	92.73%
Crestor	cholesterol	20.75%	75.98%
Epipen	anaphylaxis	32.02%	205.45%
Latuda	antipsychotic	19.80%	99.68%
Prevacid	acid reflux	20.78%	103.32%
Doxycycline Hyclate	antibiotic		4787.61%
Permethrin	head lice	50.00%	

Note: Average % change is Wholesale Acquisition Cost

**What made the process work in Vermont?**

Policymakers credit several factors in Vermont’s success in passing a bill.

- Growing public concerns about rising drug costs and budget constraints created urgency to act.
- Vermont has a strong history of tackling tricky and complex health problems.

- Including all stakeholders in negotiations, including drug manufacturers, was key to developing legislative language that was both feasible for the companies and would produce meaningful information.
- Engaging all members of the relevant legislative committees was important. The final language came from an opponent of the previous, more expansive bill.
- Lengthy public testimony, expert briefings, and committee discussions helped members sort through the complexities and misunderstandings of drug pricing.
- Tracking similar bills in other states was very helpful in developing Vermont's legislation.

### **What do Vermont policymakers hope to result from the law?**

It is unclear how the information will be useful to policymakers until they've seen it, but several possibilities were offered. Suggestions included using the information in price negotiations to help control state drug costs and public accountability for price increases. Policymakers also noted that release of the information should allow analysis by academics and others that may reveal new solutions. Vermont policymakers have been contacted by other states interested in similar legislation and are hopeful that state action will move Congress to enact change at the national level.

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<sup>i</sup> S. Keehan, et. al., [National Health Expenditure Projections, 2015-25: Economy, Prices, and Aging Expected to Shape Spending and Enrollment](#), Health Affairs 35:1522-1531, July 13, 2016.

<sup>ii</sup> [NASBO Releases Fiscal Survey of States, Includes Medicaid Feature, National Association of Budget Officers](#), July 13, 2016.