

1 H.35

2 Introduced by Representative Houghton of Essex Junction

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; Vermont Health Benefit Exchange;

6 unmerged markets

7 Statement of purpose of bill as introduced: This bill proposes to unmerge the  
8 individual and small group health insurance markets. It would also repeal  
9 outdated language regarding implementation of the Vermont Health Benefit  
10 Exchange.

11 An act relating to unmerging the individual and small group health  
12 insurance markets

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

14 Sec. 1. 33 V.S.A. § 1802 is amended to read:

15 § 1802. DEFINITIONS

16 As used in this subchapter:

17 \* \* \*

18 (5) “Qualified employer”:

19 ~~(A)~~ means an entity that employed an average of not more than 50

20 100 employees on working days during the preceding calendar year and that:



1 ~~include a part-time employee who works fewer than 30 hours per week or a~~  
2 ~~seasonal worker as defined in 26 U.S.C. § 4980H(e)(2)(B).~~

3 ~~(2) An employer with 50 or fewer employees that offers a qualified~~  
4 ~~health benefit plan to its employees through the Vermont Health Benefit~~  
5 ~~Exchange may continue to participate in the Exchange even if the employer's~~  
6 ~~size grows beyond 50 employees, as long as the employer continuously makes~~  
7 ~~qualified health benefit plans in the Vermont Health Benefit Exchange~~  
8 ~~available to its employees. [Repealed.]~~

9 (b)(1) ~~On and after January 1, 2016, a~~ A qualified employer shall be an  
10 entity that employed an average of not more than 100 employees on working  
11 days during the preceding calendar year, and the term "qualified employer"  
12 includes self-employed persons to the extent permitted under the Affordable  
13 Care Act. The number of employees shall be calculated using the method set  
14 forth in 26 U.S.C. § 4980H(c)(2).

15 (2) An employer with 100 or fewer employees that offers a qualified  
16 health benefit plan to its employees through the Vermont Health Benefit  
17 Exchange may continue to participate in the Exchange even if the employer's  
18 size grows beyond 100 employees, ~~as long as~~ provided the employer  
19 continuously makes qualified health benefit plans in the Vermont Health  
20 Benefit Exchange available to its employees.

21 (c) [Repealed.]

1 Sec. 3. 33 V.S.A. § 1805 is amended to read:

2 § 1805. DUTIES AND RESPONSIBILITIES

3 The Vermont Health Benefit Exchange shall have the following duties and  
4 responsibilities consistent with the Affordable Care Act:

5 \* \* \*

6 (7) transferring to the Secretary of the U.S. Department of the Treasury  
7 the name and taxpayer identification number of each individual ~~who was an~~  
8 ~~employee of an employer but who was~~ determined to be eligible for the  
9 premium tax credit under Section 36B of the Internal Revenue Code of 1986,  
10 including each individual who was an employee of an employer but who was  
11 determined to be eligible for the premium tax credit for one of the following  
12 reasons:

13 (A) the employer did not provide minimum essential coverage; or

14 (B) the employer provided the minimum essential coverage, but it  
15 was determined under Section 36B(c)(2)(C) of the Internal Revenue Code to  
16 be either unaffordable to the employee or not to provide the required minimum  
17 actuarial value;

18 \* \* \*

19 (9)~~(A)~~ transferring to the Secretary of the U.S. Department of the  
20 Treasury the name and taxpayer identification number of each individual who  
21 ~~notifies the Vermont Health Benefit Exchange that he or she has changed~~

1 ~~employers and of each individual who~~ ceases coverage under a qualified health  
2 benefit plan during a plan year and the effective date of that cessation; ~~and~~

3 ~~(B) communicating to each employer the name of each of its~~  
4 ~~employees and the effective date of the cessation reported to the U.S.~~  
5 ~~Department of the Treasury under this subdivision;~~

6 \* \* \*

7 (17) ~~establishing procedures, including payment mechanisms and~~  
8 ~~standard fee or compensation schedules,~~ that allow licensed insurance agents  
9 and brokers to ~~be appropriately compensated outside the navigator program~~  
10 ~~established in section 1807 of this title for:~~

11 (A) ~~assisting~~ assist with the enrollment of qualified individuals and  
12 qualified employers in any qualified health plan offered through the Exchange  
13 for which the individual or employer is eligible; and

14 (B) ~~assisting~~ assist qualified individuals in applying for premium tax  
15 credits and cost-sharing reductions for qualified health benefit plans purchased  
16 through the Exchange.

17 Sec. 4. 33 V.S.A. § 1811 is amended to read:

18 § 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL  
19 EMPLOYERS

20 (a) As used in this section:

1           (1) “Health benefit plan” means a health insurance policy, a nonprofit  
2 hospital or medical service corporation service contract, or a health  
3 maintenance organization health benefit plan offered through the Vermont  
4 Health Benefit Exchange or a reflective health benefit plan offered in  
5 accordance with section 1813 of this title that is issued to an individual in the  
6 individual market or to an employee of a small employer in the small group  
7 market. The term does not include coverage only for accident or disability  
8 income insurance, liability insurance, coverage issued as a supplement to  
9 liability insurance, workers’ compensation or similar insurance, automobile  
10 medical payment insurance, credit-only insurance, coverage for on-site  
11 medical clinics, or other similar insurance coverage in which benefits for  
12 health services are secondary or incidental to other insurance benefits as  
13 provided under the Affordable Care Act. The term also does not include stand-  
14 alone dental or vision benefits; long-term care insurance; short-term, limited-  
15 duration health insurance; specific disease or other limited benefit coverage;  
16 Medicare supplemental health benefits; Medicare Advantage plans; and other  
17 similar benefits excluded under the Affordable Care Act.

18           (2) “Registered carrier” means any person, except an insurance agent,  
19 broker, appraiser, or adjuster, who issues a health benefit plan and who has a  
20 registration in effect with the Commissioner of Financial Regulation as  
21 required by this section.

1           ~~(3)(A) Until January 1, 2016, “small employer” means an entity that~~  
2           ~~employed an average of not more than 50 employees on working days during~~  
3           ~~the preceding calendar year. The term includes self-employed persons to the~~  
4           ~~extent permitted under the Affordable Care Act. Calculation of the number of~~  
5           ~~employees of a small employer shall not include a part-time employee who~~  
6           ~~works fewer than 30 hours per week or a seasonal worker as defined in 26~~  
7           ~~U.S.C. § 4980H(e)(2)(B). An employer may continue to participate in the~~  
8           ~~Exchange even if the employer’s size grows beyond 50 employees, as long as~~  
9           ~~the employer continuously makes qualified health benefit plans in the Vermont~~  
10           ~~Health Benefit Exchange available to its employees.~~

11           ~~(B) Beginning on January 1, 2016, “small~~ “Small ~~employer” means~~  
12           ~~an entity that employed an average of not more than 100 employees on~~  
13           ~~working days during the preceding calendar year. The term includes self-~~  
14           ~~employed persons to the extent permitted under the Affordable Care Act. The~~  
15           ~~number of employees shall be calculated using the method set forth in 26~~  
16           ~~U.S.C. § 4980H(c)(2). An employer may continue to participate in the~~  
17           ~~Exchange even if the employer’s size grows beyond 100 employees, as long as~~  
18           ~~provided the employer continuously makes qualified health benefit plans in the~~  
19           ~~Vermont Health Benefit Exchange available to its employees.~~

20           ~~(b)(1) To the extent permitted by the U.S. Department of Health and~~  
21           ~~Human Services, an An individual may purchase a health benefit plan through~~

1 the Exchange website, through navigators, by telephone, or directly from a  
2 registered carrier under contract with the Vermont Health Benefit Exchange, ~~if~~  
3 ~~the carrier elects to make direct enrollment available.~~ A registered carrier  
4 enrolling individuals in health benefit plans directly shall comply with all open  
5 enrollment and special enrollment periods applicable to the Vermont Health  
6 Benefit Exchange.

7 (2) ~~To the extent permitted by the U.S. Department of Health and~~  
8 ~~Human Services, a~~ A small employer or an employee of a small employer may  
9 purchase a health benefit plan ~~through the Exchange website, through~~  
10 ~~navigators, by telephone, or~~ directly from a registered carrier under contract  
11 with the Vermont Health Benefit Exchange.

12 (3) No person may provide a health benefit plan to an individual or to a  
13 small employer unless the plan complies with the provisions of this subchapter.

14 (c) No person may provide a health benefit plan to an individual or to a  
15 small employer unless such person is a registered carrier. The Commissioner  
16 of Financial Regulation shall establish, by rule, the minimum financial,  
17 marketing, service, and other requirements for registration. Such registration  
18 shall be effective upon approval by the Commissioner of Financial Regulation  
19 and shall remain in effect until revoked or suspended by the Commissioner of  
20 Financial Regulation for cause or until withdrawn by the carrier. A carrier  
21 may withdraw its registration upon at least six months' prior written notice to



1 the Commissioner of Financial Regulation. A registration filed with the  
2 Commissioner of Financial Regulation shall be deemed to be approved unless  
3 it is disapproved by the Commissioner of Financial Regulation within 30 days  
4 of filing.

5 (d)(1) Guaranteed issue.

6 (A) A registered carrier shall guarantee acceptance of all individuals,  
7 ~~small employers, and employees of small employers, and each dependent of~~  
8 ~~such individuals and employees, and their dependents~~ for any health benefit  
9 plan offered by the carrier in the individual market, regardless of any  
10 outstanding premium amount a subscriber may owe to the carrier for coverage  
11 provided during the previous plan year.

12 (B) A registered carrier shall guarantee acceptance of all small  
13 employers, their employees, and their employees' dependents for any health  
14 benefit plan offered by the carrier in the small group market, regardless of any  
15 outstanding premium amount a subscriber may owe to the carrier for coverage  
16 provided during the previous plan year.

17 \* \* \*

18 (f)(1) A registered carrier shall use a community rating method acceptable  
19 to the Commissioner of Financial Regulation for determining premiums for  
20 health benefit plans and shall determine the premiums for the carrier's  
21 individual market plans separately from the premiums for its small group

1 market plans. Except as provided in subdivision (2) of this subsection, the  
2 following risk classification factors are prohibited from use in rating  
3 individuals, small employers, or employees of small employers, or the  
4 dependents of such individuals or employees:

5 \* \* \*

6 (k) The guaranteed acceptance provision of subsection (d) of this section  
7 shall not be construed to limit an employer's discretion in contracting with ~~his~~  
8 ~~or her~~ the employer's employees for insurance coverage.

9 \* \* \*

10 Sec. 5. EFFECTIVE DATE

11 This act shall take effect on January 1, 2026.