

1 S.208

2 Introduced by Senators Illuzzi and Miller

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; Vermont health benefit exchange

6 Statement of purpose: This bill proposes to define a small employer for
7 purposes of Vermont's health benefit exchange as an employer with 50 or
8 fewer employees in 2014 and 2015, as an employer with 100 or fewer
9 employees in 2016, and as an employer of any size in 2017 and subsequent
10 years. The bill would direct employers offering exchange plans to their
11 employees to contribute a defined amount toward the cost of the employee's
12 plan and would require the employee to pay the difference. It would require
13 health insurance be available for purchase in the individual and small group
14 markets both inside and outside the exchange and would direct the department
15 of banking, insurance, securities, and health care administration to propose a
16 mechanism for merging the individual and small group markets. The bill
17 would also require the secretary of administration to provide an estimate of the
18 cost of providing an additional state subsidy on a sliding scale to individuals
19 eligible for federal premium tax credits and cost-sharing subsidies.

20 An act relating to the Vermont health benefit exchange

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

2 Sec. 1. FINDINGS

3 The general assembly finds:

4 (1) The federal Patient Protection and Affordable Care Act (Public Law
5 111-148), as amended by the Health Care and Education Reconciliation Act of
6 2010 (Public Law 111-152) (“Affordable Care Act”), requires states to
7 establish their own health benefit exchange, or the federal government will do
8 it for them. The exchange, in which individuals and small groups may
9 purchase health insurance, shall be operational by January 1, 2014.

10 (2) Several states have already enacted laws establishing health benefit
11 exchanges. California’s law requires health insurers participating in the
12 exchange to offer at least one product at the bronze, silver, gold, platinum, and
13 catastrophic coverage levels and requires insurers that sell products outside the
14 exchange to make all of their products in the exchange available outside the
15 exchange as well. Maryland’s law states an intent to ensure that the state
16 maintains individual and small group markets both inside and outside the
17 exchange.

18 (3) The Affordable Care Act was passed in part because health
19 insurance premiums for individuals and small groups have become
20 unaffordable for many Americans.

1 (4) According to the executive summary of the proposed rules on health
2 benefit exchanges issued by the U.S. Department of Health and Human
3 Services, the state exchanges will “offer Americans competition, choice, and
4 clout” and “provide competitive marketplaces for individuals and small
5 employers to directly compare available private health insurance options on the
6 basis of price, quality, and other factors.”

7 (5) The preamble to the proposed rules says the exchanges will “help
8 enhance competition in the health insurance market [and] improve choice of
9 affordable health insurance.”

10 (6) Sec. 1312 of the Affordable Care Act specifies that nothing in the
11 applicable title shall be construed to prohibit a health insurer from offering
12 individual or employer plans outside the exchange or a qualified employer or
13 individual from enrolling in a plan outside the exchange.

14 (7) The state of Vermont should establish its health benefit exchange in
15 a manner that fulfills the intent of the Affordable Care Act.

16 (8) Vermont has required health insurance plans to guarantee acceptance
17 of all eligible applicants and to use community rating in the small group
18 market since 1991 and in the individual market since 1992.

19 (9) According to a 2009 study by Elliot K. Wicks, Ph.D., merging
20 Vermont’s individual, small group, and association markets and applying
21 community rating across all three markets would likely produce noticeably

1 lower costs for people currently in the individual and small-group markets
2 without causing large rate increases for people presently in association plans.

3 (10) According to the Vermont department of labor's Quarterly Census
4 of Employment and Wages (QCEW) program, in the first quarter of 2011,
5 there were 19,854 Vermont employers who employed 49 or fewer employees.
6 This group comprises 96.6 percent of Vermont's private sector employers.
7 These businesses employed 107,069 employees, or 45 percent of all private
8 sector employees.

9 (11) According to the department of labor's QCEW program, in the first
10 quarter of 2011, there were 387 Vermont employers who employed between
11 50 and 99 employees. This group comprises 1.9 percent of Vermont's private
12 sector employers. These businesses employed 26,376 employees, or 11.1
13 percent of all private sector employees.

14 (12) Adding up the numbers, in the first quarter of 2011, there were
15 20,241 Vermont employers employing fewer than 100 employees, comprising
16 98.4 percent of private sector employers. These businesses employed 133,445
17 employees, or 56.1 percent of all private sector employees.

18 (13) The Affordable Care Act defines a small employer for purposes of
19 the health benefit exchange as an employer who employed an average of at
20 least one but not more than 100 employees during the preceding calendar year.
21 But the act allows states the option to define a small employer for plan years

1 2014 and 2015 as an employer with an average of between one and 50
2 employees instead of one and 100. Beginning with plan year 2016, the term
3 “small employer” shall mean an employer with between one and 100
4 employees.

5 (14) Businesses cannot grow and thrive in an environment of
6 uncertainty.

7 Sec. 2. CONSTRUCTION

8 Nothing in this act shall be construed to interfere with efforts to plan for or
9 implement Green Mountain Care.

10 Sec. 3. Sec. 2 of No. 48 of the Acts of 2011 is amended to read:

11 Sec. 2. STRATEGIC PLAN; UNIVERSAL AND UNIFIED HEALTH
12 SYSTEM

13 (a) Vermont must begin to plan now for health care reform, including
14 simplified administration processes, payment reform, and delivery reform, in
15 order to have a publicly financed program of universal and unified health care
16 operational after the occurrence of specific events, including the receipt of a
17 waiver from the federal Exchange requirement from the U.S. Department of
18 Health and Human Services. A waiver will be available in 2017 under the
19 provisions of existing law in the Patient Protection and Affordable Care Act
20 (Public Law 111-148) (“Affordable Care Act”), as amended by the federal
21 Health Care and Education Reconciliation Act of 2010 (Public Law 111-152),

1 and may be available in 2014 under the provisions of two bills, H.R. 844 and
2 S.248, introduced in the 112th Congress. In order to begin the planning
3 efforts, the director of health care reform in the agency of administration shall
4 establish a strategic plan, which shall include time lines and allocations of the
5 responsibilities associated with health care system reform, to further the
6 containment of health care costs, to further Vermont's existing health care
7 system reform efforts as described in 3 V.S.A. § 2222a and to further the
8 following:

9 * * *

10 (2)(A) As provided in Sec. 4 of this act, no later than November 1, 2013,
11 the Vermont health benefit exchange established in 33 V.S.A. chapter 18,
12 subchapter 1 shall begin enrolling individuals and ~~small~~ employers with 50 or
13 fewer employees for coverage beginning January 1, 2014. Beginning
14 January 1, 2014, the commissioner of banking, insurance, securities, and health
15 care administration may require qualified health benefit plans to be sold to
16 individuals and small groups through the Vermont health benefit exchange,
17 provided that the commissioner shall also allow qualified and nonqualified
18 plans that comply with the required provision of the Affordable Care Act to be
19 sold to individuals and small groups outside the exchange. The commissioner
20 may require insurance products sold to groups with over 100 employees to be
21 aligned with the administrative requirements and essential benefits required in

1 the exchange. The intent of the general assembly is to establish the Vermont
2 health benefit exchange in a manner such that it may become the foundation
3 for Green Mountain Care, but to do so in a way that does not dismantle the
4 private insurance market as the state moves forward.

5 * * *

6 (3) ~~As provided in Sec. 4 of this act, no~~ No later than November 1,
7 2015, the Vermont health benefit exchange established in 33 V.S.A. chapter
8 18, subchapter 1 shall begin enrolling employers with 100 or fewer employees
9 for coverage beginning January 1, 2016. No later than November 1, 2016, the
10 Vermont health benefit exchange ~~established in 33 V.S.A. chapter 18,~~
11 ~~subchapter 1~~ shall begin enrolling large employers for coverage beginning
12 January 1, 2017.

13 * * *

14 Sec. 4. 33 V.S.A. § 1802 is amended to read:

15 § 1802. DEFINITIONS

16 For purposes of this subchapter:

17 * * *

18 (5) “Qualified employer” ~~means an employer that:~~

19 (A) means an entity which employed an average of not more than 50
20 employees during the preceding year and which:

1 qualified employer shall not include a part-time employee who works less than
2 30 hours per week.

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

9 (c)(1) In order to determine the amount of a qualified employer's
10 contribution to an employee's health insurance premium, the employer shall
11 select:

12 (A) a health insurer;

13 (B) the bronze, silver, gold, or platinum level of coverage;

14 (C) a plan within the selected level of coverage to serve as the
15 benchmark for calculating the employer's contribution; and

16 (D) the percentage of the premium for the benchmark plan for which
17 the employer will be responsible.

18 (2) A qualified employer shall provide its qualified employees with the
19 option to enroll in any qualified health benefit plan offered by the employer's
20 selected health insurer, pursuant to subdivision (1)(A) of this subsection, and
21 within the employer's selected level of coverage, pursuant to subdivision

1 (1)(B) of this subsection. The employer shall contribute the percentage of the
2 benchmark plan selected pursuant to subdivisions (1)(C) and (D) of this
3 subsection toward the cost of the plan chosen by the employee, and the
4 employee shall be responsible for the remainder of the premium, if any.

5 Sec. 6. 33 V.S.A. § 1804 is amended to read:

6 § 1804. PROVISIONS AFFECTING QUALIFIED EMPLOYERS FROM
7 JULY 1, 2012 THROUGH JANUARY 1, 2016 THROUGH
8 JANUARY 1, 2017

9 (a) A qualified employer shall be an employer who, on at least 50 percent
10 of its working days during the preceding calendar quarter, employed at least
11 one and no more than ~~50~~ 100 employees, and the term “qualified employer”
12 includes self-employed persons. Calculation of the number of employees of a
13 qualified employer shall not include a part-time employee who works less than
14 30 hours per week.

15 (b) An employer with ~~50~~ 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 ~~50~~ 100 employees as long as the employer continuously
19 makes qualified health benefit plans in the Vermont health benefit exchange
20 available to its employees.

21 * * *

1 Sec. 7. 33 V.S.A. § 1804 is amended to read:

2 § 1804. PROVISIONS AFFECTING QUALIFIED EMPLOYERS ~~FROM~~
3 JANUARY 1, 2016 THROUGH ON AND AFTER JANUARY 1,
4 2017

5 (a) A qualified employer shall be an employer of any size who, ~~on at least~~
6 ~~50 percent of its working days during the preceding calendar quarter,~~
7 employed at least one and no more than 100 employees elects to make all its
8 full-time employees eligible for one or more qualified health plans offered in
9 the small or large group market, as appropriate to the employer's size, and the
10 term "qualified employer" includes self-employed persons. ~~Calculation of the~~
11 ~~number of employees of a qualified employer shall not include a part-time~~ A
12 full-time employee shall be an employee who works ~~less~~ more than 30 hours
13 per week.

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

20 * * *

21 Sec. 8. 33 V.S.A. § 1806 is amended to read:

1 § 1806. QUALIFIED HEALTH BENEFIT PLANS

2 * * *

3 (b) A qualified health benefit plan shall provide the following benefits:

4 * * *

5 (2) At least the ~~silver~~ bronze level of coverage as defined by Section
6 1302 of the Affordable Care Act and the cost-sharing limitations for
7 individuals provided in Section 1302 of the Affordable Care Act, as well as
8 any more restrictive cost-sharing requirements specified by the secretary of
9 human services by rule after consultation with the advisory committee
10 established in section 402 of this title and after approval from the Green
11 Mountain Care board established in 18 V.S.A. chapter 220.

12 * * *

13 (e)(1) A health insurer offering a qualified health benefit plan shall comply
14 with the following insurance and consumer information requirements:

15 * * *

16 (C)(i) Charge the same premium rate for a health benefit plan ~~without~~
17 ~~regard to whether the plan~~ that is offered both through the Vermont health
18 benefit exchange and outside the exchange, and charge the same premium for a
19 plan without regard to whether the plan is offered directly from the carrier or
20 through an insurance agent.

1 Sec. 11. STATE SUBSIDY; COST ESTIMATE

2 No later than November 15, 2012, the secretary of administration shall
3 submit to the general assembly a proposal for and estimate of the costs of
4 providing additional state subsidies on a sliding scale to individuals eligible for
5 federal premium tax credits under Section 36B of the Internal Revenue Code
6 of 1986 and cost-sharing subsidies under Section 1402 of the Affordable Care
7 Act.

8 Sec. 12. RULEMAKING

9 The secretary of human services shall adopt rules to implement the defined
10 contribution mechanism established in 33 V.S.A. § 1804(c).

11 Sec. 13. EFFECTIVE DATES

12 (a) Sec. 6 (100 employees or fewer in the exchange) of this act shall take
13 effect on January 1, 2016.

14 (b) Sec. 7 (all employers in the exchange) of this act shall take effect on
15 January 1, 2017.

16 (c) The remaining sections of this act shall take effect on July 1, 2012.