

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

[]

SENATOR PAHLS: Good afternoon. Welcome to our hearing today. This hearing is going to be a little bit different than our typical Banking, Commerce and Insurance hearings. Bruce Ramage, from the Department of Insurance, is going to actually be giving us a lot of information. That's what we're here for. And what I'm going to do, because some of you out in the audience may have questions, I'm not going to open it up for questions but we will have...the pages will walk around and you can jot down your question, bring them up, and either I or I will have one of the senators read that question. We're going to ask some, but I do also...if you have some burning thing out there that needs to be answered, please feel free to make sure the page sees that and the questions will come from this side of the table. And like I say, we are being "videoed" so there are some people who have called in my office so I know, I can tell there is an awful lot of interest, not only in this room but outside in the real world. What I think I'll do just before we begin is just have the senators introduce themselves. There are a few new faces. []

SENATOR UTTER: I'm Dennis Utter from District 33. []

SENATOR PANKONIN: Dave Pankonin, District 2. []

SENATOR LANGEMEIER: Chris Langemeier, District 23. []

SENATOR McCOY: Beau McCoy, District 39. []

SENATOR GLOOR: Mike Gloor, District 35, Grand Island. []

SENATOR PAHLS: And I am Rich Pahls from District 31, Millard. And of course, most of you in here know Bill Marienau, the guy behind the legal scenes, and Jan Foster, who keeps us well recorded and saying the right things at the right places. Well, I think, with

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

no further ado, I think, Bruce, I think I'll just have you come up and... []

BRUCE RAMGE: Good afternoon, Senator Pahls and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge. For the record, that's spelled B-r-u-c-e R-a-m-g-e. I'm the director of Insurance, here today to update the committee regarding some of the issues we see relating to the implementation of the federal healthcare law enacted in 2010. First of all, I'd like to thank Senator Pahls for arranging this briefing. The department always welcomes opportunities to meet with the committee. In particular, we welcome this opportunity to give you a briefing outside of the context of specific legislation so that matters can be discussed outside the context of proponent or opponent testimony. At an extremely high level, as it relates to health insurance, the federal healthcare law restructures the way healthcare is financed in this country by requiring all persons to buy insurance or to pay a penalty. However, insurers will no longer be able to decide who they will and will not provide coverage to. They will not be able to base rates on the basis of health status or place lifetime limits on the amount of coverage they will provide. The law goes on to prescribe the details, exceptions, additions, and interim provisions, some of which were implemented effective September 23 of 2010. Many of these provisions, though, including the individual mandate to purchase insurance, take effect in 2014. However, whether or not the federal healthcare law takes effect in its current form is open to some question at this point. The Department of Insurance has devoted significant time and resources to implementation of the federal law in nearly one year of its enactment. Department staff meet internally to update each other on progress. We meet with our colleagues from other agencies on these issues, both at the director and at the staff levels. We have continuous briefings, meetings, and conference calls with other insurance regulators and with federal officials implementing the act. Before we begin discussing the substantive issues relating to the law, there are some procedural issues posed by the current status of the law and federal rule making. The constitutionality of the federal healthcare law has been challenged by Nebraska and 25 other states. In a ruling dated January 31, 2011, Judge Vinson, a senior United States district judge for the Northern

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

District of Florida, Pensacola Division, ruled that the requirement that all persons must buy insurance was unconstitutional. Judge Vinson issued a temporary stay on March 4, 2011, giving the federal government one week to file an appeal with the circuit court of appeals. The federal government has now filed its appeal. We are obligated to continue to implement this law until we receive instructions to the contrary. I am not a lawyer and so I'm not in a position to go much deeper into questions related to Judge Vinson's decision; however, I want you to know that we are watching the situation closely as we proceed. In addition, bills are pending before Congress that have a wide range of potential effects from a full repeal of the federal healthcare law to a recent bill purporting to give states an earlier opportunity to implement alternatives to the requirement that individuals must have insurance. Again, we are watching the situation closely as we proceed. As regards federal rule making, to reiterate a point made by the department last fall, one of our big challenges is that the federal government has significant rule making to do to implement this law. Several issues posed by the law will not be able to be resolved until those federal rule are adopted. Most notably, federal rule making has not even started in the area of what an "essential health benefit" or insurance policy design is that all plans must eventually have within them in order to be marketed on the exchange. This rule will be an important consideration for the state to take into account when determining whether and under what circumstances it will operate a health insurance exchange. In other rule making, the federal government solicited comments on what procedures states have to follow to constitute effective state rate review for health insurance premiums. They have also solicited comments on what is "reasonable" for a requested rate increase, as well as to judge whether or not a state has an adequate rate review and legal standards to meet the requirements of federal law. The federal government determined that anything over a 10 percent increase must be reported for the extra level of scrutiny. It must also be posted on the company's Web site. It has been our experience that 10 percent is not unreasonable but reflects increased costs for medical services, both in terms of medical inflation and increased utilization. Many, if not most, rate increases we see fall within this category. Considering that we have been granted up to \$1 million to implement the federal rate review

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

requirements, this can be a bit frustrating. In other words, the federal government delayed their rule making that gives significant information about what they expect states to accomplish quite some time after they have given them significant grants. In addition, the federal government has rearranged the boxes on the organization chart. For the first ten months, the federal office charged with implementation reported directly to the federal HHS Secretary. As of January, it has been moved already to report to the director of the Centers for Medicaid and Medicare, creating another layer of red tape. The Department of Insurance is concerned that this will only delay rule making and the answers to various questions raised by the states. It is worth noting that many of the answers we have received are not in writing because of the need for approval at several layers of bureaucracy. The provisions of the federal healthcare law are coming into effect on a staggered basis. September 23, 2010, six months after passage of federal healthcare legislation, brought a series of new federal requirements into effect. These included new limits on rescissions, a federal requirement that policies be subject to external review of claim denials, prohibition on cost-sharing for preventative services, prohibition of lifetime limits on most insurance policies, restrictions on annual limits, and requiring dependent coverage for persons under 26. The most recent important implementation date was January 1, 2011, when the states were permitted to make requests for waiver of implementation of the minimum loss ratio requirement, referred to as the MLR. This is a key component of the federal healthcare law that mandates that an insurer spend a certain percentage of premium collected on the medical costs. Insurers must meet an 80 percent minimum loss ratio for individual and small group insurance, and 85 percent for large group coverage. If the standard is not met, the insured is entitled to a rebate. Settling the MLR sounds easy enough at first, but it is a complicated formula that took the NAIC, or the National Association of Insurance Commissioners, quite some time to develop. For example, one key question was whether the federal law would allow insurance producer commissions to be considered within the amount that could be considered medical costs. Insurance producers obviously bring a great deal of services to insureds. For many small businesses in Nebraska, they have a function similar to a benefits office in a larger organization. The

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

NAIC concluded that no matter how useful these services are, they could not be included in the ratio because of the specific language of the federal law. Incidentally, a working group at the NAIC continues to work on this issue and is in discussion with insurance producers, consumer groups, and the federal government. The next issue that MLR presents is how to deal with insurers who do not meet the standard at this time. The federal law allows the insurance regulator to seek a waiver from the federal government until 2014, which in theory allows the insurers time to come into compliance. Unfortunately, the federal standards for making such a request are onerous and confusing, at best. One of the first states to submit a MLR waiver request, Maine, waited several months for a response from the federal government. Another problem is that while Nebraska has a strong domestic insurance industry, with 1.8 million people, we are a small market for most insurers. A request for waiver will not accomplish much for insurers who are seeking time to come into compliance unless such a waiver is granted to many other states. The federal external review requirement has also come into effect. Nebraska was one of a small minority of states lacking a requirement that insureds who disagreed with claims decisions of their insurer could make the decision to a binding panel outside of the insurer to evaluate the claims decision. The federal government has, therefore, created a structure to perform such reviews for Nebraska. As of December 2010, no requests for such review had been made. Most problematic has been the effect of the new federal prohibition on preexisting conditions exclusions for minors. Nebraska is among the 20 states suffering from the collapse of the health insurance marketplace for stand-alone policies for children, resulting from unintended consequences of the Affordable Care Act. The department has been concerned about this issue for some time but lacks authority and does not feel it is appropriate to mandate that insurers issue certain types of policies as other states have done. Instead, the department engaged in discussions with insurers relating to open enrollment, rate adjustments, and some of the other options identified by Secretary Sebelius. Insurers were still reluctant to offer insurance coverage to children on a stand-alone basis because of the most pressing federal rule of all, prohibiting insurers from denying coverage on the basis of preexisting conditions and the conditions of enrollment placed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

upon them by the federal government. We are not aware that this situation has changed. Unfortunately, the department has not been able to identify an administrative solution to the problem under existing Nebraska law. I'd like to report back on another early decision point, Nebraska's decision of whether or not to operate another state-run, high-risk pool or leave it to the federal government. As an interim step, the federal government funded what they term preexisting insurance pools for people who had not had coverage in the previous six months of eligibility. Nebraska was given the choice to run this new pool as a state entity or allow the federal government to do so. Nebraska opted to vest the requirement to create the new pool in the federal government. That decision, although initially subject to criticism, has proved to be a sound decision. We have requested but not yet received information from federal sources on the cost of creating those pools in the other states. What we do know, however, is that six months after their creation, only 39 Nebraskans were enrolled. Moving to longer term implementation issues, one of the most significant provisions of the federal law establishes a health insurance exchange in each state. It is important to note that as long as the law remains in place, there is no question that there will be a health insurance exchange operating in each state. The states are given the option to determine whether they want to operate the exchanges themselves, operate as part of an interstate group, or allow the federal government to operate the health insurance exchange. Regardless of what option is ultimately decided upon, the basic duties and framework of the exchange are set forth in the federal healthcare law and will be impacted by future federal regulations. Many details of the exchange cannot be determined because of the lack of federal regulations. A health insurance exchange is basically a centralized and virtual point of purchase for health insurance that provides one-stop shopping for individuals and small businesses. Buyers could use an exchange to compare rates, benefits, and quality among plans. Health insurance exchanges must also operate toll-free consumer hot lines. The exchange will administer the new federal health insurance tax credits for those who qualify and serve as the only point of entry for obtaining such tax credits. Supporters of these exchanges argue that they will allow buyers to purchase health insurance more easily by allowing them to compare policies

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

in standard categories. Under federal law, these exchanges will also be required to allow real-time determinations and enrollment for Medicaid eligibility. By January 1, 2014, the exchange must be up and running. By January 1, 2015, federal statute requires exchanges are required to be self-supporting, after a start-up period in which they will be funded with federal grants. This is an extremely short period of time in which to make such a large enterprise economically viable. One of the key concerns in considering whether or not the state should undertake to operate the exchange must be whether or not Nebraska can meet this requirement. Each state's decision must be provided to the Secretary of HHS by January 1, 2013. Unfortunately, one key piece of information is missing. Federal officials have thus far declined to issue guidance on the design of a potential federal health insurance exchange. On a regularly scheduled conference call between the states and the federal government, our department asked the federal government about when or if they will release their exchange design. We were told they will not disclose this information until after states have made their decision on whether or not they will operate the exchange on their own. Once operational, people interested in purchasing individual or small group health insurance will be able to access the exchange on-line and select from a number of products offered that meet federal standards and complete the purchase at that point. The exchanges will also be a place for persons to obtain Medicaid coverage and determine if new subsidies are available. Think of it as a Web-based system that uses income verification to trigger where you are sent for health benefits. Under a federal grant, the department has hired two insurance health policy analysts, primarily to conduct extensive research and study the various issues required to make a determination as to the viability of a state exchange in Nebraska and the type of exchange. The department is also devoting significant time of existing staff to weave together the exchange planning process with implementation of the federal healthcare law. I'm happy to report that we have recently issued requests for proposals to solicit bidders on two additional contracts. One contract will allow us to obtain the sort of intense business planning and budgeting that would be necessary to determine whether an exchange is economically feasible in a state of this size. There are substantial costs associated with creating an

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

exchange. The federal government will pay those initial costs. However, maintenance becomes an issue after that. Whether sufficient numbers of Nebraskans will obtain their insurance through an exchange to support those functions is an open question. Since federal money vanishes in 2015, determining how many Nebraskans will come to purchase insurance through an exchange within a relatively short turnaround time becomes another issue. The second contract will allow us to provide a thorough review or analysis of the technology issues posed by the grant. For example, what sort of connectivity issues will be posed by the federal government requirement that the exchange provide real-time Medicaid eligibility or premium subsidy determinations? Are there changes that need to be made to existing systems to allow them to interact with a completely new system? These are some of the questions that we will try to answer under the technology consulting contract. Last, we are in the process of preparing preliminary analyses and gathering information that will be used in a request for information to allow us to obtain information from vendors associated with existing exchanges to determine what resources are available currently, for what price, and how much start-up time would be needed. We are in the process of conducting preliminary research on governance models using background research information from Massachusetts, Utah, and California, which are states that have already existing exchanges. We continue to explore governance models and funding options for an exchange in Nebraska. NDOI staff has also subscribed to an open information-sharing LISTSERV with other states, which has proven to be very helpful in drafting a preliminary analysis. The department began identifying and soliciting stakeholders for suggestions of additional key stakeholders who should be engaged in the exchange planning process. There has been an extensive interest in the exchange planning process by a cross-sectional array of stakeholders, including consumers, healthcare providers, insurance leaders, advocacy groups, hospital and medical associations, brokers, agents, and legislators to name a few. To date, several informal stakeholder meetings...briefing meetings have been convened, led by both Governor Heineman and by my staff and I. Formal stakeholder public hearings have already begun, have taken place in Gering, Kearney, and Norfolk. These events were publicized by press release

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

and Nebraska newspaper ads. We e-mailed people who have asked to be considered stakeholders, alerting them to these meetings. We have asked stakeholders to forward the e-mail to additional stakeholders. We were pleased with the turnout in these three sites, with 19 people each in Gering and Kearney, and nearly 30 in Norfolk. In an effort to increase that turnout, however, we have undertaken more aggressive press outreach and purchased radio ads for the events later this week and next week in Lincoln and Omaha. The department also received another grant, mentioned earlier, to help Nebraska improve the current health insurance rate review and approval processes. Because the grants will expire after two years, our grant request was designed to allow us to improve existing processes that we will benefit from on an ongoing basis. Using the rate review grant funds, the department has obtained the services of an actuarial consulting firm which will allow for review and analysis to be performed by a certified actuary. The certified actuary will also identify potential process improvements and recommend software to implement the improvements. Initially, the certified actuary will undertake all health insurance rate reviews in the short term to establish a baseline, and transition those reviews back to existing staff with improvements to the process later in the cycle. The information technology improvements will enhance processes and increase efficiency in time spent per filing and will include historical data that will assist in determining the accuracy and necessity of future rate increases. We are also investigating the development and implementation of more thorough requirements for rate filings to determine the scope and extent of additional information which may prove to be a useful addition to the current process. Additionally, the department will provide information to consumers regarding health insurance rates, consumer outreach, and medical trend review. My agency has formed a collaborative effort with the Office of the Chief Information Officer to create a Web-based tool that will increase transparency on rate increases to consumers. The Web-based tool will also provide consumers information on all health rates filed. This information will include the amount of increase requested and the final amount agree upon. Last, grant funds are being used to implement a program for reporting to the Secretary of Health and Human Services on rate increase patterns, as required by federal statutes and regulations. This massive

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

federal law gives rise to many, many issues. I have focused today on the issues that my agency has been working on most recently and the issues that will be confronting the state in the short term. Other issues, such as required changes to the Medicare supplement policies, take place further in time and will be great sources for update briefings in the future. But rather than take you further into details, I'll wrap up for now and answer any questions that you might have. []

SENATOR PAHLS: Thank you, Director. And I'll start with one or two questions, and I appreciate you taking the time. And I don't know if you need a drink of water after... []

BRUCE RAMGE: (Laugh) I'm fine. Thank you. []

SENATOR PAHLS: Okay. Did you have an opportunity, our resolution from this Banking Committee is saying our involvement in this process? []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: I think what we're trying to do is send a message that we're looking to be part of that process, and that's one of the things I'm trying to search out today, how is this committee...because this has been brought to me by other senators that, Pahls, next year let's say something is introduced out from your...the Banking Committee. You'll be handed something and then you're going to be expected to sort of sell that. And I'm fighting that internally because somehow we need to be involved in this process and how do you...how do you envision this committee? []

BRUCE RAMGE: Well, we welcome your questions, your input, your thoughts, and also through this exchange study we hope to prepare very thorough...I guess I call it a term paper. It's going to be a very large position paper that talks about all the options and the decisions that we will make. Hopefully, there will be pros and cons with the various decisions that we identify in this study, and we'll also have some better information in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

terms of potential costs, viability, and so I think that will all help everyone involved in the decision-making process to have a better understanding. []

SENATOR PAHLS: Let's say this position paper, which I appreciate, and I know just by listening to all the things, the things you have no idea what's going to happen because of the federal level, so it's not like I'm expecting that position paper to be here tomorrow. That's not my intent. But just so that all the stakeholders, because...and you know this by meeting with some of them, there is an anxiety of what we will do to them or to the people, not intentionally but just because we want to get something done. This position paper is going to be shared with everyone? []

BRUCE RAMGE: Yes, it will be public. []

SENATOR PAHLS: It will be public. []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: Okay. So to arrive at this position paper, I know you have people on staff... []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: ...to help you with that. But to arrive at that, are you going to involve any of those stakeholders in that? []

BRUCE RAMGE: That's largely what we are hoping to achieve through this series of meetings. We're obtaining feedback and opinion. And we've also been open to any groups or stakeholders or even individuals who have concerns or questions. We've met with various individuals. So far, besides these scheduled meetings, they've been pretty much on an as-requested basis by those individuals and we'll continue to do that. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

SENATOR PAHLS: And you're compiling that information to... []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: ...help you make that decision. []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: Because if we go totally counter to what the thought is out there, you know this will run up against the wall. []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: I mean...and not...well, but I've noticed in some of my reading, like some states, like California, they selected a certain governance model already. []

BRUCE RAMGE: Right. []

SENATOR PAHLS: And now why would they be doing that and we're not doing that? []

BRUCE RAMGE: Well, certain states have been more aggressive about implementation. Some states have already had an exchange in place, such as California, Utah. California's has been a private model. Utah's has been a public model, as has Massachusetts. []

SENATOR PAHLS: Okay. Are you getting any push back of why Nebraska is...I know that they have already been in place, those three states you're talking about, but are you getting any push back why we're not moving faster? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

BRUCE RAMGE: Not really. No, I think everyone appreciates the fact that we're continuing to study and but yet to move cautiously, not jumping in feet first. []

SENATOR PAHLS: Right. Yeah, and I appreciate that too. That way we don't have to undo. But right now, to me there's an awful lot of literature out there that talks about the different kinds of governance structure. I mean we don't really have a lot of choices. []

BRUCE RAMGE: Right. It has to be a public entity of nature, you know, and nonprofit. It cannot be a private enterprise, although such an entity could, you know, contract with private vendors. []

SENATOR PAHLS: Right. Let me, just for a little feedback here, if you had to make that decision today, just these two choices of having that within your department or having another agency, do you have any feeling on that? []

BRUCE RAMGE: Well, you know, that's...we're still looking at that and that is one of the issues that the department's legal staff is looking at to see if there would be any conflicts at having that in the Department of Insurance because one of the things that an exchange has to do, besides promote the exchange, is to certify the participating health plans and, of course, our department also regulates those same plans that we would be promoting. So there's a little bit of question as to whether we would be appropriate or not, but we're still looking at that and that's one of the options that is open. []

SENATOR PAHLS: Okay. And I know you've hired two individuals to help you... []

BRUCE RAMGE: Yes. []

SENATOR PAHLS: ...as I met them a month or so ago. Now is that what they're doing?
[]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

BRUCE RAMGE: Yes. []

SENATOR PAHLS: Okay. []

BRUCE RAMGE: Yes. And the states, everyone who's, you know, in this same position as us, has been wonderful about sharing information. There are e-mail groups where when developments occur and they're sharing, and that gives our analysts opportunity to collect information and hear the ideas from the other... []

SENATOR PAHLS: Okay. Now another thing, and I'm...because this...a couple questions have been directed to me, it seems to be that there's really a big concern about Medicaid and exchanges and what Nebraska is going to do, because we do have a committee with HHS, a committee to similar to this, and I don't know if that's something that they should be looking at. []

BRUCE RAMGE: Absolutely, and we have meetings with Vivianne Chaumont and the other individuals in the Medicaid division, and we are coordinating our efforts and collecting information. We've got a long ways to go because it's going to be quite a complicated process to interweave this application where...determining eligibility. []

SENATOR PAHLS: What has been your response from like the salesmen or brokers and people such as that in the insurance field? []

BRUCE RAMGE: Brokers, first of all, I would say they play a very important role in the decision-making process but also in servicing individuals' needs, as they assist with claims, they assist with questions. And so this has been the traditional role for what we term in the department as insurance producers. That's how they're licensed. And we expect that need to continue on, even after the exchanges are there. So one of the concerns that producers have expressed to us is how will they be fairly compensated for their services, and so that is an open-ended question. I think that the NAIC is looking at

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

that now through a working group because these...access to these services is vital for many people. []

SENATOR PAHLS: Okay. When you said NAIC, I mean I've read their literature. I mean they sort of...there's a skeleton out there this whole ball game, is there not? []

BRUCE RAMGE: Yes, there is. []

SENATOR PAHLS: I mean are you telling me that's possibly what we're going to model ourself after? []

BRUCE RAMGE: It's certainly a resource that we will look to. []

SENATOR PAHLS: Okay. Okay. Well, I'll quit then. I'll let somebody else. Senator. []

SENATOR GLOOR: Thank you, Chairman Pahls. Director Ramge, are the two advisors or the two analysts that you've hired, are they here today? []

BRUCE RAMGE: One is today, yes. []

SENATOR GLOOR: Could...be okay to have them be introduced? []

SENATOR PAHLS: Sure. Yes. Yes. Come on forth so you...because this is an informal...formal informal meeting. This is to gather information. []

BRUCE RAMGE: This is J.P. Sabby and he's one of the analysts who is working full time on this project and has been very instrumental. The other analyst who can't be with us today is Mike Sciallo. []

SENATOR PAHLS: So you tell me, Bruce, just so that we have access to speak to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

these two gentlemen if they have the time some...not today but I mean... []

BRUCE RAMGE: I think we could certainly arrange for that. You bet. []

SENATOR PAHLS: Okay. Okay. Senator. []

SENATOR GLOOR: As you're aware, when we talk about the insurance exchanges, multistate is an option,... []

BRUCE RAMGE: Yes. []

SENATOR GLOOR: ...something that can be looked at. And you don't even have to be dealing with contiguous states, as I understand it. But if you look at the state of Nebraska and relationships we have, the location of Iowa and Nebraska, Omaha, Council Bluffs, there seems to be sort of a look at those two states as a potential multistate option. I'm kind of jumping ahead here a little bit. But have you had any conversations with your counterparts in other states? []

BRUCE RAMGE: We have not. I think that there are certain amounts of, I think, expenses or shared expenses that might work, especially on a back operation type basis, but where a state might take an exchange beyond the basic required duties, I think that might get complicated, as well as governance. But it certainly is still an option worthwhile looking at. And at this point, I don't know what other states would be interested in joining into a group, but I'm sure as many of the states are in the same process or at the same place we are, and that's probably something that will be coming out next where states start asking, you know, are you interested. []

SENATOR GLOOR: Will you be doing some of the asking also? I mean is this one of the things that will...not, obviously, in trying to firm up anything at this point in time, but just to broaden the dialogue? []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

BRUCE RAMGE: I think it... []

SENATOR GLOOR: Or are we waiting for the...? []

BRUCE RAMGE: The dialogue would be good to find out who, what other states are out there and would be interested. But without making any type of commitment, because we, of course, haven't made a decision what is the best option between the three basic choices. []

SENATOR GLOOR: But you can see that as one of the things that can and should be looked at... []

BRUCE RAMGE: Yes, I think so. []

SENATOR GLOOR: ...as part of this evaluation. []

BRUCE RAMGE: I agree, yes. []

SENATOR GLOOR: Okay. Thank you. []

SENATOR PAHLS: Senator. []

SENATOR LANGEMEIER: Thank you, Chairman Pahls. And I'm one that has been hounding him (inaudible), as he referred to. []

BRUCE RAMGE: Oh. (Laugh) That's all right. []

SENATOR LANGEMEIER: I happen to have more questions and I'm going to be more blunt than others have. First of all, you've had three meetings across the state. What

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

have you told them? Have you told them more than you've told us today? []

BRUCE RAMGE: We've given them a PowerPoint to explain what an exchange is because a lot of people really don't understand. You know, they...we bring them from...some of the individuals from the basics on up. And so we start out with a PowerPoint. We allow individuals to ask questions and then we open it up for...to hear their thoughts and opinions. []

SENATOR LANGEMEIER: So...okay. Thank you. If a lot of them don't know what an exchange is and you're giving them a PowerPoint presentation, how can that be real vital information provided back to you if it's their first exposure? []

BRUCE RAMGE: Well, they definitely have some basic opinions and, of course, we also invite them to provide additional input back to J.P. with an e-mail address. []

SENATOR LANGEMEIER: Okay. Then you talked about stakeholders... []

BRUCE RAMGE: Yes. []

SENATOR LANGEMEIER: ...and that you've met with stakeholders upon their request. []

BRUCE RAMGE: Yes. []

SENATOR LANGEMEIER: You don't plan to have discussions about these three choices, as you said there were three choices, on an ongoing basis where they're all coming in and you're going to have kind of roundtable discussion with it? []

BRUCE RAMGE: I think as more information is developed, I think there will be opportunities for more meetings as we want to drill down, you know, deeper into some

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

of the issues. In terms of, you know, if a decision is made at some point in time to do a state exchange versus a regional exchange, I think we're going to want to start asking more in-depth questions about what they want to see this exchange do besides the requirements that are set forth in the federal healthcare law. []

SENATOR LANGEMEIER: Okay. Then I'm going to ask one more question, well, maybe. We'll see where this goes. You talk about we will make the decision. Who's we? []

BRUCE RAMGE: I think the Governor and you all will work in collaboration. I think it has to be a joint decision between all the decision makers, the policymakers. I don't believe that that decision resides in my office. Our job is simply to provide you some background information. []

SENATOR LANGEMEIER: When do you see our involvement in that to get to make that decision? []

BRUCE RAMGE: We hope to have our report done by midsummer of this year and so... []

SENATOR LANGEMEIER: So we're not going to have any involvement in it until you give us a report and we're supposed to look at that report and pick one of three? []

BRUCE RAMGE: You know, unless you would like more input and we're, again, I'm always willing to meet with you and hear from members and if there's any, you know, information we can provide, any further information, we'll do everything we can to help you out. []

SENATOR LANGEMEIER: So wait for the report, is what you're telling me. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

BRUCE RAMGE: I think that that's probably a good start. Again, if you need information before that, if it's something we can get to you, we'll be more than happy to help you out. []

SENATOR PAHLS: Do you see where we're going though? I mean the intent is not just to say, here's a report, now, you know, now it's our job to sell it. I think that's what we're trying to say. We're trying to figure out where we are. I mean we know you have lots of things to do. I mean if I'm coming across like why don't I have it tomorrow, it's not what I'm...or we. []

BRUCE RAMGE: Yeah. And I think it's important to understand where I am at with this as well. []

SENATOR PAHLS: Yes. []

BRUCE RAMGE: I want to be really objective with this report. I don't want to come in and say this is how we think it should be done. We really, truly want to have some objective information out there in the report. []

SENATOR PAHLS: Okay. And to gather that report though, if you're involving the stakeholders though, it to me is...and I just will piggyback off of Senator Langemeier's, if I am such a naive person, I mean I'm a hardworking person but I'm naive to all the options out there, and you're getting information from me, I know I would have a basic gut level, this is what I want, but it's sort of like educating and helping me make...which I'm hoping you're going to do us. []

BRUCE RAMGE: It is. It is. And interest in this has started to increase. Last week we had a fairly in-depth interview with one of the local radio stations and also the Omaha World-Herald, so I think the public is going to become more aware and learning more about the exchanges and that will also help spur interest from the... []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

SENATOR PAHLS: Yeah, right, it will spur and cause more concerns and questions,... []

BRUCE RAMGE: Questions. []

SENATOR PAHLS: ...but that will be good to get it out ahead of time. []

BRUCE RAMGE: It's good, yeah, good discussion. []

SENATOR PAHLS: Yes, Senator Utter. []

SENATOR UTTER: Thank you, Senator Pahls. It seems to me like early on in this process, it seems to me like we shouldn't have to go out and invent this wheel by ourselves if there are other groups in other states that are also working in a direction that would seem to be compatible with the way that we're going, whether it's a regional type exchange or whether it is an individual exchange. And I'm just wondering if you don't think it might be important to be proactive in contacting the other states that have to do the same thing that we're doing or default to the federal government, as I see it. And I just am...I think maybe the best ideas of more than just our own Department of Insurance or our own collaborative group, whatever that is, might be very important. []

BRUCE RAMGE: Yeah, we agree. We think that there's a lot to be gained from the information shared by the other states, and also we are learning that there are vendors out there and computer specialists, some of them have interest or have expressed interest in doing just one or two functions for an exchange and only would have that capability. There are a few others who would have more of a comprehensive plan and could, you know, tackle. So that's part of this study, as well as trying to identify who is out there and who could...basically, I like to look at it as whether it should be a build or a buy, should the state decide to go forward, because there may be...it'd be like designing a software program versus buying one off the shelf. And I think that that would make a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

huge difference on the amount of start-up time required and the initial start-up costs as well. []

SENATOR UTTER: We have talked quite a little bit in this first half hour or so about the stakeholders. []

BRUCE RAMGE: Yes. []

SENATOR UTTER: Who do you see the...who are the stakeholders? []

BRUCE RAMGE: I have...personally, I have a very broad view of what a stakeholder is. []

SENATOR UTTER: Well, tell me about that. []

BRUCE RAMGE: I think everybody in the state is a stakeholder because it impacts every one of us. But yet there are groups and individuals that have also come forward, like the Center for Rural Affairs, AARP, various trade organizations that represent insurance producers. And then again a stakeholder would be someone like the hospital and medical associations. So I don't like the concept of saying exactly who a stakeholder is because, again, it's everyone here in Nebraska. []

SENATOR PAHLS: One more thing, just a reminder. If you do have a question, raise your hand and we'll send somebody out to get your question, if by chance. Senator Pirsch. []

SENATOR PIRSCH: Yeah. Thank you, Director, for your testimony. So we have this election to make, right, one of three... []

BRUCE RAMGE: Yes. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

SENATOR PIRSCH: ...choices, the...either set the state (inaudible) or regional or the default is the federal. []

BRUCE RAMGE: Federal, yes. []

SENATOR PIRSCH: And have the federal regulations been written to the extent that we pretty well, at this point in time, have a decent understanding of what the choices are fleshed out to be, I mean substantive differences? []

BRUCE RAMGE: No, unfortunately not. We know some of the basics of what an exchange must do but they've not developed that further into exchange-specific regulations. They've not really told us what...how the federal default will look, although they've got what's called a health portal and that is supposed to be a basic template, if you will, for what an exchange might look like. []

SENATOR PIRSCH: But if...do we expect then that the federal regulations are going to be sufficiently published and out there and specific come the time which this report is published or...? []

BRUCE RAMGE: I hope so. I hope so. []

SENATOR PIRSCH: Yeah. Okay. That's what I'm kind of getting. []

SENATOR RAMGE: Yeah. Yeah. Then the next important set of regulations that we're watching for are the essential benefit design, and those are slated to come out this fall and those are...that's what will say what an insurance policy needs to look like and what benefits have to be contained. []

SENATOR PAHLS: Senator Pankonin. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

SENATOR PANKONIN: Are you done, Senator Pirsch? []

SENATOR PIRSCH: Yes. Thank you. []

SENATOR PANKONIN: Thank you, Chairman. Director, thanks for being here. Just to kind of get in my mind then, you're going to do this paper. We're waiting for more information from the federal government. Will there be legislation at the state level then to authorize and to form this, or is that something that can be done by the executive branch? []

BRUCE RAMGE: I think that that's something that is anticipated be within the federal government anyway, because we asked about enabling legislation. There is an NAIC model but I got to tell you it's a very bare-bones model because it came out early for those states who only meet once every two years. And so it doesn't go into much detail other than just saying it authorizes. []

SENATOR PANKONIN: And the deadline for when state legislatures may need to pass this is...? []

BRUCE RAMGE: We need to get the yes or no answer on or before January 1 of 2013. []

SENATOR PANKONIN: So we need to do it the next part of the session, in '12 then be looking at something. []

BRUCE RAMGE: Yes. []

SENATOR PANKONIN: I guess this is more of a statement of advise. I think, you know, the paper is fine and all the information we can gather, that's obviously important, but I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

think, as Senator Pahls has mentioned, I think it would be important to have this committee involved during the interim or whatever to a certain extent so that there's not surprises--I think that's what he was maybe getting at--and that we can help you... []

BRUCE RAMGE: Okay. Thank you. []

SENATOR PANKONIN: ...with our opinions, input, suggestions so that we do have a workable model maybe that we can all support on the floor. []

BRUCE RAMGE: Okay. []

SENATOR PAHLS: Thank you. Senator Gloor. []

SENATOR GLOOR: Thank you, Chairman Pahls. Let me make an argument for you to either...to respond to in one way or another. But usually I'm a form follows function kind of operator, but when it comes to this issue of health insurance exchanges, given a variety of factors, some of which are pretty charged in some way, shape or form, I think one of the first issues we ought to try and wrestle with and make a decision on is governance. Is this going to be a state agency? Is this going to be a public-private quasi-governmental? Is this going to be a separate not-for-profit, a private not-for-profit entity that provides the governance? It seems to me that making that decision, getting that behind or at least putting that on the table as one of the first issues to kick around a little bit will make a lot of the rest of the discussion begin to fall in place. That's my own personal feelings on that. Do you have any feel about that one way or another? []

BRUCE RAMGE: I think that is one of the key early decisions, yes. []

SENATOR GLOOR: Well, and I think when it comes to discussion, I think part of what you're hearing, a large percent of what you're hearing is to have that discussion as a, you know, a hefty debate that involves the Legislature. Then we have one of the larger

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

hurdles out of the way. If we're a buy-in to that, I think again a lot of the discussion after that falls into place, makes a lot of other bumps in the road go away, it would seem to me, not that that doesn't require some healthy discussion. But I'd hate for that to be put on the table on this is what you're telling us, this is what we're telling you, Legislature,...
[]

BRUCE RAMGE: Okay. []

SENATOR GLOOR: ...try and talk us out of it. I'd hate for that discussion to start that way. I'd like it to be a pretty healthy back and forth... []

BRUCE RAMGE: And dialogue. []

SENATOR GLOOR: ...and dialogue as we work our way into it. I don't know what the right answer is, candidly. I've tried to read about some of this, but for this state I don't know. []

SENATOR PAHLS: And again, let me piggyback on that. I think if we had that dialogue and if we feel comfortable with it and that may even be...that is part of the issue may be done at a different time than the total paper. I don't know if that's...can this be done? Do you plan to do this just like one... []

BRUCE RAMGE: I think that discussion alone is worthy of, you know, one discussion. I think that it could...we certainly could start thinking about that, what works. []

SENATOR PAHLS: Okay. And I hope what we're demonstrating here, there are a group of us up here who want to work with you. []

BRUCE RAMGE: And we appreciate that. []

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

SENATOR PAHLS: I mean our intent is not to check up on you... []

BRUCE RAMGE: No. []

SENATOR PAHLS: ...because we don't have that background that you and your department has. []

BRUCE RAMGE: Yeah. []

SENATOR PAHLS: So that's...I think we've stated it enough times that people will know that that really is our intent. Did I see a hand over there, Senator Utter? []

SENATOR UTTER: Well, yes, you did kind of see a hand over here, Senator Pahls. (Laughter) I guess when I asked you the question of who the stakeholders are,... []

BRUCE RAMGE: Yeah, okay. []

SENATOR UTTER: ...I was, quite frankly, I was a little bit disappointed in your answer. []

BRUCE RAMGE: Okay. []

SENATOR UTTER: I am...because I see that it has to be more than the Center for Rural Affairs and the AARP. I don't argue with the fact that they are stakeholders,... []

BRUCE RAMGE: Yeah. []

SENATOR UTTER: ...no question about that, but it seems like we have left out a pretty wide spectrum of our population that wouldn't be represented by either one of these groups necessarily. And I would hope that they would...that those groups...that that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

would become inclusive rather than exclusive. The other area that I must admit I...and I know that Senator Pahls and Senator Gloor and Senator Langemeier have all talked about these things, but I think this Legislature is a stakeholder. I'm going to tell you that right straight up. And I think it would be a mistake for the Department of Insurance to proceed in developing some kind of a plan or three kinds of a plan without including representation from the Legislature. Now I'm not saying that this whole committee needs to be involved but I would say that somehow or another they should...some members of the Legislature need to be invited to participate in this process. I think this is an incredibly important thing that we're doing or maybe it's something that we're doing that will be for naught. I understand the risk there too. But if it is something that is going to survive and is going to work on into the future, why, I think we need to broaden our view, quite honestly, of who the stakeholders are or are going to be as we proceed down this road. []

BRUCE RAMGE: Okay. []

SENATOR PAHLS: Do you have any other...it looks like we're probably questioned out up here and I don't see anybody from the audience. Do you have anything else you'd like to end with? []

BRUCE RAMGE: I don't. Again, we're always open to questions. And if there's any more information we can provide, please let me know. []

SENATOR PAHLS: And I appreciate you coming and spending your time and giving us... []

BRUCE RAMGE: It's been my pleasure. []

SENATOR PAHLS: ...a lot of information, even though I know a lot of it is still unsaid because of just where we're at with this. But I think you've...and we've indicated we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Banking, Commerce and Insurance Committee
March 14, 2011

want to be involved and we are interested and we're willing to help. []

BRUCE RAMGE: Okay. Appreciate that. []

SENATOR PAHLS: And I thank you for your testimony today. []

BRUCE RAMGE: Thank you. []

SENATOR PAHLS: Thank you. []