

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### INDUSTRY, BUSINESS, AND LABOR COMMITTEE

Tuesday, August 3, 2010  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative George J. Keiser, Chairman, called the meeting to order at 8:30 a.m.

**Members present:** Representatives George J. Keiser, Bill Amerman, Rick Berg, Mark A. Dosch, Kathy Hogan, Jim Kasper, Dan Ruby, Mike Schatz, Elwood Thorpe, Don Vigasaa; Senators Arthur H. Behm, David Hogue, Dave Oehlke, Tracy Potter, Terry M. Wanzek

**Members absent:** Representatives Tracy Boe, Donald L. Clark, Scot Kelsh, Steven L. Zaiser

**Others present:** Senator David O'Connell, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

**It was moved by Representative Ruby, seconded by Representative Vigasaa, and carried on a voice vote that the minutes of the May 27, 2010, meeting be approved as distributed.**

#### IMPACT OF FEDERAL HEALTH CARE REFORM

Chairman Keiser distributed a summary of estimated costs related to the federal health care reform legislation ([Appendix B](#)). He said this state is far ahead of other states in determining the impact of the federal health care reform legislation. He said the summary of costs was made with certain assumptions that are identified in the summary. He said there are aspects of the reform legislation and rules adopted to implement the legislation that are going to be of concern to medical providers and consumers. For example, he said, provisions relating to readmissions at a hospital within 30 days of release may result in the hospital not being reimbursed for the readmission. He said the summary does not quantify the cost of the potential loss of 55 full-time equivalent positions that are dedicated to the Bank of North Dakota student loan program. Another area of concern, he said, will be the definition of essential benefits. He said the state's statutory minimum loss ratio may be superseded by federal law, and he has concerns with how the federal minimum loss ratio will be calculated.

Chairman Keiser called on Mr. Adam W. Hamm, Insurance Commissioner, for an update ([Appendix C](#)) regarding the impact of the federal health care reform legislation.

In response to a question from Senator Potter, Commissioner Hamm said some states have decided to run their own high-risk pool, and other states have

contracted with the United States Department of Health and Human Services. He said the decision to allow the federal government to administer the high-risk pool in this state was made partly due to the concern that the amount of funds allocated for the high-risk pool will not last until 2014. He said many experts believe that the \$5 billion allocated will run out sometime in 2012. He said he is unsure of what will happen when those funds are gone. He said Noridian Mutual Insurance Company paid approximately \$6.1 million toward the Comprehensive Health Association of North Dakota (CHAND) program in 2009. He said Noridian's total credits were \$4.9 million. However, he said, he is not certain how the credits were broken down. With respect to the determination of minimum loss ratios by the federal government, he said, he has concerns regarding whether a new entrant in the insurance market may be able to meet the minimum loss ratio initially. He said there is a big difference between anticipated and experienced loss ratios. In addition, he said, he has concerns with respect to the definition of quality improvement expenses in the determination of the minimum loss ratio. He said the definition of the minimum loss ratio could result in destabilization of the market and a loss of competition. In addition, he said, he is concerned that due to political reasons the definition of quality improvement expenses may result in insurance companies being required to pay rebates to consumers for the failure to meet the minimum loss ratio. He said he does not expect much change in this state due to the rate review requirements under the federal legislation. He said many other states do not have the degree of rate review that this state has. However, he said, rate reviews may result in additional workload for the Insurance Department if new companies enter the insurance market in this state.

Senator Potter said he agrees that it would not be inconceivable that premium rebates would be required in an election year.

Representative Keiser said small regional insurance companies may be forced out of business by the loss ratio requirements.

In response to a question from Representative Hogan, Commissioner Hamm said the federal government has provided a significant amount of information regarding the availability of the high-risk pool. He said a website--*healthcare.gov*--has been established to provide information regarding health

insurance options. He said if consumers have questions, they can visit with the Insurance Department or their insurers to get additional information. He said the premiums in the federal high-risk pool are approximately 35 percent less expensive than under CHAND. Because most CHAND participants are very sophisticated consumers, he said, the department is not receiving a significant number of calls regarding the high-risk pool. He said the participants likely are aware that they must be without insurance for six months to be eligible for coverage under the federal high-risk pool.

In response to a question from Senator Hogue, Commissioner Hamm said Insurance Department employees are examining the insurance exchange issue and will develop recommendations for the Legislative Assembly. He said it appears that the state should run the insurance exchange on its own. Because the Legislative Assembly meets biennially, he said, a decision with respect to the operation of the insurance exchange will need to be made during the 2011 legislative session. Therefore, he said, there is not much time to work with other states in developing a regional or multistate exchange.

Representative Keiser said Utah operates what can be described as a minimalist exchange, which probably would not be acceptable in this state. On the other end of the spectrum, he said, Massachusetts has an ultimate exchange that also would not be acceptable for this state. He said the state needs to develop a plan that is suitable for this state, and he is confident the Insurance Department can make the appropriate decisions.

In response to a question from Representative Ruby, Commissioner Hamm said the state could maintain a higher minimum loss ratio than the federal government. He said the federal loss ratio is a floor, and states will have flexibility to have loss ratios beyond that minimum. However, he said, the state would have to define loss ratio in the same manner as the federal government to meet the federal standards.

Chairman Keiser called on Ms. Maggie Anderson, Director, Medical Services Division, Department of Human Services, for an update regarding the anticipated impact of the federal health care reform legislation. Ms. Anderson said the Department of Human Services has applied for a grant for nursing home transition and diversion programs. She said the \$399,000 grant would provide for a program that would focus on the intent of an individual and provide the individual with information about community resources. She said regional aging units would have representatives meet with clients to provide that information. She said the grant is a two-year grant that would begin in October.

Ms. Anderson said the national correct coding initiative is a new program to review Medicaid claims to determine if claims are being submitted appropriately. She said the program would be implemented to put claims through checks beginning October 1, 2010. In July 2011, she said, health

care-acquired condition program changes will be implemented.

In response to a question from Senator Wanzek, Ms. Anderson said federal law will prohibit the payment of Medicaid claims for costs related to conditions acquired while an individual is in the hospital. Under current law, she said, those claims are paid because information is not collected with respect to conditions present on admission to the facility.

Representative Keiser said conditions present on admission are a big concern of hospitals. Although the rules have not been adopted yet, he said, it appears the intent is to prohibit payment for acquired conditions. He questioned whether that change will require hospitals to conduct a complete body survey of a patient upon admission.

Senator Wanzek said the readmission policy could lead to longer initial hospital stays.

In response to a question from Senator Potter, Ms. Anderson said the survey period is ongoing with respect to the present-at-admission regulation. She said the department will include in its comments the question as to whether admission screenings will be reimbursable.

Chairman Keiser called on Ms. Barbara Siegel, Policy Analyst, Child Support Enforcement, Department of Human Services, for comments ([Appendix D](#)) regarding child support enforcement changes required as a result of the federal health care reform legislation.

In response to a question from Senator Behm, Ms. Siegel said child support orders must have a medical support provision. She said federal law changes in recent years have made it easier to enforce medical support.

Chairman Keiser called on Mr. Sparb Collins, Executive Director, Public Employees Retirement System (PERS), for an update regarding the impact of the federal health care reform legislation. Mr. Collins said PERS filed an application for the pre-Medicare retiree premium subsidy grant. He said the application is being reviewed, and if PERS receives the grant, PERS may be reimbursed about \$1 million to offset pre-Medicare retiree costs. He said the funds received would go into the PERS fund to offset the general costs of the fund.

In response to a question from Senator Hogue, Mr. Collins said the retiree subsidy is set up to be a five-year program with \$5 billion set aside. However, he said, the funding is not likely to last for five years. He said many experts anticipate that the funding will be used within the first three years of the program.

In response to a question from Representative Keiser, Mr. Collins said pre-Medicare retiree premiums are paid by the retiree.

Chairman Keiser called on Ms. Arvy Smith, Deputy State Health Officer, State Department of Health, for an update regarding the impact of the federal health care reform legislation. Ms. Smith said the State Department of Health did not apply for the criminal

history record check grant because of the 25 percent match and because the state will be responsible for ongoing costs of the program after September 30, 2013. In addition, she said, there is no money available for matching funds this year. She said the ongoing costs of the program would be approximately \$2.2 million.

In response to a question from Representative Keiser, Ms. Smith said if the program became mandatory after September 30, 2013, the state only would have lost out on receiving 25 percent of the approximately \$550,000 of costs related to building the system.

Chairman Keiser called on Mr. Rod St. Aubyn, Director of Government Relations, Blue Cross Blue Shield of North Dakota, Fargo, for comments ([Appendix E](#)) regarding the impact of the federal health care reform legislation, Blue Cross Blue Shield of North Dakota reserve levels, and taxation of health insurers; Blue Cross Blue Shield of North Dakota administrative expenses ([Appendix F](#)); Blue Cross Blue Shield of North Dakota Board of Directors issues ([Appendix G](#)); and executive and board compensation ([Appendix H](#)).

In response to a question from Representative Kasper, Mr. St. Aubyn said when board compensation was examined on a regional and statewide basis, it was found that the compensation of the Blue Cross Blue Shield of North Dakota Board of Directors was in the middle with respect to the regional averages and was on the low side with respect to similar boards on a national basis.

Senator Potter said the Sherlock Company examination of administrative expenses of Noridian Mutual Insurance Company seems to be an expenditure of money on a consultant to prove what already was known to be true.

Mr. St. Aubyn said the Sherlock report is a part of the administrative costs of the company. He said legislators may know that Blue Cross Blue Shield of North Dakota is a low-cost company, but many in the public are not aware of that fact, and the board believed that it was necessary to validate the belief that it is a low-cost company.

In response to a question from Representative Hogan, Mr. St. Aubyn said the definition of quality improvement expenses is a major concern for insurers. He said Blue Cross Blue Shield of North Dakota has several wellness and disease management programs that save the company and members money on a long-term basis and improve the health of the members. However, he said, if those types of expenses are not allowed as quality improvement costs, the company may have to eliminate the programs because costs would be considered administrative costs in determination of the minimum loss ratio. He said smaller insurance companies will be significantly affected by the health care reform provisions.

In response to a question from Representative Keiser, Mr. St. Aubyn said the wellness benefit that

helps pay part of the cost of health club memberships has demonstrated an increase in participation by members. He said wellness programs demonstrate long-term benefits, and disease management programs generally will show benefits almost immediately. He said Blue Cross Blue Shield of North Dakota is always looking at best practices of other insurers to improve programs and benefits. He said the MediQHome is a leading edge program that provides medical information to a patient's physician who will work with the patient and track the patient's needs. He said the physician takes an active role in the overall care of the patient.

Chairman Keiser called on Mr. Tim Blasl, Vice President, North Dakota Hospital Association, for comments ([Appendix I](#)) regarding the impact of the federal health care reform legislation.

In response to a question from Representative Berg, Mr. Blasl said the \$260 million net benefit to the state does not take into account the "doc fix" and other aspects of health care reform that were not included within the main legislation, including the \$500 million reduction in Medicare costs.

In response to a question from Senator Potter, Mr. Blasl said 75 percent to 80 percent of the \$650 million additional reimbursement is related to hospital reimbursement. The remainder, he said, is physician reimbursement.

In response to a question from Representative Hogan, Mr. Blasl said the cost estimates of the health care legislation do not take into account the state's aging population and the growing number of Medicare-eligible population.

Chairman Keiser called on Mr. Bruce Levi, Executive Director, North Dakota Medical Association, for comments ([Appendix J](#)) relating to the impact of the federal health care reform legislation. Mr. Levi said workforce demands as the result of the federal health care reform legislation will affect the state. He said this state already has medical provider shortages that need to be addressed. He said the proposed rules relating to readmissions are a concern, as is the acquired condition issue.

In response to a question from Representative Keiser, Mr. St. Aubyn said the "doc fix" was considered as part of the original savings estimate for the federal legislation. He said the "doc fix" was removed from the bill, and there was a temporary fix which was not part of the reform legislation. He said that was not factored into the final savings estimate in the bill. He said the \$276 billion in savings based on a 21 percent reduction will not likely result. He said the Medicare Advantage reductions were included in the savings estimate. He said Medicare Advantage payments will be significantly lower, and those on Medicare Advantage can go to traditional Medicare.

In response to a question from Representative Berg, Mr. Levi said Medicare Advantage was viewed as being overfunded.

Representative Kasper said systemic changes are necessary to provide efficiency in health care delivery.

In addition, he said, the state can address costs by getting people healthier. He said other areas in which costs can be reduced are through technology and reduction of administrative costs.

Mr. Levi said providers in this state have done a good job with respect to cost-containment. He said there have been forced efficiencies over the years due to the lack of resources. In addition, he said, there are new providers from out of state entering the market and providing capital that was being sought by North Dakota providers. He said North Dakota may be a model for other states to demonstrate efficiencies and the addressing of reimbursement issues. He said the state has become efficient before other states and continues to look at improvements in the health care delivery system.

Representative Keiser said the focus of the federal health care reform legislation was on creating access rather than cost-containment. He said the legislation will not result in premiums or costs being reduced. He said this state must look at what can be done legislatively to address health care in the state and to look at infrastructure needs.

Mr. St. Aubyn said it will be important to bend the cost curve. He said Blue Cross Blue Shield of North Dakota has worked with the North Dakota Medical Association and the North Dakota Hospital Association to look at solutions, and efforts are ongoing to find solutions. He said one challenge facing the state is its aging population who will continue to utilize more health care services. He said the increased costs will need to be spread across the population. However, he said, a problem with the federal legislation is the low penalty for those who do not maintain insurance.

Senator Potter said it will be important to seek input from health care providers to get suggestions for restraining costs without impacting the quality of care provided in this state.

In response to a question from Senator Potter, Mr. Levi said the delay in the "doc fix" resulted in cuts and the need to reprocess claims. He said he is not sure of the cost of reprocessing claims. He said the reprocessing was done automatically.

In response to a question from Representative Keiser, Mr. Levi said he has not heard significant concerns from doctors regarding the change in flexible spending accounts which will not allow reimbursement for over-the-counter medications. However, he said, he likely will hear concerns once doctors will have to begin writing more prescriptions rather than the patient taking over-the-counter medications.

At the request of Chairman Keiser, committee counsel reviewed a resolution draft [\[13017.0100\]](#) that directs the Legislative Management to continue studying the impact of federal health care reform legislation during the next interim.

Representative Kasper said this committee has done a good job in addressing the impact of the federal legislation, and continued study is needed as

the legislation and rules adopted pursuant to it are implemented.

**It was moved by Representative Kasper, seconded by Representative Hogan, and carried on a roll call vote that the resolution draft relating to a Legislative Management study of the impact of the federal health care reform legislation be approved and recommended to the Legislative Management.** Representatives Keiser, Amerman, Dosch, Hogan, Kasper, Ruby, Schatz, Thorpe, and Vigesaa and Senators Behm, Hogue, Oehlke, and Potter voted "aye." No negative votes were cast.

At the request of Chairman Keiser, committee counsel reviewed a bill draft [\[10019.0100\]](#) that would require accident and health insurance companies to provide a disclosure of the anticipated loss ratios for the insurance plan at initial policy application or at any time the plan's premium changes thereafter.

Senator Potter said although he favored the idea of required disclosure of loss ratios during the last legislative session, the issue has become less relevant with the adoption of the federal health care reform law and the minimum loss ratio requirements under the federal law. He said this bill draft would place an unnecessary burden on companies.

**It was moved by Senator Behm that the bill draft relating to the minimum loss ratio disclosure be approved and recommended to the Legislative Management. Chairman Keiser declared the motion failed for lack of a second.**

At the request of Chairman Keiser, committee counsel reviewed a bill draft [\[10022.0200\]](#) that would exempt all major medical insurance policies from the insurance premium tax.

Senator Potter said the health insurance companies now will be facing an increase in federal premium taxes. He said the premium tax is essentially a sales tax, and the state went without the premium tax on major medical policies until about 1983.

Senator Hogue said he originally believed the tax exemption was a good idea, and he generally supports lowering taxes. However, he said, the net effect is a reduction of taxes for Blue Cross Blue Shield of North Dakota, but the proposal does not address from where the revenue will come to make up for the loss in taxes. He said the Insurance Commissioner opposed this idea at an earlier meeting of the committee. In addition, he said, the federal legislation likely will result in additional costs to the Insurance Department which could result in having to take money from the general fund if the insurance premium tax is eliminated.

Senator Potter said the tax is essentially a policyholder tax of 1.75 percent. During the last two legislative sessions, he said, the state has had an unprecedented surplus, and legislators have been able to pick and choose taxes they want to cut. He said this tax is a small tax that directly affects the high cost of insurance premiums. He said this is spending money in the right way.

Representative Ruby said there has been discussion at previous meetings regarding the need to use funds from the insurance regulatory trust fund for addressing the additional costs imposed as the result of the federal health care reform legislation.

Representative Keiser said the new federal tax applied to insurance companies likely will be in an amount similar to the amount of the premium tax. Therefore, he said, if this bill were to be adopted, premiums will likely stay the same, and the net effect is the state would be subsidizing the federal tax increase. He said the Insurance Department operates on revenue generated from premium taxes, and the excess is transferred to the general fund.

In response to a question from Representative Vigesaa, Mr. Michael Fix, Life and Health Division Director and Actuary, Insurance Department, said a fiscal note has not been prepared for this bill draft. However, Mr. Fix said, prior testimony by the Insurance Commissioner indicated that approximately \$16.1 million in premium taxes was generated for accident and health insurance policies in 2009. He said \$11 million of that amount came from Blue Cross Blue Shield of North Dakota. He said the majority of that total amount was for major medical policies. Therefore, he said, the biennial impact would be at least \$22 million. He said the distribution to volunteer firefighters from the insurance premium tax would have to come from the general fund if the bill draft were adopted.

In response to a question from Representative Kasper, Mr. Fix said the major medical policies include group and individual policies. He said a self-funded plan is not included because a self-funded plan is not deemed to be insurance.

Senator Hogue said the bill draft provides a tax decrease for Blue Cross Blue Shield of North Dakota with the hope that the decrease will be passed on to policyholders. He said the better approach would be to give taxpayers direct tax reductions, not through intermediaries.

Representative Hogan said she sees the need for a tax break, but it may be best to wait to see the impact of the federal legislation.

Senator Potter said the Insurance Commissioner reviews premium rates and should factor into the rate review process a reduction in premium taxes.

Senator Oehlke said the amount of a family premium was probably one-fourth of the current cost at the time the premium tax was implemented. He said health insurance costs have escalated much more than any other type of insurance. Therefore, he said, a reduction in the premium tax may be the better approach.

After that discussion, **the motion to approve the bill draft failed on a roll call vote.** Representatives Amerman, Ruby, and Thorpe and Senators Behm, Oehlke, and Potter voted "aye." Representatives Keiser, Dosch, Hogan, Kasper, Schatz, and Vigesaa and Senator Hogue voted "nay."

## WHISTLEBLOWER STUDY

At the request of Chairman Keiser, committee counsel distributed a bill draft [10135.0100] that establishes a procedure for the review of reports of violations of misuse of public resources or job-related violations of law. Committee counsel said the bill draft was suggested by the director of the Risk Management Division of the Office of Management and Budget after discussion at the first meeting of the committee.

In response to a question from Representative Kasper, committee counsel said certain records relating to reports of misuse of public resources or violations of federal law may be records exempt from the open records law if the records fall under an exemption from the law, such as attorney work product or investigatory work product. However, he said, a person filing the report may share the information and would not be subject to the attorney work product or investigatory work product exemptions.

Representative Kasper said he is concerned with protection of an individual being accused of misusing resources or violating laws. He said that individual needs to be provided an opportunity to rebut the report. He said the information should be considered confidential.

Senator Hogue said the proposal seems to delegate to state's attorneys authority to get involved in state government. He said the whistleblower law should define what is a legitimate complaint. He said there was discussion at an earlier meeting with respect to an underperforming employee deciding to become a whistleblower and tying the employer's hands with respect to addressing the employee's deficient work. He said a de minimis standard is needed so that a whistleblower is not complaining about missing paper clips.

In response to a question from Senator Potter, committee counsel said the whistleblower law provides for a report to be submitted to a state's attorney because the law also addresses employees of a political subdivision.

Senator Potter said although the committee has not had time to address this issue because of the large amount of time needed to address the health care reform study, something should be done to address whistleblowers. Although the bill draft may not be the total answer, he said, the committee should approve the bill draft and move it ahead for consideration during the legislative session.

**It was moved by Senator Potter and seconded by Representative Thorpe that the bill draft relating to reports of misuse of public resources and violations of law be approved and recommended to the Legislative Management. The motion failed on a roll call vote.** Representatives Amerman, Hogan, and Thorpe and Senators Behm and Potter voted "aye." Representatives Keiser, Berg, Dosch, Kasper, Ruby,

Schatz, and Vigesaa and Senators Hogue and Oehlke voted "nay."

Chairman Keiser said the committee's discussion of the bill draft and the final report of the committee will make the Risk Management Division aware of the issues addressed by the committee with respect to protection of whistleblowers.

## **WORKFORCE SAFETY AND INSURANCE ROUGH RIDER INDUSTRIES WORK PROGRAM AUDIT**

Chairman Keiser called on Mr. Barry Schumacher, Chief of Employer Services, Workforce Safety and Insurance, for comments ([Appendix K](#)) regarding the Workforce Safety and Insurance performance audit ([Appendix L](#)) of the modified workers' compensation coverage program and the safety audit of Roughrider Industries work programs.

Representative Keiser said he had concerns with the idea of including prisoners working at Roughrider Industries under the modified workers' compensation program. However, he said, the program has worked amazingly well, and the prisoners working in Roughrider Industries are safer than most other employers.

In response to a question from Representative Schatz, Mr. Schumacher said the modified workers' compensation program includes both male and female prisoners.

Representative Berg said this report is required by statute but probably is no longer necessary on an annual basis.

In response to a question from Representative Hogan, Mr. Schumacher said the program is risk-free to the policyholders in this state. He said if a claim were submitted which exceeded the premiums paid, the claim will be paid through risk management or through reinsurance that is purchased for the program. However, he said, there has never been a claim filed under the program.

**It was moved by Representative Berg, seconded by Representative Schatz, and carried on a voice vote that the report of Workforce Safety and Insurance be accepted.**

At the request of Chairman Keiser, committee counsel reviewed a bill draft [[10134.0100](#)] that provides for a biennial safety audit of the Roughrider Industries work programs and a biennial performance audit of the modified workers' compensation coverage program and provides that if there are any recommendations for change in either program as a result of the audit, Workforce Safety and Insurance shall submit a report with the recommendation to the Legislative Council before the commencement of the next regular session of the Legislative Assembly.

**It was moved by Representative Berg, seconded by Representative Thorpe, and carried on a roll call vote that the bill draft relating to the audit and performance evaluation of the Roughrider Industries work programs workers'**

**compensation coverage be approved and recommended to the Legislative Management.** Representatives Keiser, Amerman, Berg, Dosch, Hogan, Kasper, Ruby, Schatz, Thorpe, and Vigesaa and Senators Behm, Hogue, Oehlke, and Potter voted "aye." No negative votes were cast.

## **IMPACT OF FEDERAL HEALTH CARE REFORM**

Chairman Keiser called on Mr. Niles Hushka, Kadrmas, Lee & Jackson, for comments regarding the federal health care reform legislation. Mr. Hushka said Kadrmas, Lee & Jackson has 450 employees in seven states, and its business is entirely dependent upon the health of its employees. He said health care is a top business issue for the company, and the company has advocated wellness programs. He said use of the company's wellness program has increased 50 percent since the adoption of the federal health care reform legislation. That increase, he said, is likely due to the fact that more people are becoming more concerned with health care costs. He said health care costs for the company's employees in North Dakota are significantly lower than the industry average. Because there are a number of rules and interpretations yet to be determined under the federal law, he said, the impact of the reform provisions will not be fully known for some time, and the impact will mostly be felt upon full implementation in 2014. As a member of the YMCA Board of Directors, he said, he was shocked at the significant increase in Blue Cross Blue Shield of North Dakota premiums this year. He said the employees under the YMCA health plan are young healthy people.

Mr. Hushka said Kadrmas, Lee & Jackson was self-insured until two years ago when it was determined that administrative costs exceeded the cost of policies available through Blue Cross Blue Shield of North Dakota. He said usage of the health care coverage provided by the company has increased over the last year, and catastrophic costs also have increased. Because most engineering companies are small businesses, he said, many of those companies will benefit from the tax credits available under the federal legislation. However, he said, because of the number of employees of Kadrmas, Lee & Jackson, the company could be at a competitive disadvantage. He said he is concerned that the health care coverage provided by the company may be jeopardized after the health care reform legislation is implemented. However, as a whole, he said, the health care reform legislation is likely to have a neutral effect on the company. He said the company should receive wellness credits because 5 percent of an employee's salary goes to wellness programs.

Mr. Hushka said he is concerned with the grandfathered status provisions in the legislation. In addition, he said, the impact of the independent appeals process will be interesting. He said the

Form 1099 reporting requirements under the law likely will result in an increase of one to two employees. An immediate change that the company is affected by, he said, is the provision relating to nursing mothers. He said the company will have to make accommodations in 17 workplaces for nursing mothers.

Mr. Hushka said his company is no longer competitive with the state with respect to the provision of employee benefits because his company is no longer able to afford the full cost of benefits provided by the state.

Mr. Hushka said health care reform and the entry of Sanford Health into the North Dakota market has prompted the two hospitals in Bismarck to begin discussions with respect to collaboration in some aspects. He said the expansion of the University of North Dakota Family Practice Center in Bismarck is helping address the need for family practice physicians.

In response to a question from Representative Amerman, Mr. Hushka said the requirement under the federal health care reform legislation to provide dependent care coverage up to age 26 will have little impact on his company. He said the change will likely add three new people under the health coverage.

Chairman Keiser said the committee has addressed each item within its study directives. He said this will be the last meeting of the committee unless something arises that results in the need for further committee discussion. He said the breakdown of state costs of the health care reform legislation is a working document that can be forwarded to the Legislative Management as part of the committee's report. He said the document will be updated to remove the reference to the State Department of Health grant, to reflect the net gain as a result of the frontier provision, to reflect the \$1 million grant for which the Insurance Department has applied, and to address the potential Department of Human Services and PERS grant applications. He said the document is not intended to be partisan and is only a framework from which more detailed information will evolve.

Senator Potter said he does not believe some of the numbers upon which the document was based and does not agree with all of the assumptions listed in the document. In addition, he said, he disagrees with the premise that everybody has the capacity to be insured or to have easy access to insurance coverage.

Representative Keiser said the document estimates the number of residents without insurance at 7 percent. He said other studies have indicated that that estimate is rather close.

Representative Hogan said there may be other savings, such as Medicaid savings, at human service centers that have not been addressed.

**It was moved by Representative Berg, seconded by Representative Ruby, and carried on a roll call vote that the revised cost estimate**

**document be adopted and included within the report of the committee.** Representatives Keiser, Amerman, Berg, Dosch, Hogan, Kasper, Ruby, Schatz, Thorpe, and Vigesaa and Senators Behm, Hogue, and Oehlke voted "aye." Senator Potter voted "nay."

Representative Hogan said the committee may need to meet again. She questioned whether the Insurance Commissioner will develop a proposal for the health insurance exchange before the 2011 legislative session.

Representative Kasper said although the committee has had testimony from representatives of the North Dakota Hospital Association, the committee did not hear directly from hospital administrators. He said if the committee meets again, the committee should seek input directly from hospital administrators.

Committee counsel said a number of documents ([Appendix M](#)) have been submitted to the committee over the course of the health care reform study, some of which were forwarded by e-mail to the members of the committee. He distributed copies of several of the documents received for the committee's review.

### **REDUCED IGNITION PROPENSITY STANDARDS FOR CIGARETTES**

Committee counsel said the committee received correspondence ([Appendix N](#)) from the State Fire Marshal with respect to the duty of the State Fire Marshal to report during each interim on the State Fire Marshal's findings and recommendations for legislation to improve the effectiveness of the law on reduced ignition propensity standards for cigarettes. He said the correspondence indicated that no recommendations are being made at this time because the law has just taken effect.

**It was moved by Representative Berg, seconded by Representative Vigesaa, and carried on a roll call vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts and resolution draft recommended by the committee and to present the report and recommended bill drafts and resolution draft to the Legislative Management.** Representatives Keiser, Amerman, Berg, Dosch, Hogan, Kasper, Ruby, Schatz, Thorpe, and Vigesaa and Senators Behm, Hogue, Oehlke, and Potter voted "aye." No negative votes were cast.

There being no further business, Chairman Keiser adjourned the meeting at 2:40 p.m.

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John Bjornson  
Committee Counsel

ATTACH:14