

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

HEALTH CARE REFORM REVIEW COMMITTEE

Thursday, July 7, 2011
Brynhild Haugland Room, State Capitol
Bismarck, North Dakota

Representative George J. Keiser, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives George J. Keiser, Robert Frantsvog, Eliot Glasheim, Nancy Johnson, Jim Kasper, Lisa Meier, Ralph Metcalf, Marvin E. Nelson, Karen M. Rohr, Robin Weisz, Lonny B. Winrich; Senators Dick Dever, Jerry Klein, Judy Lee, Tim Mathern

Members absent: Representatives Donald L. Clark, Lee Kaldor, Gary Kreidt; Senator Spencer D. Berry

Others present: See [Appendix A](#)

It was moved by Senator Klein, seconded by Representative Metcalf, and carried on a voice vote that the minutes of the June 14, 2011, meeting be approved as distributed.

Chairman Keiser welcomed committee members and stated the committee meeting is being broadcast on the Internet and perhaps on local cable channels. He said he views the two primary areas the committee will need to focus on regarding the governance and administration of the state's health benefit exchange are who will administer the exchange and how to fund the exchange.

INSURANCE COMMISSIONER

Chairman Keiser informed committee members that Mr. Adam W. Hamm, Insurance Commissioner, Insurance Department, was recently elected to be secretary-treasurer of the National Association of Insurance Commissioners (NAIC). Representative Keiser stated this is a great honor to be elected to that position.

Chairman Keiser called on Mr. Hamm to provide an update on the status of state implementation of the health benefit exchange provision of the Affordable Care Act (ACA), an update of the status of the federal Health and Human Services (HHS) guidelines regarding the ACA, and a summary regarding the NAIC-proposed American Health Benefit Exchange Model Act (model Act).

Mr. Hamm provided an update on the states' implementation of the health benefit exchange provisions of the ACA. He reported the following updates to the material the committee received at its June meeting--Alabama has established a study group and Colorado passed a bill to establish the Colorado exchange as a nonprofit, unincorporated public entity that will set up a market for health insurance.

Mr. Hamm said that within the next week or so he is expecting to receive the HHS guidelines, the regulations on Medicaid, and the Treasury Department guidelines. He said the HHS guidelines are rumored to be approximately 800 pages in length, so once the guidelines are released, it will take a significant amount of time to become familiar with them.

Mr. Hamm reviewed the model Act ([Appendix B](#)). In reviewing the model Act, he focused his comments on the following sections of the model Act and the associated drafting notes--Section 2, Purpose and Intent; Section 4, Establishment of Exchange; and Section 6, Duties of Exchange. He said now that the committee has made the decision to go forward with a state health benefit exchange, the single-most important decision the committee will need to make is how to govern the exchange. He distributed the NAIC whitepaper "Health Insurance Exchanges Under the Affordable Care Act: Governance Options and Issues" ([Appendix C](#)). As the committee moves forward, he said, the committee may wish to bring in representatives from other states that have health benefit exchanges, such as Massachusetts and Utah, in order to learn what is working well and what has been a challenge. He said Section 6 of the model Act reflects the minimum requirements under the ACA; however, with the expected HHS guidelines these minimum duties may change.

In response to a question from Representative Kasper, Mr. Hamm said subsection N of Section 6 of the model Act addresses the role of insurance agents. He said the overwhelming opinion appears to be that agents need to continue to be involved in the health benefit exchanges.

In response to a question from Representative Keiser, Mr. Hamm said at the federal level, the Rogers bill seeks to remove agents from the ACA loss ratio requirement; however, there does not appear to be a consensus at the federal level on how to deal with this issue. He said at this time, both North Dakota and Iowa are awaiting a response from HHS on waiver requests to allow a phase-in approach to the loss ratio requirements by granting an adjustment.

Representative Keiser said that at the last meeting, Mr. Michael O. Leavitt, Leavitt Partners, Salt Lake City, Utah, encouraged North Dakota to design a system that works best for North Dakota, and the federal government would likely respond by being flexible.

Mr. Hamm said as the committee moves forward in establishing a health benefit exchange, he asks that the committee keep an open mind to allowing for federal administration of the exchange. He said at this point the HHS guidelines have not yet been released, we are still waiting to find out what the essential benefits are, and the United States Supreme Court has not yet ruled on the ACA litigation.

In response to a question from Senator Mathern, Mr. Hamm said he does not have a position on what governance structure should be used for the health benefit exchange, and it would not be appropriate for him to take such a position on this very important decision. Additionally, he said, he is not aware of any other states' requests for proposals (RFPs) on the governance issue of the exchanges, but he can keep an eye out for such documents. However, he said, before an RFP from another state is shared with nonprofit entities to judge interest in administering the exchange, the RFP would need to be reviewed to determine whether it was comparable to the model North Dakota is considering adopting.

In response to a question from Representative Winrich, Mr. Hamm said his best guess at when the United States Supreme Court will issue a ruling on the ACA challenges is summer 2012.

In response to a question from Representative Kasper, Mr. Hamm said the ACA provides that after 2015 there will be no federal funding to support the health benefit exchanges. In addition, he said if the essential benefit plans are substantially richer than the North Dakota health insurance mandates, there may be sticker shock for North Dakota consumers. He said there is not expected to be any federal funding to soften this blow. He distributed a document ([Appendix D](#)) that lists all North Dakota's health insurance mandates.

In response to a question from Representative Frantsvog, Mr. Hamm said January 2013 is the drop-dead date for states to opt for the federal option for the health benefit exchange.

In response to a question from Senator Dever, Mr. Hamm said he is not comfortable identifying whether North Dakota has any state entities that could be used as a model for administration of the state's exchange; however, he is not aware of any state entity that would be a perfect fit in its current state. He said if an existing state entity were to administer the exchange, it would require modification. He said in looking at the Utah exchange governance structure, it is important to remember that the Utah exchange is not compliant with the ACA, and that most states appear to be taking an approach that is different from the Utah structure.

In response to a question from Senator Klein, Mr. Hamm said there are advantages and disadvantages of having a state entity administer the exchange. He said regardless of which state governance model is used there will likely be state expenses. For purposes of establishing the exchanges, the federal government essentially has a blank check to help the states get up and going.

Senator Lee said the states that have larger numbers of health insurance mandates are generally larger states and as such are more influential states when it comes to setting federal policy. Therefore, she said, she expects the essential benefits will be richer than North Dakota's current health insurance mandates.

Mr. Hamm said he does not believe the state will need to subsidize up to 400 percent of poverty for Medicaid.

In response to a question from Senator Mathern, Mr. Hamm said he has not conducted a formal poll of state entities to determine whether they are interested in administering all or a portion of the state's exchange; however, he has had informal discussions with the agencies.

Senator Mathern said the committee should take the lead in polling state entities to determine whether any are interested in administering the exchange.

Chairman Keiser said he will send a letter to state agencies on behalf of the committee. He said if any committee members have suggestions on which private entities should be polled they should contact committee counsel and provide this information.

Senator Lee said the North Dakota Association of Nonprofits could be sent a single letter to be distributed to its members.

In response to a question from Representative Glassheim, Mr. Hamm said the ACA establishes four different plans, based on the percentage of services for which the consumer is required to pay. Representative Keiser said that within each of these plan levels, every level can enrich the plan above and beyond the required essential benefit plan requirements.

INSURERS

Chairman Keiser called on Ms. Lisa Carlson, Sanford Health, for comments regarding the Utah health exchange. Ms. Carlson explained that like North Dakota, South Dakota is examining the Utah exchange model to determine what might be learned from Utah's experience. However, she reminded the committee that the Utah exchange does not comply with the ACA, and Utah's goal of fostering the growth of the small group market differs from the goal of complying with the ACA.

Ms. Carlson said in building the Utah exchange, Utah established three guiding principles as the foundation:

1. To create an exchange that moves towards consumer engagement and promotes individual responsibility. Utah wanted a model that put individuals in control of their health care dollars and removed the insulating layer of the true cost of health care.
2. To preserve the private insurance market and foster a competitive environment.
3. To create an exchange in which technology serves as the "backbone" for a one-stop shopping experience for individuals and small employer groups in which they can either buy

insurance directly from a carrier or through an insurance agent. One operational side note--small employers who have a large number of employees who live outside of the state of Utah are not allowed to participate in the exchange.

Ms. Carlson said as a result of these goals, Utah's exchange has three unique characteristics:

1. The exchange provides for a defined contribution instead of the traditional defined benefit.
2. The role of agents differs from the traditional role. All producers are appointed with all carriers as a condition of selling through the state exchange. She said this is in contrast to the status quo where agents have the option of being appointed with certain insurers and vice versa where insurers may only want certain agents selling their products.
3. How the exchange deals with neutralizing adverse risk selection. Utah addressed this issue by creating a "risk adjuster board" that is made up of actuaries, including those who represent insurance carriers, employer groups, the Public Employees Retirement System, and representatives from the Insurance Commission. The goal of the Utah Risk Adjustor Board is to create risk normalization amongst participating carriers, not financial equalization.

Ms. Carlson said that in conclusion, the following published challenges and lessons can be learned from Utah:

- Engage insurers from the start--they have every incentive to make the state exchange work;
- Embrace private solutions rather than hire programmers and reinvent the wheel;
- Test, test, test;
- Ensure a level playing field inside and outside of the exchange--the Utah Risk Adjustor Board is a fluid entity always looking for better ways to fine-tune the Utah model, including the use of an all-payer claims database; and
- There was a need for heavy agent involvement, despite the technology tools that were available.

In response to a question from Representative Kasper, Ms. Carlson said she is not able to answer specific questions regarding how Utah addresses risk adjustment. However, she said, she expects representatives from Utah would be open to coming to North Dakota to discuss the issue.

In response to a question from Representative Meier, Ms. Carlson said a recent NAIC report indicated Utah's startup costs were less than \$700,000. Representative Keiser said through the use of vending partners, Utah has distributed significant costs that are not reflected in Utah's reported expenses. Ms. Carlson said she expects North Dakota will want to gather information and data regarding startup costs.

Senator Lee said as the committee considers how to move forward with the exchange and considers what other states have done, it may be important to remember what a significant role the Employee Retirement Income Security Act (ERISA) plays in the state's health insurance arena.

In response to a question from Senator Mathern, Ms. Carlson said one role that may be played by multistate exchanges is that it might allow states to use the work of other states and may allow states to join in vendor contracts with other states. However, she said, at Sanford Health the products and related data vary significantly from state to state.

In response to a question from Representative Rohr, Ms. Carlson said she is not sure whether Utah has tracked data on consumer satisfaction. However, she said, quality standards, including consumer satisfaction, are required as part of the ACA.

Chairman Keiser called on Mr. Brad Bartle, Blue Cross Blue Shield of North Dakota (BCBSND); Mr. Geoffrey Bartsh, Medica; and Ms. Carlson to sit on a panel to discuss the impact of the health benefit exchange on the health insurer industry.

Mr. Bartle distributed written testimony ([Appendix E](#)). He said BCBSND supports a state health benefit exchange instead of relying on an exchange run by the federal government. He said this will allow the state to design the exchange based on what is best for North Dakota. To assist the committee in designing a state exchange, BCBSND reviewed the model Act and marked it up to reflect BCBSND's suggested revisions. A copy of this red-lined version of the model Act is attached as [Appendix F](#).

Mr. Bartle said BCBSND supports an exchange that keeps the individual and small group rate pools separate from each other. He said if these two pools were placed within a single pool, it is expected the small group premiums would increase. Additionally, he said, BCBSND supports setting small group size as 2 employees to 50 employees.

Mr. Bartle said as it relates to governance of the exchange, BCBSND supports creation of a nonprofit governing board. He said a nonprofit governing board that pulls from the general public would go a long way to ensure that key decisions are made without undue political pressure or influence. The red-lined version of the model Act also provides for an advisory panel to assist the nonprofit governing board with the task of running the exchange. Finally, he said, BCBSND supports basing the exchange on actuarially sound principles and keeping the exchange free of an inordinate amount of government regulation and restrictions.

In response to a question from Representative Keiser, Mr. Bartle said if there are two separate risk pools, he does not think it will result in the end of the individual market; however, it may result in some small groups dropping coverage and those employees moving over to the individual market.

In response to a question from Representative Kasper, Mr. Bartle said he does expect that once the

high-risk pool joins the market, premium rates in both the small group and individual market will increase. He said in setting up the proposed nonprofit entity to govern the exchange, the entity's first act would likely be to hire an executive director. Although the exchange will initially receive federal funding, he said, it will eventually be required to be self-sustaining.

In response to a question from Representative Winrich, Mr. Bartle said it is expected that under the ACA premium rates will increase; however, if the individual and small group risk pools are joined to a single pool, it is likely the small group premiums would increase even more.

Ms. Carlson said the model Act is an empty shell that North Dakota would be faced with furnishing. She said the states will have great flexibility in determining how to furnish the model Act, and therefore, we need to be careful about making broad, sweeping statements before we know the details.

In response to a question from Representative Kasper, Ms. Carlson said the freedom to market is the basis of the free market and competition. She said a partnership of all involved parties will help keep health plans affordable. Mr. Bartle said as it related to providers and reimbursement rates, it is a matter of stewardship for insurers to contract for the lowest rates for members. Mr. Bartsh said the marketplace has protections to prevent undue influence.

Mr. Bartsh said Medica supports encouraging competition among carriers and maximizing consumer choice. He said the health benefit exchange should be designed to meet the ACA's minimum requirements due to time and resource limitations, and then at a later date the market response can determine the new functions of the exchange. He encouraged the committee to focus on the exchange's core function of the sale and purchase of health insurance.

Mr. Bartsh said Medica supports direct oversight of the exchange by a governing board that is an independent decision making entity that has expertise in the appropriate fields and then advisory committees of consumers and stakeholders. He said that regardless of the governance model, the board should be under the direct control of a government authority to allow for quick responses.

Mr. Bartsh said Medica supports an exchange governance model that provides for market facilitation, such as the Utah model, instead of market regulation, such as the Massachusetts model. He said Medica takes the position the health insurance market should continue to exist outside the exchange, creating an additional tool for the marketplace, not a replacement of the current marketplace. Additionally, he said, Medica supports allowing agents and brokers a continued role in selling policies in the exchange.

Ms. Carlson said Sanford Health's position on the exchange is in general agreement with the comments made by Mr. Bartle and Mr. Bartsh, including the positions that North Dakota would be best served by using the exchange as a clearinghouse and not as a regulator, the design and implementation of the

exchange should be based on analytics and information provided by experts in the field, and that for now the small group market should be for employers with 2 employees to 50 employees.

Ms. Carlson said as North Dakota moves forward in designing its exchange, it would be helpful at the front end for the state to outline its goals. Additionally, she said, the committee should consider issues such as the risk of creating an exchange under which the "haves" purchase health insurance from outside the exchange and the "have nots" purchase from inside the exchange and such as how to address foreign domiciled companies that wish to enter the state's market. She said when a foreign insurer enters the state it may be valuable for the state to require that the new company sell within the exchange in order to avoid adverse selection or cherry-picking activities.

Representative Keiser said he understands the insurers' concerns regarding creation of a dual regulatory system. He said in Massachusetts the insurers are faced with being unable to increase premium rates even though the rate increases are based on actuarially sound data. Mr. Bartle said he thinks the regulatory functions of rate and contract approval should remain with the Insurance Commissioner and should be done in a manner that is based on actuarially sound data and not political influence. Mr. Bartsh said another reason to avoid a dual regulatory system would be that such a system may result in "haves" purchasing health insurance from outside the exchange and "have nots" purchasing from inside the exchange.

In response to a question from Senator Lee, Mr. Bartle said accountability could be achieved by a nonprofit entity governance model, which includes representation by ex officio state agency members as well as representatives of the Legislative Assembly.

Representative Glassheim said we are here today because the free market has not controlled prices and quality of care, and therefore, he has reservations in following the insurers' recommendations to rely on the free market. He said there are special dynamics with the provision of health care versus the provision of widgets and for that reason the committee should be careful of relying on the free market to solve all the issues being raised.

Ms. Carlson said one of the goals of the ACA is to address how to better access health insurance costs from state to state and to help standardize coverage so it is easier for consumers to compare apples to apples when comparing health insurance policies. Additionally, she said, in the United States there are benefits to our system based on consumer demand. She said in other countries--such as the United Kingdom, Canada, and Ghana--consumers are not given the same freedom to see a doctor whenever they want.

Senator Lee requested the panelists to provide the committee with a copy of their written remarks. Representative Keiser requested the insurers provide the committee with a red-lined version of the model Act.

STAKEHOLDERS

Chairman Keiser called on Mr. Jerry Jurena, North Dakota Hospital Association (NDHA); Mr. Marlowe Kro, AARP; Mr. David Middaugh, National Association of Insurance and Financial Advisors - ND (NAIFA-ND); Mr. Andy Peterson, North Dakota Chamber of Commerce; and Ms. Courtney Koebele, North Dakota Medical Association (NDMA) to sit on a panel to discuss the impact of the health benefit exchange on health care providers, hospitals, consumers, insurance agents, and employers.

Mr. Jurena distributed written testimony ([Appendix G](#)). He said the NDHA supports an exchange with a single risk pool that includes the individual and small group market. Of primary importance, he said, is that the state's exchange must be flexible.

In response to a question from Senator Lee, Mr. Jurena said the two governance options he set out in his testimony assume that the board members appointed would have special expertise and background in the health insurance arena.

In response to a question from Representative Keiser, Mr. Jurena said advisory boards may be very beneficial.

Mr. Kro distributed written testimony ([Appendix H](#)) prepared by Ms. Janis Cheney, AARP. The testimony addressed governance of the exchange; structure of the exchange; the purchasing role of the exchange, including limitations of which health plans should be allowed to participate in the exchange; consumer education and outreach needs; and adverse selection or "cherry-picking" issues.

In response to a question from Representative Rohr, Mr. Kro said AARP has approximately 83,000 members in North Dakota, with approximately 40,000 of those members under the age of 64.

Mr. Middaugh said he has approximately 12,000 individuals insured at this time. He said he agrees that something needs to be done to address problems with the health care current system, but there is not uniform agreement on what to do or how to address the needed change. He said he supports the committee's decision to pursue creation of a state-administered health benefit exchange.

Mr. Middaugh said insurance agents desire the best possible service for their clients. He said under our current system, we are paying too much for claims. He said it seems obvious we need to deal with wellness issues and the use of brand name prescription drugs. He said the system would benefit from prescription drug programs and from educating consumers to ask questions to save money.

Mr. Middaugh said he is concerned the ACA health benefit exchange does not allow insurance companies to pay commission to agents, and instead, this means consumers will have to use a toll-free number to have questions answered. He said agents know the answers to questions consumers are asking. He said he supports the role of agents in the state exchange. As it relates to the governance structure of the state's exchange, he supports a structure that is as close as

possible to legislative oversight because legislators are accountable to the citizens of North Dakota.

In response to a question from Senator Mathern, Mr. Middaugh said consumer choice may be furthered by an exchange like Utah's under which consumers are able to buy the policy that is best suited for that individual and may be furthered by allowing consumers to buy a policy inside the exchange or outside the exchange.

Representative Keiser said we need to incentivize healthy lifestyle choices.

Ms. Koebele distributed written testimony ([Appendix I](#)). She said the NDMA has the following suggestions and observations as the state moves to implement a state health benefit exchange:

1. The health insurance plans offered should have a high level of transparency in order for patients to make informed health care purchasing decisions.
2. Health benefit exchanges are an excellent opportunity for more competition in the health insurance market.
3. Health benefit exchanges will be best served with patients and practicing physicians included in the governance structure.
4. Steps should be taken to guard against cost-containment mechanisms that are termed quality measures.
5. The Insurance Commissioner should maintain his authority to enforce patient and physician protections.

Ms. Koebele stated the NDMA urges that insurance coverage options offered in a health benefit exchange be self-supporting, have uniform solvency requirements, not receive special advantages from government subsidies, include payment rates established through meaningful negotiations and contracts, not require provider participation, and not restrict enrollees' access to out-of-network physicians.

In response to a question from Senator Lee, Ms. Koebele said providers have the responsibility of investigating cost-containment measures that do not adversely impact quality of care.

In response to a question from Senator Mathern, Ms. Koebele said the membership of an exchange governing board should balance flexibility with the necessary expertise.

Mr. Peterson said he is certain his membership would prefer a state health benefit exchange that looks more like the Utah model than the Massachusetts model. Additionally, he said, it is important to give businesses a voice at the table in establishing and implementing the exchange.

DEPARTMENT OF HUMAN SERVICES

Chairman Keiser called on Ms. Maggie Anderson, Director, Medical Services Division, Department of Human Services, to present information regarding the Medicaid management information system (MMIS) issues related to diagnosis-related groups (DRGs), the status of Rhode Island's Medicaid block grant, and Medicaid eligibility under the ACA.

Ms. Anderson distributed written testimony ([Appendix J](#)) regarding the status of the MMIS move from the Centers for Medicare and Medicaid Services diagnosis-related group (CMS-DRG) to the all patient refined diagnosis-related group (APR-DRG). She said with the MMIS system scheduled to go live in 2012, the Department of Human Services has notified providers of the transition to the APR-DRG grouper. She said on June 7, 2011, the Department of Human Services participated in a meeting at NDHA to discuss the upcoming transition.

In response to a question from Representative Kasper, Ms. Anderson said when the MMIS system goes live in 2012, all providers will have received training, and the transition is expected to be budget-neutral.

In response to a question from Representative Keiser, Ms. Anderson said the software piece in question is limited to claims payment and does not address eligibility software or the health benefit exchange. She said as a result of the prompt payment requirement provisions of the 2009 federal economic stimulus legislation, North Dakota's medical assistance program meets the requirement that 90 percent of payments are made within 30 days and 99 percent of payments are made within 90 days; but even with these requirements, there are some payments that are not being made within 90 days.

Ms. Anderson said that the eligibility system is not being revised currently; however, the department is in the planning phase to replace the eligibility system to interact with the new health benefit exchange.

Ms. Jenny Witham, Director, Information Technology Services Division, Department of Human Services, said it is important to realize there are two exchanges--the health benefit exchange, which is required under the ACA, and the Health Information Technology (HIT) exchange, which deals with medical records. She said it is important the medical assistance and the Healthy Steps eligibility system meshes with the health benefit exchange. She said the department is looking at efforts taken by other states to address this meshing issue and also is working with the Insurance Commissioner.

Senator Lee said that if an applicant goes to a health benefit exchange, it is imperative the exchange screen for medical assistance and Healthy Steps eligibility, regardless of how the federal courts rule on the constitutionality of the ACA.

Ms. Anderson reviewed the status of the Rhode Island Medicaid block grant. She distributed written testimony ([Appendix K](#)).

In response to a question from Representative Kasper, Ms. Anderson said she is not comfortable taking a position on whether North Dakota should request a Medicaid waiver similar to that received by Rhode Island. She said she is not certain whether such a waiver would save North Dakota any money. She said before a decision could be made regarding any benefits of North Dakota requesting such a waiver, several factors would need to be considered,

including a comparison of North Dakota's Medicaid program to Rhode Island's program.

Ms. Anderson reviewed the Medicaid eligibility loophole under the ACA. She distributed written testimony ([Appendix L](#)). She explained that under the loophole, an early retiree (ages 62 through 64) with income above the Medicaid income levels would still qualify for Medicaid. She said these individuals would fall under the newly covered group of childless adults under age 65 who will qualify for Medicaid under the ACA due to a provision in the ACA which disregards Social Security benefits when determining eligibility, thus reducing countable income. She said the administration and Congress are aware of this loophole and are considering how to address the situation.

Ms. Anderson provided information ([Appendix M](#)) regarding essential health benefits and the Medicaid expansion population. She said under the ACA, insurance policies offered under the health benefit exchange must provide coverage for essential health benefits and all Medicaid state plans must cover these services by 2014. The federal Department of Health and Human Services is working with a number of partners to develop the essential benefits package.

In response to a question from Senator Lee, Ms. Carlson said it is her understanding that dental plans will be able to file dental plans on the health benefit exchanges.

In response to a question from Senator Mathern, Ms. Anderson said she is not aware of any benefit maintenance of effort requirements; however, she is still waiting for information regarding restrictions on states cutting benefits from their Medicaid programs.

In response to a question from Representative Glassheim, Ms. Anderson said North Dakota's medical assistance program covers Medicaid's mandatory and optional benefits. She said this range of coverage will likely meet the essential benefit requirements, but there is an issue revolving around the distinction between currently eligible and newly eligible medical assistance recipients. She said the state may choose to redefine or decrease medical assistance benefits for the newly eligible group.

INFORMATION TECHNOLOGY DEPARTMENT

Chairman Keiser called on Ms. Lisa Feldner, Chief Information Officer, Information Technology Department, for comments regarding the department's research efforts on how other states are addressing the information technology elements of the ACA's health benefit exchange. Ms. Feldner said the Information Technology Department, Insurance Commissioner, and Department of Human Services are working on putting together a list of questions to ask other states regarding the implementation of the ACA's health benefit exchange.

In response to a question from Representative Keiser, Ms. Feldner said she will look into whether innovation grant recipients would be funded to travel

to North Dakota to present information to the committee.

In response to a question from Senator Mathern, Ms. Feldner said she is not aware of any efforts to reach out and contact Minnesota or Montana to discuss cooperation; however, it is her understanding the Insurance Department has communicated with South Dakota to discuss the feasibility and desirability of a joint effort.

In response to a question from Representative Rohr, Ms. Feldner said once she has finalized the list of questions for other states she will share that list with the committee.

Chairman Keiser said the committee will receive a more detailed report regarding information technology at a future meeting. Additionally, he said, the Information Technology Department is looking into contracting with one of the architects of the Utah exchange, and if this occurs, this may be a very valuable resource.

STATE DEPARTMENT OF HEALTH

Chairman Keiser called on Ms. Arvy Smith, Deputy Health Officer, State Department of Health, for comments regarding the feasibility and desirability of the department applying for federal grants available through the prevention provisions of the ACA. Ms. Smith provided written testimony ([Appendix N](#)). She reviewed the status of the performance improvement grant, the abstinence grant, and the home visiting grant.

Representative Keiser said Ms. Smith raises the question of what will happen if the State Department of Health puts efforts into reapplying for one or more of these grants. He said there is no guarantee the Legislative Assembly will be supportive of the applications, but he said the committee members can champion these issues to increase support in the future. He said the reality is the application deadlines will have passed before the upcoming special legislative session.

Representative Glassheim questioned whether the State Department of Health could apply for a grant and then turn it down if the Legislative Assembly does not appropriate the funds.

Ms. Smith said because the Legislative Assembly turned down the grants during the 2011 legislative session, she hesitates to reapply.

In response to a question from Senator Mathern, Ms. Smith said neither the performance improvement grant nor the abstinence grant required a state match.

Senator Lee said she feels particularly bad about the loss of the home visiting grant because data indicates the use of home visits significantly decreases the incidence of abuse and neglect. She said there may be value in committee members

visiting with their respective houses to drum up support for these grants.

Representative Keiser supported Senator Lee's suggestion. He said the Governor has been clear that the special legislative session agenda should be limited, and the consideration of these grants would likely exceed the parameters.

Representative Glassheim said during the 2011 legislative session there was a different mood regarding anything related to the ACA. He questioned whether these grant funds were tainted because of their relation to the ACA. In response to a question from Representative Glassheim, Ms. Smith said the mandates for receipt of the grant funds were not related to the ACA health benefit exchange. She said the three grants were intended to focus on preventative care elements of the ACA meant to decrease health care expenditures.

COMMITTEE DISCUSSION AND DIRECTIVES

Senator Mathern said he would like the committee to receive information regarding the options for governance of a state health benefit exchange, as well as information regarding different funding mechanisms, such as a premium tax.

Representative Kasper said an open, competitive market requires industry participation. He said the tone of the committee's discussion appears to indicate support of industry participation. However, he said, none of the committee's activities has changed his distaste of the ACA. Additionally, he said, he would like to receive additional information from Mr. Leavitt.

Chairman Keiser said he will seek input regarding governance structures from both stakeholders and committee members. He said committee members have suggested the committee should consider hiring a consultant to assist with the study.

Representative Winrich said he would like to include consumer representation in the governance structure of the health benefit exchange.

Representative Rohr requested information regarding the demographic breakdown of North Dakota's population, including the ages as well as the percentage of the Medicaid population that might shift to the health benefit exchange.

No further business remaining, Chairman Keiser adjourned the meeting at 4:25 p.m.

Jennifer S. N. Clark
Committee Counsel

ATTACH:14