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Banking, Commerce and Insurance Committee, and Health and Human Services Committee
August 15, 2011

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The Committee on Banking, Commerce and Insurance/Health and Human Services Committee met at 9:30 a.m. in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a briefing re Health Insurance Exchanges. Senators present: Rich Pahls, Chairperson; Beau McCoy, Vice Chairperson; Dave Bloomfield; Kathy Campbell; Tanya Cook; Mark Christensen; Mike Gloor; Gwen Howard; Chris Langemeier; Pete Pirsch; Dennis Utter; and Norm Wallman. []

Senator Pahls: I guess we're on. That means we need to start. Thank you for coming this morning and I want to welcome you to our meeting today. It is a briefing, so that should be an indication how this meeting will go. We will hear from the three individuals...Bruce Ramge and his team will be speaking to us today, and the questions will be asked from the senators sitting around this table. Like I say, this is not, like I say, we will not have testimony from other people so this basically is geared towards giving more information, more information to us, who will be probably making some of the decisions in the near future. A couple of things I want to bring up. If the PowerPoint...if you are interested in receiving that, if you will e-mail my office, Jan will get that back to you through the e-mail process. We will not be handing out paper to you today, so a simple request to my office, and we will send that information out to you. I'm going to start right now. I'll introduce myself. My name is Rich Pahls, Chair, Banking, Commerce and Insurance. And as you can see, we have a gathering today. This is what I call...for those of you...some of you are too young probably to know this, but this is what you call a baker's dozen... When Bob shows up, it will be a baker's dozen. And so, this is a relatively large group so we're going to be excited to hear the information from these individuals in front of us and just give you a little bit of an idea. Earlier this spring, they did happen to speak to us, and they have kept me in the loop. And about a month ago or so, Senator Campbell and I had the pleasure of these individuals giving us some information, and we thought that this would be a good time to make sure the committees understand that. And just to give you an idea, when we started last spring,

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the individuals in front of us, the information was like this. And every time I listened to these individuals, I see the information going like this so I'm impressed because I've tried to go through some of the "stuff that's out there" and it is complicated so I do thank you. But like I say, I've seen you here and that...and I'm sure, after today, it will be even more for us. What I'm going to do is, I'm going to have the senators because I think you may know most of us, but I'll just have them introduce themselves and where they're from. []

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

SENATOR LANGEMEIER: Chris Langemeier, District 23, Schuyler. []

SENATOR PIRSCH: Pete Pirsch representing District 4 in Douglas County in Omaha. []

SENATOR CHRISTENSEN: Mark Christensen, District 44, Imperial. []

SENATOR GLOOR: Mike Gloor, District 35 which is most of Grand Island. []

SENATOR McCOY: Beau McCoy, District 39, Elkhorn and Omaha. []

SENATOR CAMPBELL: Kathy Campbell, District 25, Lincoln. []

SENATOR WALLMAN: Norm Wallman, District 30 which is the south part of Lancaster and Gage County. []

SENATOR HOWARD: Gwen Howard, District 9 in Omaha. []

SENATOR COOK: Tanya Cook, District 13 in Omaha and Douglas County. []

SENATOR BLOOMFIELD: Dave Bloomfield, District 17, northeast Nebraska from South

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Sioux City to Wayne. []

SENATOR PAHLS: You can see, we cover a good part of the state, right? And individuals back here, most of you know is Bill Marienau, Jan Foster, and I do think...I don't know if there...Diane Johnson, the committee clerk, and Michelle Chaffee. Okay. They're also in the audience. Well, what I'm going to do is strictly, to be honest with you, just turn it right over to you, and we'll go from there. []

BRUCE RAMGE: (Exhibit 1) Thank you. Good morning. For the record, my name is Bruce Ramge spelled B-r-u-c-e R-a-m-g-e. I'm the director of insurance. With me are John Paul Sabby, J-o-h-n P-a-u-l S-a-b-b-y, and Michael Sciuillo spelled M-i-c-h-a-e-l S-c-i-u-l-l-o. We're here at the request of Senators Pahls and Campbell to provide an introductory briefing to the committees on the health insurance exchanges required to be created by the Affordable Care Act. As you know, the Department of Insurance is currently coordinating a study pursuant to a federal grant to prepare recommendations regarding whether Nebraska should operate a state-based exchange, work with other states to create a regional exchange, or allow the federal government to implement federal law and create one on the state's behalf. This briefing is intended to be a good basic introductory explanation of the health insurance exchange requirements for the committees. It is a starting point for further briefings during the remainder of the interim. It isn't the final word on the subject. We intend to build upon this briefing as we bring all of the various projects to closure. The issues surrounding creation of health insurance exchanges are complex, and today's briefing is, again, a beginning. This project has involved significant research and meetings with many people including trade associations, public advocacy groups, insurers, insurance agents, and the public during statewide forums. There have also been significant numbers of interagency meetings. The exchange planning team has met repeatedly with the information services and technology, behavioral health, and Medicaid divisions at HHS. We have reached out to the Indian Affairs Commission and just last week we met with the staff from the Department of Corrections. Even with all the work that has been done, however, there is

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significant work to do. One challenge has been that the federal government has not yet completed the necessary rule making on such important topics as the essential benefits package and other benefit-designed standards. Individual mandate exemptions and enforcement coordination with the IRS, rules governing the process for determining the actuarial value of health plans and quality standards set by exchanges for quality health plans or QHPs. Some important regulations have been coming over the last six weeks. Friday an important set of new federal rules relating to exchange responsibilities for eligibility and IRS administration of the advanced tax credit were promulgated. The impact of these rules is still being determined, but initial reactions are that the newly imposed requirements will have the substantial impact on the question of the nature of the exchanges and whether a Nebraska-run exchange can be self-supporting and not require a state taxpayer subsidy. I will yield the microphone to Michael and J.P. who have prepared a PowerPoint presentation to give background. After that presentation, I will rejoin them and we will be happy to answer questions. []

J.P. SABBY: Good morning. We're going to talk about the Patient Protection and Affordable Care Act and health insurance exchanges. The Patient Protection and Affordable Care Act was signed into law by the President in March 2010. It is a federal statute, that among other changes, attempts to restructure the private health insurance market, and it does this by requiring an exchange in every state. An exchange will occur--it just depends if it will be a federal- or a state-based exchange. States are beginning planning and implementation, and we are one of the states that's a member of the current lawsuit. So what is a health insurance exchange? For one, it's a regulated marketplace where individuals or small businesses will purchase insurance products, and they will have access to Medicaid. It's going to have standardized insurance products, some people would compare it to an apples to apples comparison where you're going to be able to see plans side by side, and you will access it through the Internet, telephone call center, or in person through a bricks and mortar location. It will also be in charge of outreach programs, and my colleague, Michael Sciallo, will go into more detail in a feature slide about that. So the federal premise of a health insurance

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exchange is one-stop shopping. You're supposed to go in one location and get all the information you need either through a brick and mortar location, on-line, or on the telephone. There are supposed to be greater benefits and protections, and this one-stop shopping approach is supposed to lower costs and it may increase competition. []

MIKE SCIULLO: So let's talk a little bit about who will have access to the exchange. The individual portion of the exchange will be accessible by all U.S. citizens and then there will be a separate part of the exchange for small businesses called the SHOP exchange. According to the law, if you have up to 50 employees, you can purchase small group coverage through the exchange. So the statute allows many different types of exchange options for each state. A new option has recently been added per the July regulation that allows for a state-federal exchange option. But the initial options laid out in the statute are a state-based exchange, a regional exchange, or a federal exchange. Currently, we're studying all options as viable, but we talk about the regional exchange. One of the things we found is that the regional exchange doesn't particularly suit the unique needs of each state, and that seems to be a popular topic of conversation among the states that are studying this issue. The one thing we do know absolutely, though, is that federal law mandates that each state will have some type of exchange. So it's important to understand that the statute just provides a basic framework on health insurance exchanges. But the real detail for all the policies involved are in the regulations that are being issued by federal HHS. So our hope is that significant issues will be resolved throughout the process in these regulations. In July, a set of regulations was released that gave the exchanges significant options and outlined certain issues. We are still waiting for a majority of the regulations that will be issued and what the federal government says, fall 2011. And those will be regulations surrounding the creation of the exchange, specific rules on the insurance policy requirements, and what most people are highly anticipating is the minimum essential benefits for qualified health plans. So we'll talk a little bit more about what those minimum essential benefits are and what qualified health plans are in a later slide. But first, let's talk a little bit about the time line that's laid out in the statute for exchange creation. As I said previously, each state is

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mandated to have some type of exchange and secretary's ability of federal Health and Human Services must certify this exchange by January 1, 2013. Additionally, with that certification must come the certification of the state's plan to operate a qualified exchange. Each state must have the exchange operational from that point one year later on January 1, 2014. With the July regulation, federal government also gave states an option to either choose to operate the exchange or end operation of an exchange with 12 months' notice to the federal government. Besides that statement in the regulation, there's not a whole lot of depth into what that exactly means, and that's something that we're currently still looking at and trying to see what kind of implications that has on the study overall. But one thing we do know, to be very clear, is that the exchange must be financially self-sustaining by 2015. Financially self-sustaining essentially means that it won't be financed by the federal government. Right now, there's planning and establishment grants that can be delivered to the states until 2015, but after that point, there will be no more money for the operational side of the exchange and the other costs associated with it. So I'll now turn it back over to J.P., and he's going to tell you about some of the exchange functions and what we know the exchange is required to do. []

J.P. SABBY: In order for an exchange to be compliant, it must meet certain minimum requirements. It has to implement procedures to certify health plans. It must assign a rating to each plan in a standardized format for presenting options. And one of the main functions is to inform individuals if they are eligible for Medicaid, and it will determine eligibility for the federal insurance premium subsidy programs which the federal government is now calling a tax credit. As we continue, the exchange will interact with the federal data hub, and the federal data hub is made up of up to five federal agencies that will determine who you are. Some of those agencies are the IRS and the Department of Homeland Security, so when you put in your information on-line, instantaneously, supposedly, they will know who you are with your Social Security number, and they'll know how old you are and how much money you made in the past year. It will facilitate the application and enrollment of individuals, and it will collect

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health policy premium payments for the SHOP exchange. That is a requirement, and the SHOP exchange is a Small Business Health Options Program. It may aggregate premiums for the individual exchange but they're not required to, and it has to create a navigator program through grants. And my colleague, Michael Sciuлло, he will go into further detail with that in future slides. As we continue, there's been this conversation of an inside exchange market versus an outside exchange market, and we want the outside exchange market to be as robust as possible as well as the exchange market to be as robust as possible. Nothing in the federal law precludes the sale of insurance products outside of the exchange, and some states may enact statutory restrictions to avoid adverse selection. And if we want to talk about adverse selection, Director Ramage can speak more about...on that issue. Individuals will receive subsidies through the exchange. That's the only way you can receive a subsidy, and grandfathered plans may not be sold in the exchange. An example, when the President of the United States stated that you could keep your insurance if you wanted to, he was talking about grandfathered plans. And insurance carriers must consider all enrollees and all nongrandfathered plans to be members of the same risk pool. And we will talk about risk pools later on in the presentation. []

MIKE SCIULLO: So we're going to talk a little bit now about the qualified health plans that I mentioned before. A qualified health plan is different from the typical health insurance plan now because a qualified health plan is the type of plan that will (a) satisfy the mandate and (b) provide minimum essential benefits. This is a very popular subject right now, the essential benefits, what will they cover? These are things that we're still waiting to find out, hopefully, in the fall regulation. And this substantially impacts the exchange and health insurance markets generally. A couple of things we do know about the qualified health plans currently is that you have to agree to charge the same price for the plans both in and outside of the exchange. And there's a lot of reasons for this, but the main one is the adverse selection that J.P. mentioned before. In addition to the qualified health plans, there's two other types of plans that will be sold inside the exchange. One of them is a cooperative plan and cooperative plans aren't like

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the farming co-ops that we know here in Nebraska. They're more related to nonprofit type plans, and it's really a new concept. Regulation was just recently released about it, so we're still reviewing that to kind of see what the impact of that will be. Additionally, the multistate plans are plans that would be sold in multiple states in the U.S. that would be sold by insurers that are licensed in all of those states. The federal vision for those plans is to increase competition and add another plan in markets...another competing plan to help the markets. So moving right along, some things about the qualified health plan certification process is that, according to the statute, the qualified health plans must meet certain marketing requirements, and has to also meet network adequacy requirements, and part of that is including the essential community providers and the networks for those plans. And, generally, they have to be accredited by an organization which would be the exchange in this instance which is recognized by the secretary through that certification process that we mentioned earlier. It's important to note when we talk about qualified health plans that additional certification requirements may be promulgated through the regulation process. So when we talk about qualified health plans a little bit, what PPACA has done is it has laid each type of plan into a merit system or batch based on metal, so bronze, silver, gold, and platinum. And what these mean is that you will generally be required, the higher level plan, to pay a greater premium, but you'd have less out-of-pocket cost-sharing. So, for example, if you paid at a bronze plan, you would typically pay a lower premium cost, but you would be required to pay more of an out-of-pocket cost for coinsurance deductibles and other associated costs whereas the platinum, you would pay a higher premium but you would have less out-of-pocket costs. So when we talk about subsidies in the exchange, we'll turn it back over to J.P. []

J.P. SABBY: Well, the tax credit varies and it's based on a person's income from 133 above the federal poverty level all the way to 400 percent above the federal poverty level. You will receive some sort of subsidy. It will be from 2 percent of total premium for an income level up to 133 above the federal poverty level to 9.5 percent of total premium for an income level between 300 and 400 percent of the federal poverty level.

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And I have charts to help explain what that means. If you look at the chart, we have 133 above FPL, and this is for a single individual. He or she is making \$14,845 a year. Their premium is a percent of income, would be 3 percent, and their estimated annual premium would be \$445, and their monthly premium would be \$37.11. Now let me state that we're using charts from the state coverage initiative and the Kaiser Family Foundation. These numbers are supposed to illustrate what premiums may look like. They're not founded on an actuarial number, and they're just for examples purposes only. As we continue, we have the Jones Family income and premium share. Mr. and Mrs. Jones are your typical Nebraska family. They have two children. They have a modified adjusted gross income of \$55,000. They are 250 percent above the federal poverty level, and their family share of the premium is 8.05 percent. Their estimated family monthly premium is \$370, and this is just to show you what their family premium might be. Again, it's an illustration. As you can see here, here the plan tiers--platinum, gold, silver, and bronze. For purposes of this slide, we put the three silver plans available--silver most expensive, silver lowest, and silver lowest cost. It is important to understand that your subsidy will be based on the silver second lowest cost tier. As you can see under the estimated federal subsidy amount, it stays the same. And you can choose...the family can choose the bronze plan at \$170 a month, or they can choose a platinum plan if they wish. But they chose the silver second lowest cost silver-tiered plan which is \$370 a month. And it's still very important that the premium is based on the second lowest silver cost tiered plan. That's what your premium is based off of. And Mike will be speaking about navigators. []

MIKE SCIULLO: So let's talk just a little bit about navigators and what they are. This is not the same type of navigator that some people may be familiar with, with the community and behavioral health. It's a separate navigator. So I just wanted to make that clear because sometimes there's terminology issues in healthcare. So when we talk about navigators, it's one of the things in the federal statute and one of the functions that the exchange must do is it must issue grants to navigators. So navigators are supposed to provide outreach services for the exchange and notify hard-to-reach

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populations about coverage through the exchange. The exchange must also develop standards that are in part mandated by the federal law about who can be navigators, who can serve as navigators. Some of this is available in the regulation that was recently released about who's eligible to become navigators. But generally, this is a topic that we're still waiting for a lot of guidance on from the federal government. There doesn't seem to be a whole lot in the statute about the program, and there doesn't seem to be a whole lot available in the regulation as well so. Okay, so we can talk a little bit about the existing exchange models. J.P. and myself, we've traveled a bit--Utah and Massachusetts to study the existing exchange models. And we've met with the appropriate staff members from those exchanges. And we felt like that that was very helpful in trying to understand what health insurance exchanges are and how they operate in the United States today. So let me tell you just a very high level overview about the different exchanges. Utah, they have what a lot of people consider a transparent marketplace. They allow valid plan comparisons, and they don't limit any type of insurer participation. Additionally, one of their goals is to simplify purchasing and administer subsidies through their small business program. Massachusetts, on the other hand, is more of an active purchasing model. They limit the insurer participation. They standardize their plan comparisons for several different categories, and the state exchange controls their plan design and volume. Let's talk a little bit about what the department has done in regards to stakeholder engagement. Stakeholder engagement is a very important process in health insurance exchange. There's one thing we've learned from the other states and the people who have done this in the past that engaging your stakeholders and the people that are extremely knowledgeable about all these issues is very important. So what we did initially was we facilitated five open public forums around the state in Gering, Kearney, Norfolk, here in Lincoln, as well as Omaha. We heard from concerned citizens, people that just wanted more information about the health care law and what it attained, a lot of people wanting to know just what an exchange is. We've definitely got a lot of great feedback from those forums, and they were very helpful in helping us to key in on some certain issues that needed to be studied more. In addition to those stakeholder meetings, we've had numerous meetings

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with producers, consumer advocates, insurers, tribes, trade associations, legislators, and interagency meetings. So I'll talk about the interagency side of this for a minute because I think it's important to realize that we don't take a silent approach to this. The involvement from HHS and the Medicaid staff and IS&T has been very crucial, particularly when we look at the information technology portion of the exchange. And we've held biweekly meetings with those folks over at HHS since the beginning of the process, and we've done everything we can to make sure that they stay highly involved in this project overall. Additionally, other things we've done to increase transparency and provide more stakeholder engagement was we issued three surveys from the department, and with these surveys we split them up into three different categories...our general health insurance exchange survey which is open to all Nebraska consumers or any interest groups that felt like the exchange was an important issue to have feedback on. This was kind of a complex policy survey, but we wanted to kind of get an idea of what people thought about important issues regarding the exchange. Additionally, we released a producer survey through...that was for the brokers and the agents, and we distributed that to the different insurance and broker trade associations as well as through the list of agents that the Nebraska Department of Insurance had. The insurer survey, we released to the three largest insurers in Nebraska, and we felt like this was really important because it's important to engage the carriers early to get an idea of what kind of things are important for them for the insurance exchange because certainly need to have all of these different parties involved in the planning process. So we thought it was very necessary to hire certain consultants that have expertise throughout this process to help us. And one of the main reasons that we hire a public consulting group or PCG is that the information technology portion of the exchange is absolutely vital to its success. There is numerous changes that will be required to Nebraska's IT systems in order to be become compliant with the statute. Some of those are making sure that the appropriate changes for the eligibility systems are made as well as figuring out essentially where we are now and then where we need to be to become compliant with the statute. So that process is called an IT gap analysis and what the consultants have done is reviewed our architecture, told us the current state of our systems, told us

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what changes need to be made in order to become compliant with the statute. Additionally, they provide us with an IT road map that has a proposed solution for the exchange development. They will also provide us with cost estimates for the required modification and upgrades in order to get there. So I'll turn it back over to J.P., and he'll tell you a little bit about health management associates. []

J.P. SABBY: The second consultant is health management associates, and we've contracted them to provide a demographic study of Nebraska's insurance market. This has never been attempted before, the restructuring of the insurance market due to health insurance exchanges, and we need to know how many people may enter the exchange based on their federal poverty level, and that's what they're doing, and they're going to break it down by income. They're also providing an analysis of exchange sustainability and what that means is how is this exchange going to support itself after 2015? We need to find out different revenue sources for it and how it's going to be able to stand up on its two feet. And it's going to identify key health insurance exchange design and structural options and give us a budget to see how much this thing may cost, this health insurance exchange. It's going to be...it's just a very big and complicated process and health management associates are the right people for the job, and they will provide a fiscal analysis of operational costs of the health insurance exchange. []

BRUCE RAMGE: Thank you. Our next steps then are really to receive the deliverables from these various contracted entities, and then we will be providing report, consolidating the information, compiling the four policy makers. We hope to have that sometime later this fall. We intend to hold additional public meetings and also to provide you with some continued legislative briefings. With that, I would open it up for questions for Mike or J.P. or myself. []

SENATOR PAHLS: Senator Pirsch. []

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SENATOR PIRSCH: Thanks. I appreciate the briefing. It was very informative. You touched on a couple of the exchanges that have been around for...Utah and Massachusetts. Are there other states that are pretty well going down the path of making these elections and therefore giving us some idea of what other options are available for the state of Nebraska? Is there any other state to look to? []

J.P. SABBY: I think Utah and Massachusetts are the farthest ahead because they actually have two running health insurance exchanges. Every other state is in the planning stage. We know that Vermont wants to do a single payer health insurance exchange, and they will do that in 2017. []

MIKE SCIULLO: Additionally, there are some states that have taken what's called the level 1 establishment grant which is the next grant in the process from federal Health and Human Services. And that's a noncommittal grant meaning if you take the level 1 grant, you don't have to build the exchange, but it can be used to continue to plan or to start implementation. So we have seen some states take that grant. I believe 13 were just awarded it last week so we've been studying those states and seeing where they are in the process as well. And one of the things that we do regularly is keep open communication with the other exchange planners in the other states, particularly...we do that on-line and via telephone and kind of see where everyone is at so we can gauge the level of involvement. []

SENATOR CAMPBELL: Director, can you talk a little bit about the adverse selection the two presenters said they'd come back to you? []

BRUCE RAMGE: Sure. []

SENATOR CAMPBELL: And I think that's a topic that we need to spend a little time on, so we'll start off with what your thoughts. []

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BRUCE RAMGE: First of all, I'd kind of like to explain what that means because it's an insurance term that most people don't usually hear every day. And basically what happens with adverse selection is that individuals who would have more need for health services might gravitate towards the insurance plan that had richer benefits. And if there are too many people using the services that aggregate into one specific plan, then it would raise the costs for that specific plan as opposed to having a good even distribution throughout the various types of plan and with...from within and outside of the exchange as well. So there are different steps to help alleviate that, and one primary method that's anticipated is through the use of reinsurance that would try to level some of this experience between the various plans and also between the various companies in case one company were to receive more people who use services heavily or had expensive health conditions. So that's probably the primary. The other method would be to look at how the market rules were structured between sales that occur outside of the exchange and within the exchange. And that will be delved into further, hopefully, with this study that gets prepared this fall. []

SENATOR PAHLS: I'll ask a question. This has been a concern that has been brought forth to me that the Department of Insurance will be just looking inwardly. Would you explain a little bit more? You did say you are working with other agencies. Would you just give us a few examples other than just say you're having meetings? Can you give me some...? []

MIKE SCIULLO: Yeah, absolutely. So one of the things that needed to be done is we needed to take a look at the overall architecture for Nebraska's IT systems, and the way that the exchange works inside of PPACA is that the feds have this premise of what's called a streamlined system with no wrong door. So essentially, if you were to go into a Medicaid office and you thought that you qualified for Medicaid but you didn't, then the eligibility determination process would help you realize that program you qualified for whether that was Medicaid or whether it was for private insurance subsidies. Now regardless of where you enter, whether it's through the exchange or through Medicaid,

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both facilities have to be able to make that determination for you. So that's something that requires a lot of interagency working, particularly since the impact on Medicaid is so great with the exchange and that the exchange's task in the statute for determining Medicaid eligibility. So this is one of the processes that we've had (inaudible) talking about since day one, and the plan that's currently being created by PCG in collaboration with ISNT, Medicaid, and Department of Insurance is truly a collaborative plan. []

SENATOR PAHLS: Okay. So you're telling me you believe that there's been an awful lot of interagency working together so that myth can be dispelled then. []

MIKE SCIULLO: I believe so, yes. I mean, I think that without their participation, that the system design wouldn't be possible. So I mean, like I said, it directly impacts their agency and directly impacts their plans for the future and directly impacts Nebraska's eligibility systems. So to do that unilaterally would not only be foolish, but it would not be...operationally would not make sense. []

SENATOR PAHLS: Okay. Thank you. Senator. []

SENATOR GLOOR: Thank you, Mr. Chairman. Thank you for the briefing. I do have a series of questions, but I think I'll piece them out here a little bit based upon other questions that come up from other senators. But let me go back to the adverse selection question. How do we or can we...I guess would be my first question...can we limit people's ability to pick high out-of-pocket plans if we don't think they're capable of making payment on that out-of-pocket piece? I mean, why would everyone not gravitate towards the lowest premium cost unless that might not be an option if we determine they're not capable of making the out-of-pocket payments that would be part of that? []

BRUCE RAMGE: I believe that the guaranteed renewability or excuse me, the guaranteed acceptance rules would preclude us from underwriting and selecting who can choose which plan. But there would also be the premium subsidies through the tax

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credits available to help people make a decision on which plan would purchase. The exchange would actually eventually have a calculator, so when they go in there and look at the various plans, they can see exactly what it will cost them out-of-pocket. []

SENATOR GLOOR: But the short answer is, we can't control it and therefore there's likely to be a shift of expense to the provider community to try and collect on it. Okay. Let me ask Mr. Sciullo, you talked a little bit about co-ops or the ability to do multistate connections. We've got a contiguous state in Iowa that is putting together some sort of a...I think their definition of co-op is probably a little different, but it must be a more collaborative approach within the insurers of trying to address formation of an exchange. Can you tell me anything about that? Is that something that we ought to be looking toward, something that you look towards, or conversations you've had with those folks? []

MIKE SCIULLO: So let me make sure I understand what you're asking. Are you asking about a type of regional partnership with Iowa? []

SENATOR GLOOR: Yeah. Yep. []

MIKE SCIULLO: Okay. So when we think about regional exchanges, and when we talk to other states about regional exchanges, I have to say initially it was pretty quiet. We didn't see a whole lot of other states reaching out on that front, so we made contact with some of the other states surrounding Nebraska (inaudible) to, you know, test the water and to gauge everybody's interest in regional exchanges. And the thing we keep hearing over and over and over again from every different source is that a regional exchange is not going to meet the specific needs of the people of that state. And that's the first thing we hear, and then the second thing we hear is that there's regulatory issues with that. So how would an insurance exchange function under two different sets of state statute, for example, or state regulations? And then the third and more trivial but kind of serious issue is, well, every state would kind of love to have a regional exchange

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as long as they got to be in charge of all the policy; they got all the jobs from the exchange. So there seems to be a lot of challenges with the concept, and I think initially, it was a concept that sounded great and particularly when you talk about pools and the pooling aspect of it. But with all the other challenges that are facing the people that are planning for this exchange process and all the other complications, it's been one of those things that sounded a lot better in theory than it has worked out practically. Does that help? []

SENATOR GLOOR: Yep, it does. Thank you. []

SENATOR PAHLS: Senator Langemeier. []

SENATOR LANGEMEIER: Chairman Pahls, thank you. Director and gentlemen, thank you for your presentation here. I have a number of questions, but the first one is, is you talk about the PPACA exchange options being state, regional, or federal. First of all, how far is the federal one along, the federal exchange along that you know of? []

MIKE SCIULLO: That's a great question, and it's something that we're wondering as well. We haven't...one of the things that the fed has been very clear about is that they don't want to really talk about the details too much of what the federal option would look like. You know, there's...a lot can be speculated on that as far as what that means, but we don't really know. We don't have a great idea of what the federal exchange looks like, and we thought that maybe some of the regulations would answer that, and it's a really common question. Every time a regulation comes out is, does this regulation tell us what the federal option looks like? And to this point, the answer has been no. []

SENATOR LANGEMEIER: Okay, and then you talk about a time line that the state has to create an exchange. Is the federal exchange supposed to be on that same time line? []

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J.P. SABBY: Correct. It's 2014, the date that an exchange is supposed to be up and running, but in reality, open enrollment starts in October of 2013. []

SENATOR LANGEMEIER: Okay, okay. I guess I...what draws me to that is if we can't meet regional exchange expectations with Iowa. How do we meet it on a federal exchange with Florida, New York, California, Texas if we can't come up with something with a neighboring state, but that's not a question. The other question I do have is, is you get to the premium and the charts you showed us, and we have them in black and white which are a little tough to read. But you talk about a premium based on percentage of income, and I want you to explain that a little bit because you're talking about subsidies, not necessarily what the premium. But that chart might lead you to believe that my insurance is going to be...my premium is going to be based on my income and not my health... []

MIKE SCIULLO: Yeah, it will. It'd be based on your income. []

SENATOR LANGEMEIER: ...which typically is the way you get charged for insurance. []

J.P. SABBY: So you're capped essentially, is based on your income level. The percentage of your income is the highest that you'll ever pay for your premium. So, and that's based on the sliding scale. And now, this doesn't apply if you're above 400 percent of the federal poverty level. The subsidies are strictly based on a few factors which is your age banding and your percentage of the federal poverty level. So if you're 133, you're going to have a much higher percentage on your subsidy than you would if you were at 399, for example. []

SENATOR LANGEMEIER: I'm fortunate as a legislator. Your chart can't go down far enough to hit senator pay, but (laughter)...but that's okay. []

MIKE SCIULLO: Well, then you'll qualify for Medicaid (laughter). []

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SENATOR LANGEMEIER: I will inform my wife of that when I get home. Thank you. And then the third question I have is on stakeholder involvement. You talked about producer survey, insurer surveys. What are you doing other than just surveying? I mean, do you just send them a survey? They send you back 14 things that they think is important to be in this and then that's it, or are they going to come help you design this or? []

J.P. SABBY: We've been meeting with different groups throughout the process, getting insights about what they would like to see in an exchange. In addition, we've used the surveys for...we've given them the surveys because it provides a level of confidentiality for the different groups, and they can put what they really want to see in the exchange. []

MIKE SCIULLO: Yeah, and I can touch on that a little. You know, we hear around the table...I'm sure you guys are well aware of this is a lot different than sometimes what you hear in confidence. So we wanted to kind of get an idea of what people really thought in a way where we could preserve their confidentiality and not necessarily create some assessment of the results or provide the results, but just kind of use them for our internal use to help when we start thinking about the recommendations that we want to make on certain specific policy issues, how does this affect our stakeholders? You know, how does this one particular issue affect brokers and agents? How does this one particular issue affect the carriers? How does this one issue protect the consumers? So for us, that was just kind of a way to increase transparency, allow people to have a seat at the table so that if they felt like they had a direct connection with the department and somebody that would listen to their concerns about the issue instead of just, you know, not having any kind of contribution in the process. []

SENATOR LANGEMEIER: Okay. And my final question, even though I said the last one was my final question, if one is when this law just got passed, and ten is having an

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exchange complete, where do you think you are? []

MIKE SCIULLO: Wow (laugh). []

SENATOR LANGEMEIER: Are we at 1.1? []

MIKE SCIULLO: No, absolutely not. I think that we're along in the process as far as the planning is concerned. For example, a lot of states haven't even begun to do a demographic background analysis of their state and their markets. You know, their state is there thinking about starting establishment that haven't done that. There are certain states that haven't even begun to start an IT gap analysis and nearly have them finished. So what we've been careful to do is to move very far along in planning activities but not do anything that would necessarily commit the state. []

SENATOR LANGEMEIER: Thank you. []

SENATOR PAHLS: Senator Utter. []

SENATOR UTTER: Thank you, Chairman Pahls. Early on in your presentation, you talked about standardized insurance products that has to be a part of the exchange. Are these standardized insurance products going to be mandated by the federal government through the state, or is each state going to have a standardized insurance product that they put in the exchange? And after you have developed a so-called standardized insurance product, it seems to me like you've taken an awful lot of the competitive atmosphere out of the pricing of the insurance equation. Can you talk to that a little bit, please? []

J.P. SABBY: Yes, the standardized insurance products will be based out of the minimum essential benefits plans that each plan has to meet, and we do not know what the minimum essential benefits are at this time. They will...supposedly, we're supposed

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to know by late fall, maybe (inaudible). []

MIKE SCIULLO: It's interesting, though, because you bring a good point, and when we talk about Utah and Massachusetts, this might shine a little bit of light on what you speak about. Certainly, the exchange has the ability to restrict certain types of plans if they choose to, but they also have the ability to let whatever type of plan they want in. Now, you know, it's kind of the...kind of have to choose, though, the choice of between what the feds allow you to have. So it's not...you couldn't have, for example, what they call minimum medical liability plans. Now, all the plans would have to meet the standardized essential benefits, but that's in the statute. That's nothing that the states can control or change, but aside from that, we can certainly allow as many plans as we wanted or we could restrict the plans to whatever amount we wanted. []

SENATOR UTTER: This brings me to the next question. We have a fairly mobile population in this country, and we're going to have migration from state to state in and out. How is the...what's going to be the transferability? Is a person, when they move from here to Iowa going to have to move into the Iowa exchange and change their policies or are they carrying them with him? How is this all going to work? []

MIKE SCIULLO: You could be right here on our team with us because (laugh) those are some of the questions we're still asking the federal government and saying, hey look, you know, we've got a lot of serious concerns and questions about this process, and we need more guidance. You know, in addition to your question which is a great one, what about somebody's income that fluctuates? You know, where do they fall on the poverty level chart if they have a commission-based job. So these are serious concerns that we have, and you know, we've asked these questions of the federal government. We're awaiting a response, and, you know, we're told that most of these answers will be resolved through the regulatory process. So that...we continue to study what we have available to us and wait for the continued regulations. []

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SENATOR UTTER: Let me just ask a couple of questions, if I may, about the consulting groups that you folks have engaged. Can you tell me a little about the background of these consulting groups? Are they nationwide groups? Are they working with a lot of states or do they have wide knowledge of our Nebraska situation? []

MIKE SCIULLO: Yeah, absolutely. J.P., you want to tell him what you make? []

J.P. SABBY: Well, Health Management Associates, they're a national consulting group mostly on demographics and on health and human services...on the health and human services side. And they have a lot of people...they've hired a few people from the Massachusetts connector, and they have people from the Department of Insurance from Texas and from different states. And what they're doing is, they're doing the demographic study and sustainability portion for the state. Initial exchange can be sustainable and breaking down the different demographic parts based on region and based on income, and to see if you're in one income level, will you go to the exchange? Will you leave your job to go into the exchange to receive a subsidy? Those are some of the questions they're also answering, and they're also doing a study on market merger. Are we going to merge the small group and individual market? What effects will that have on Nebraska's insurance market? Will we leave them...or will we leave them alone? []

SENATOR UTTER: And the second group, PCG? []

MIKE SCIULLO: PCG. Yeah, the Public Consulting Group is a nationwide governmental information technology group. They've...actually, it's great that you mention this because they've been involved in Nevada's exchange planning process as well as Rhode Islands, and both of them were recently approved for their level one establishment grant. Now, in order to be approved for the level one establishment grant, you have to have completed your IT gap analysis. So this is a firm that's already demonstrated that they can complete the analysis in a way that's acceptable to the

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federal government, and they're the ones that are currently working on our analysis, so we certainly...as being one of the people that helps facilitate that group, that makes me feel good. Initially, they have a group of experts that have been involved in MMIS systems, eligibility systems, and they really key in and focus in on that. They're all experts in their field of information technology and I'm pretty impressed with their knowledge. []

SENATOR UTTER: So can you address how far along each is with their work at this stage of the game? Are they just beginning, mid-point? []

MIKE SCIULLO: I think we're probably closer to mid-point, towards the...somewhere between the mid-point and the end of the work. []

SENATOR UTTER: And people would be disappointed if I didn't ask about cost and whether or not the cost of the consultants are being covered under the planning grant, those type of things? []

MIKE SCIULLO: Yeah, they are. All of the costs for the consulting groups are being covered under the federal government's planning grant. We did a competitive procurement process for each contractor and cost was important to us. We wanted to make sure that we got not only the best price but the best value for the price for our taxpayers' money. []

SENATOR UTTER: Thank you. I have no further questions. []

SENATOR PAHLS: Thank you, Senator. []

SENATOR GLOOR: Thank you, Chairman Pahls. Let me follow up with some more questions about the consultants. Are these consultants just going to identify problems or are they going to also make some recommendations that fall in the category of

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solutions? []

J.P. SABBY: HMA is going to give us options. They're going to identify issues and then give us a list of options that we can take as a state. They will not be giving us a recommendation. []

SENATOR GLOOR: Let me point out two areas that are of concern among a lot of others, but one is we've got to have broad participation. We've got to have broad participation in this or financial models are just going to collapse. The second is, we have to understand some of the challenges of...we've talked about people who might leave a job in order to become eligible, but I think maybe one of the problems that gets underestimated is the people who continue to flip back and forth between being eligible as well as having a job that provides them access with subsidies to the SHOP program or whatever. I mean, those are two of the areas I would hope that we would get a little direction on or at least some guidance that might help us make some decisions. Your response to that. []

J.P. SABBY: Correct, and I believe what you're speaking about is the (inaudible) churning? []

SENATOR GLOOR: Yeah. []

MIKE SCIULLO: Right, and we spoke with our consultants as well as other staffers from other states to talk about, how big a deal is churning? And what they stated is, it's important, it needs to be looked at, but it's going to happen either way. So there will be some level of churning and we're looking into that. []

MIKE SCIULLO: Yeah, I think it's important to recognize that no matter what kind of programs you have that are based on income, that as people's life changes, you know, whether they get married or have a child or they lose their job, that there's going to be

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that churning between those (inaudible) programs. So one of the things that's important is that their relationship between Medicaid and the exchange is strong. And that way when people...and there's a system that's designed to facilitate this transfer, so that way it's not maybe so different for the consumer how their benefit plan may change. This is something that we deal with now in Medicaid where people become ineligible one month and eligible the next and moving on and off. And it's certainly an issue, and I don't think it's something that should be overlooked but... []

SENATOR GLOOR: I might come back to the participation level, but that's a very complicated issue, obviously, that has to do with a lot of components of this. But I want to jump to the PCG group. I've had concern for a long time of IT as relates to this whole issue and maybe a number of other issues that have to do with appropriately administering HHS dollars. We're going to be talking about a recommendation here that I think is going to have a pretty sizable price tag on it, and we've got a legislative session coming up in January. For something this complicated, are we talking about a recommendation back to them that will have specificity, so that at least those departments that have a vested interest like yours, Bruce, would have the ability to put together something that's a budget request? []

MIKE SCIULLO: Yeah, I think... []

SENATOR GLOOR: I mean, we're not going to be ready, I think, with the current IT system that we have. We understand that. []

MIKE SCIULLO: Correct. Yeah, and I think that it's important to recognize, too, that the level one and the level two grants will cover all of the costs for the establishment of the IT systems. So everything that's considered up-front cost will be paid by the federal government if that's what the policymakers choose to do before with the exchange concept. Only the operational costs post 2015 would the state be required to pay, so you know, for example, California had recently just got their level one establishment

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(inaudible) to start building their IT systems to be compliant with the statute and...somewhere in the range of \$40 million. But that's California, one, and, two, the federal government is paying that money. And then whatever their operational costs are from the IT side on an ongoing basis, then the state would be required to pay for that. []

SENATOR GLOOR: But that's not going to be a small dollar amount. I mean that, and so that's my question. Are we bracing ourselves for the fact there may be a recommendation or will there even be a recommendation in the near future, or is this something that's a couple of years out? []

MIKE SCIULLO: I think that we can't really say when the recommendations will come through because of the way the regulations are. I mean, sometimes, like for example, last Friday they just issued three new regulations--one from the Treasury Department, one regarding Medicaid, and one regarding the exchange. Now all three of those regulations directly impact each other and impact the exchange study. Those are the things that we need to evaluate and see how it changes the game, how it affects where we're at, how it affects the overall cost, and the recommendations. But certainly, the costs are a huge portion of the recommendation itself. From the beginning, we've said, this thing has to make financial sense, and if it's not fiscally sustainable and if it's going to actually make more burden on consumers, then that's something we need to make sure that we do the due diligence on. You know, a lot of states are scrambling to throw together governance structures and get their exchange going without really looking at what all the implications of the exchange may be. []

J.P. SABBY: We keep going back to fiscal sustainability because we believe it's very important. We need to know how much this is going to cost and can our population support a health insurance exchange? And that is the primary task of what Health Management Associates is going to be doing. []

SENATOR GLOOR: Thank you. []

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SENATOR PAHLS: Senator Campbell. []

SENATOR CAMPBELL: I have a number of questions. I want to talk about the demographic report will be extremely important in terms of knowing whether there's a large enough pool which protects us against adverse selection, correct? []

J.P. SABBY: Correct. []

SENATOR CAMPBELL: Will that report come out earlier than the IT report, do you have any idea? []

J.P. SABBY: They will all be coming out around the same time... []

SENATOR CAMPBELL: Okay. []

J.P. SABBY: And that will be near the end of the fall. []

SENATOR CAMPBELL: The members of the Health and Human Services Committee have been told numerous times over the last couple of years of how poor in shape our MMIS system is in the state of Nebraska. I see a couple of members of the Appropriations Committee in the audience. I know that money has been set aside...large chunk of money to improve that system which we have still not accessed. Will we be able to use the federal money instead of what we've appropriated because our system is not in good shape? []

J.P. SABBY: I believe that that would be a better question for Director Vivianne Chaumont of Medicaid. []

SENATOR CAMPBELL: Be glad to do that at 1:00 today (laughter). []

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MIKE SCIULLO: I can tell you this, though, that the statute does allow for that 90-10 match to be used on that, so the money that you appropriated could certainly be that 10 percent if that's, you know, what was decided. []

SENATOR CAMPBELL: And we will certainly talk to her, but I just want everyone to understand that our system is not in good shape now. I mean, and given the demands...I'm coming. I want to go a little different direction and have you all talk to us about what consideration you've given to governance, and how do we protect that structure and all the questions with regard to conflict of interest? []

MIKE SCIULLO: Okay. Do you have a specific question? []

SENATOR CAMPBELL: Well, have you thought about the governance structure? Is it on the surveys? Are people commenting on it? []

MIKE SCIULLO: Yeah, absolutely. It's one of the questions on the surveys for what type of governing structure would be preferable. That's for carriers, agent-broker. I don't know if the agent-broker touched on it, because that was more agent-broker centric issues. Certainly governance is a huge deal, and it's one of the things that we've had HMA...do you want to talk about what they've done? []

J.P. SABBY: What HMA is doing is they're doing charts of different governance structures, and they're going to be doing pros and cons of each governance structure, and they're going to be doing pros and cons of the governance structures to see which governance structure would be the best fit for Nebraska's population based on the demographics of the state. []

MIKE SCIULLO: Also, there's different costs associated with each type of governance and what makes the most sense in that regard as well. Certainly, we've kind of had the

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luxury of being able to sit back and look and see what some of the other states have done and see some of the challenges that they've had to deal with because of what they've chosen for their governance. You know, what's happening in Colorado seems to be...there's a lot going on there as far as some of their issues with governance. []

J.P. SABBY: Right. []

MIKE SCIULLO: So I think we certainly benefit from that. []

SENATOR CAMPBELL: So you're saying to us that you're starting out looking at the fiscal sustainability and the demographics and all of that and how that fits together before we jump to what the preferred structure would be. []

J.P. SABBY: Right. Yeah, it's a little bit of a different approach than some of the other states have taken, but when we talk to other states they seem to wish that they'd kind of done it our way in a lot of ways, and said hey, you know, instead of backing into it, trying to look at all the data--the mathematical statistical data, look at the IT plan, make sure everything makes sense before you move into that. But to think that you wouldn't consider that, in my opinion, would be foolish. Governance is extremely important; it needs to be looked at but we need to have those comparisons... []

MIKE SCIULLO: Right. []

J.P. SABBY: ...so that we know like what some of the benefits of this might be over that, for example. []

SENATOR CAMPBELL: Have we sat down with the stakeholders and talked about this whole issue of governance and the potential conflict of interest is, we're hearing stories. []

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MIKE SCIULLO: Yeah, we have, and I think the conflict of interest is important, too. It's important from the consumer side, because consumers are going to be the ones purchasing the plan, so they certainly have a conflict as well as the carrier that would be the one selling the plan. So it's very broad, and it's something that we've certainly considered when we talk about governance, and it will be something that we factor into our recommendation on governance. []

SENATOR PAHLS: Senator Wallman. []

SENATOR WALLMAN: Yes, I'm going to go back to that adverse selection thing. And I have a young man in my district who has had cancer, and so his premium is almost at \$44,000 for a single pay or \$3,000 deductible. Now is he going to lie on his application on this new thing? Is he going to be...is his premium going to be \$353 or...? []

J.P. SABBY: This...I stated when we were doing the charts, using the charts that this is purely for illustrative purposes only, these premiums. []

SENATOR WALLMAN: Yeah. []

J.P. SABBY: We do not know what the premiums are going to look like in the exchange. []

MIKE SCIULLO: But one thing I think is interesting, your point is is that the insurer will have to issue him a policy regardless of his health status. And when they do the rating for that, they can't look at his health status as a factor at all. They go in and look at a few things--tobacco use, his age, and geographic...where he's at geographically. So, and that's one of the reasons we talk about adverse selection is because when you add people into the pool that are sick, then money to pay for their...has to come from somewhere. So what you want to avoid, to avoid adverse selection, is you want to avoid the young, healthy populations from leaving the pool or not being involved in the pool.

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And your point about the pools...well, another important thing to realize is that the risk pool inside the exchange is still the same risk pool as the people outside the exchange, and that's said in the statute. So when people ask, well, how many people do we need in the exchange to make that risk pool sustainable? That's not really an applicable question because of the two pools combined for that same risk. Does that help? []

SENATOR CAMPBELL: Yes. []

J.P. SABBY: Well, and also another way that the federal government with the proposed regs in July, they tried to address adverse selection is, if you look at your bronze, silver, gold, and platinum plans, they stated that you could not jump from bronze to platinum. So let's say you were very sick, and you had a bronze plan, and you wanted to go jump to a platinum plan. You couldn't do that...you'd have to jump to a silver plan. []

MIKE SCIULLO: Once per year. []

J.P. SABBY: Right, once per year. []

MIKE SCIULLO: And the reason for that is well, I'm young and I'm healthy now so I'm going to take my lowest cost plan, bronze, pay the lowest amount of premium because I don't go to the doctor much. I don't pay a lot of deductibles, but then I find out that, unfortunately, I have cancer or some terrible illness, and I decide, well, I'm going to use the facilities all the time now. So I want my out-of-pocket costs to be as low as possible, so I'm going to move to platinum. But then it brings questions...that raises questions too, you know, if like, well, should the consumer have the ability to do that? But now we know, it's set in the regulation. The federal government has made it clear. That was one of the issues that the states had to figure out before, and this is kind of what I mean when we talk about waiting for the regulation because we'll spend a lot of time focusing on something like this issue, and then it comes out in the regulations. Well, we don't have to worry about that anymore. The federal government made the decision for us. []

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SENATOR PAHLS: Senator Gloor. []

SENATOR GLOOR: Thank you, Chairman Pahls. We're going to get a definition on standardized essential benefit package. Are we also going to get some degree of guidance on what a complete network means? There are a number of senators on this panel who reside outside some of the larger population bases, and you could have an insurer who says, you know, we cover 60 to 70 percent of Nebraskans, but in fact, that might be only seven or eight counties in the state. One of the biggest challenges that I used to deal with in my previous role in health care was the fact that there would be insurers who would enter the market but focus primarily on large metropolitan centers, sell a policy then, or promote a policy where network really wasn't completely developed yet. And so, there are a lot of rural areas of the state where nobody wants to put the time and effort or expense because I understand why that wouldn't be a priority to some rural areas that need to have network coverage if this is going to be successful, and if we're going to build our pool large enough to make this work. []

BRUCE RAMGE: Yeah, we expect to seek guidance out on network adequacy as well, and how that...well that tracks with what is currently in place in Nebraska for managed care networks is yet to be seen. []

SENATOR GLOOR: I would imagine there's going to be a degree of discretion, though, that the feds give us that means we're going to have to fill in a lot of blanks there and hope that part of what's being looked at by the consultants is, how can we do that? []

BRUCE RAMGE: Demographics is very important when you look at network adequacy, because there are certain segments of the state that just wouldn't have as many of the specialists as the metropolitan areas. []

SENATOR GLOOR: Sure. Yeah. []

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MIKE SCIULLO: One thing we do know that may alleviate some of your concerns is that one of the regulations it talks about, how the exchange must cover 100 percent of the state's geographical regions. So how it will do that at this point is unknown, but it is one of the requirements of the exchange. []

SENATOR GLOOR: I would think it will be a major limiting issue when we take a look at the number of participants if we take that approach in the insurance market. []

BRUCE RAMGE: Agree. []

SENATOR PAHLS: Senator McCoy. []

SENATOR McCOY: Can you address...we've probably all been watching in the news the different...how the different states and where they're at in their process. Now recently Kansas made the news with a large amount of money that they turned back over to the feds. You might address, if you can, what you know about that situation, how that came about in light of where they may be in the process versus where we are here in Nebraska. []

BRUCE RAMGE: I spoke to Commissioner Praeger just last week, and that's...Kansas had applied for an early innovator grant which was intended to be used as then a guidance for other states wishing to develop exchanges. And it's...that portion of the grant was turned back because it was decided that just wasn't the way to go for Kansas. It's still unknown whether they will develop an exchange separately or not, so that's still to be determined. []

SENATOR PAHLS: Senator Utter. []

SENATOR UTTER: Senator Pahls. Recently, we've had some judicial decisions come

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down with regard to the Affordable Health Care Act and the mandatory purchase of health care coverage. What effect do you see that on the work that you're now doing? []

MIKE SCIULLO: Well, I mean, I think we have to continue doing what we're doing as long as the statute remains the federal law of the land. Now, what impact does the latest ruling in Atlanta have on it? Well, certainly, if the Supreme Court agrees with the lower court that the individual responsibility provision of the act is unconstitutional, that will substantially affect the exchange. I mean, the whole premise of the exchange is based around the fact that everyone must purchase health insurance, and that goes back to the issue of adverse selection that we talked about where...well, if I'm healthy well, why would I purchase insurance? We have what we call young invincibles which are people in their twenties, their early thirties, that just think, well, I'm young and healthy. I don't need insurance. But that kind of goes against what the whole purpose of the act is that certainly we would have to reassess everything if that part was severed but the exchange but the exchange part remained. []

SENATOR UTTER: Thank you. []

SENATOR PAHLS: Senator Campbell. []

SENATOR CAMPBELL: We have a lot of small businesses across the state. I'm not sure we have the most of any state in the country, but we do. Will that affect or should we be looking at different criteria when we set up the SHOP portion? []

J.P. SABBY: The SHOP exchange is...or the SHOP portion of the exchange is open for small businesses from 2 to 50 employees, and that's set in the statute. We can increase it up to 100 employees in 2017 or 100 plus employees. []

MIKE SCIULLO: Yeah, and that is... []

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J.P. SABBY: 2017. []

MIKE SCIULLO: ...with the SHOP exchange, there's certainly a lot of things to consider which is, you know, one of the important provisions is that there's a tax credit for the small business owner. But that's only applicable for the first two years, so one of the goals for that is to get...to try to incentivize people to get into the SHOP exchange early. And what that will do is that will give the small businesses, according to the federal government, the ability to pool their risk in the same type of way that large group enjoys now. And then there's a decision point somewhere along in the future, and I believe in 2017, when we start talking about large group. Now there's certainly lots of concerns around that, and it's not something available to really address at this point. []

SENATOR CAMPBELL: So will the demographics again influence how we set up those SHOPS? []

J.P. SABBY: Yeah, there's potential for that, but the SHOP is required to aggregate premiums for the exchange, and what that means is you will...the small business will be paying the money to the exchange, and the exchange will be giving the money out to the insurance companies pretty much. And what that does is, it creates like human resource department for those small businesses within the exchange. So that may be helpful for small businesses that don't have a human resource department. []

MIKE SCIULLO: Yeah. What we hear a lot of is that, you know, the small businesses are experts at plumbing; they're experts at doing car repairs. You know, they're experts at what they do. They're not experts at being an HR department for insurance benefits. So that's one of the potential benefits of the SHOP exchange is you could say, hey, look, we can handle all of your premiums for your employees for you. That part of it can be done. We'll aggregate the premium to the carrier for you, and then you'll have a few simple choices that you'll need to make to help get your employees covered. So that's certainly one of the things in the concept. You point to the demographics and how that

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affects that, it certainly does because we have to look at the insurance coverage percentages. Who's covered by individual coverage? Who's currently covered by large group? Who would possibly be eligible for small group if these better options were presented? And that's one of the things that's included in the study from HMA is we look at the SHOP. But when we talk about SHOP, this is something that will need its own individual study in the future, and that's why it's hard for us to kind of give any quality feedback on this subject. We've just looked at it at a very high level. []

SENATOR CAMPBELL: Just because we have so many small businesses in the state that it's a topic that keeps coming up. When the demographic people look across, what...is there a thought that we will bring in all of the state employees into this? []

MIKE SCIULLO: That's something else that we just can't answer at this time. []

J.P. SABBY: Right. []

MIKE SCIULLO: I mean, it's something that will have to be looked at in the future, and it's not something that we've looked at with this study. []

SENATOR CAMPBELL: In case we need to increase that pool? []

MIKE SCIULLO: And like I said, it's certainly an option if policymakers wanted, you know, to discuss that. But at this point in the study, it's just something that we haven't looked at. []

SENATOR PAHLS: Senator. []

SENATOR GLOOR: Thank you, Mr. Chairman. Let's go back to the surveys or the surveying that you were doing within the insure market. If nothing else, both the ones that were...I'm guessing these were all on-line? []

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J.P. SABBY: Correct. []

SENATOR GLOOR: And you also did your little confidential smell test, I guess, of some of the responses. Just between us happy campers, you want to tell us some of the confidential feedback you got from these discussions? (Laughter) []

MIKE SCIULLO: I think since we're on the record, that may go against the entire premise. []

SENATOR GLOOR: Let me be...at least I asked, so you know, that's (inaudible) (laughter). What can you tell us about the kind of response you're getting back from what I would say are the key players in us trying to do something ourselves? []

MIKE SCIULLO: There's a lot of work to do, and I think the stakeholder engagement process isn't something that just happens at the beginning and then stops. This is something that...I mean, we've learned this from talking with Utah and a lot of our consultants who were involved in the Massachusetts connector is this is something that has to start at the beginning and go all the way through and continue to go through even with operations. So the feedback changes...I mean, as people learn different things and more things about the exchange, they have different ideas or they thought maybe they knew what they wanted on one issue, but then that's changed. So it's certainly an ongoing process, but one thing we know is that we've got a lot of work to do on up-front, and it's something that isn't going to just stop after this. []

SENATOR GLOOR: I'm just curious in the here and now. Who are the three largest insurers in the state? []

BRUCE RAMGE: That would be Blue Cross and Blue Shield of Nebraska, UnitedHealthcare, and Coventry Health Care. []

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SENATOR GLOOR: Okay. Let me ask my question about feedback a different way which is when you send out the on-line survey, there's an opportunity I'm guessing for people to load the responses. Whether they do that or not, I don't know, but unless you hand picked exactly by name and e-mail address who you wanted a response back my understanding is this will (inaudible) open, and so that people go on-line and give you some feedback. Were those responses matching up with what you did as sort of a confidential survey then within the industry... []

J.P. SABBY: Correct. It... []

SENATOR GLOOR: ...or was there a big discrepancy that tells you this isn't quite what we're seeing on the surveys versus what we're hearing when we ask? []

J.P. SABBY: Even our general health insurance exchange survey is confidential for everybody that fills it out, and one of the main things you have to do is you have to put in your name and your employer because we want real people filling out these surveys, and it goes across the board. Some of the answers, they go from...that we want an active purchaser to a clearinghouse, and I believe with our general survey that the answers go right across the board all the way to a hybrid model. []

MIKE SCIULLO: Yeah, and on each subject, too... []

J.P. SABBY: Yes. []

MIKE SCIULLO: ...and not just on what type of exchange we can have, but on governance, you know, there's multiple...people think multiple different viewpoints, depending on where they are. And I mean, certainly that depends on their relation to the exchange. I know a lot of times we just hear general feedback about, you know, we don't want this thing or we think this is great. You know, we think this is going to improve

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health care, or this thing is terrible, or you know, so just a lot of general feedback that maybe doesn't get into the policy issues as much as we would like. But this is very...kind of a niche topic, so we don't expect everyone, you know, to, you know...if I ask them, you know, what they think about certain risk pool decisions and may not understand that. []

SENATOR GLOOR: Do you think the responses were beneficial? I mean, were they...it doesn't sound like they were a huge surprise, but also it doesn't sound like they were... []

J.P. SABBY: Oh, they were beneficial to us. We learned a lot from the responses of what a large sector of Nebraskans would like to see out on an exchange, if they would want to have an exchange, and what type of exchange they'd like. []

MIKE SCIULLO: We learned a few things, and I think that some points were hammered home is that this thing has to make sense for the consumers. You know, the people...the only reason that this would be worth it is if it made people's lives better, so that's one large take away that we had is that...is this going to help overall in the system or is it not going to help? And I think that in that sake, we would have liked to have seen more responses. []

SENATOR GLOOR: Well, that's interesting, but I imagine the time to complete those is over. []

J.P. SABBY: Actually, what Mike and I were talking and we will probably open up the general survey again for the remainder. []

MIKE SCIULLO: Yeah, kind of in that theme of what I meant as far as this is an ongoing...and, you know, I'd hate to restrict somebody's opinion based on where they entered in the process. For example, like you said, Senator McCoy, that there's a lot of

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topics in the news right now and maybe this will perk up some more interest about the exchange, and people will start going, well, what's Nebraska doing about our exchange? And then, maybe they'll be more apt to look into the issue and provide us for more feedback and for us, that's something that we're always looking for. []

J.P. SABBY: Right. []

SENATOR GLOOR: Good. I think that's a good philosophy too. I hope you do open it up again. Thank you. []

SENATOR PAHLS: Senator. []

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. If the Supreme Court should happen to fill this whole thing out, do you have some idea how much we as a state or a nation will have spent trying to get set up for something that? []

J.P. SABBY: Well, at the minimum if everybody took their \$1 million grant, it would be a little bit over \$50 million. []

MIKE SCIULLO: So we know \$48 million on the planning grant so far, and then I think they've doled out another \$134 million for the level one grants, so somewhere to the tune of between \$150 million and \$200 million. []

SENATOR PAHLS: Senator Howard. []

SENATOR HOWARD: Oh, thank you. I'm wondering, you know, you hear a lot from the consumers and my best guess is there's just a lot of confusion so far. People are really not knowing if this is going to benefit them personally or not. Are you hearing, or what are you hearing from the providers? []

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MIKE SCIULLO: Well, we have met with some providers and certainly there's a lot of questions surrounding the exchange from them because they're not quite sure maybe where they fit in. And Bruce, maybe you want to (inaudible) this a little? []

BRUCE RAMGE: Well, I would just mention that I believe that a lot of the questions and the feedback we've received from provider go more to the question of what is the essential benefit package because some of the specialty providers are curious to know whether their particular field of expertise will be included in that. []

SENATOR HOWARD: And I'm sure they're wondering what the reimbursements are going to be and, I mean, there's a whole broad spectrum of things that you could easily get into with that. []

BRUCE RAMGE: Yes, yes. []

SENATOR HOWARD: The other thing that crossed my mind is if we become really a state-driven system, how does this affect people that would be, say, in Scottsbluff, for example, who would prefer to go to Denver because it's closer to get maybe needed medical services? Would this be portable across state lines or what would you see? []

J.P. SABBY: That is one of the questions we're actually looking at, and we need further federal regulations to help us determine what would happen. Some ideas...I believe Jost is one of the premier people on health insurance exchanges, and it could be that you work in Colorado, and you live in Nebraska. So it just depends, what do you have your insurance bought by the place you work, your employer, or would it be in the state that you live in? []

MIKE SCIULLO: Also, there's issues with that now and, you know, as far as what will your plan cover if you travel out of state? []

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SENATOR HOWARD: Right. []

MIKE SCIULLO: You know, so certainly, there's in-network agreements with certain carriers and providers that they do business with a lot that deal with that now. So we assume there's probably some of the same level for that role (inaudible) insurance philosophy. But like a colleague said, we're just kind of waiting to see if we can get some more guidance on that particular issue. []

SENATOR PAHLS: Senator. []

SENATOR CAMPBELL: A topic that we said during the presentation that we'd come back to, and I don't know that we have is the navigators. Who can serve as a navigator, how will we set that up because it goes back to the outreach effort? I mean, we're going to have to find every single person who might qualify. How do we reach out and how does the navigator play that part? []

J.P. SABBY: Right. The proposed federal regs state that the exchange has to pick a minimum two organizations to be a navigator too, and those organizations differ from fishermen, farming associations, ranchers can be navigators, the chamber of commerce could be a possible navigator all the way to advocacy associations. So there is a range of...the navigator program is supposed to help people that need to be told about the insurance products, and we're waiting for new regulations to determine what the navigator program is going to be. They just tell us who may be eligible right now, but we don't know what it will look like. []

MIKE SCIULLO: I think it's important to add too, that the role of the agent and the broker is an important one, particularly for consumers in helping to, in the licensure process the Department of Insurance has as far as helping people find the particular plans that are right for them in addition to the navigator role which would be more helping people be aware that these types of coverage exist for them. []

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J.P. SABBY: Right. []

MIKE SCIULLO: so that's kind of the dividing line that we're seeing. We're not saying that that's what we necessarily are embracing, but that's kind of the talk of the town (inaudible). []

J.P. SABBY: And also agents and brokers can apply to be navigators. So they're part of one of those organizations that would be eligible to be a navigator. []

SENATOR CAMPBELL: And so how many there are in the state, and who certifies them or sets them up will be done by the department? []

MIKE SCIULLO: It's by... []

SENATOR CAMPBELL: So guidelines. The criteria and the number of them. []

J.P. SABBY: So we're just waiting for the federal guidelines on the navigators, and a lot of this information, we are waiting on further guidelines from the federal government. []

SENATOR CAMPBELL: Because one of the outreach efforts calls for a hot line, does it not? []

J.P. SABBY: Correct, and that would be part of the health insurance exchange functions would be the hot line along with a brick and mortar operation, so you'd be able to go to a building and apply for your health insurance or you can go on-line. It's part of the no wrong door policy. They want you to be able to have multiple doors to go into but no wrong door. []

SENATOR CAMPBELL: Thank you, Chairman. []

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SENATOR PAHLS: Yeah. Senator Pirsch. []

SENATOR PIRSCH: So we've talked about a number of concepts that are tied to regulation, tied to regulations that you said, unfortunately, as of this time, are not available to help flush out where we're at. Have they announced...do we have some kind of indication of...are some of this information going to be provided by the federal government in coming, in near months here? What do we expect here before the end of 2011? []

MIKE SCIULLO: Oh, I think that's a great question. Initially, we were told that the essential benefits regulation was going to come in the spring of 2011. So, you know, we're just in a mode where we just kind of play it by ear at this point with the regulations because the forecasted time lines aren't really panning out in the way that we expected. []

BRUCE RAMGE: They tend to come piecemeal, one piece at a time, and they're set out as proposed regulations with the comment period, and like we mentioned, there were three sets of those that were just issued on Friday that we have not yet had a time to really thoroughly evaluate. So it's all coming but gradually. []

SENATOR PIRSCH: Yeah. We expect in the next several months then to get a flurry of more...we hope. []

BRUCE RAMGE: We hope. We hope. Yes (laugh). []

SENATOR PIRSCH: Thank you. []

SENATOR PAHLS: Senator McCoy. []

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SENATOR McCOY: To piggyback on that by, if I might, hear some talking in the news. Now we've compressed, kind of this time line with regulations and whatnot that perhaps maybe that Congress might decide to kick this out farther into the future with one...all this ultimately is in place. Do you hear any talk of that, that you can share with us that we may not be looking at in 2014, we might be looking at farther down the road? []

J.P. SABBY: The statute states that (inaudible) will be operational by 2014, and I don't believe that can change unless it's by an act of Congress. []

MIKE SCIULLO: So the question is, is you know, are they willing or is...we haven't heard anything, the discussion that you're talking about, that's news to me that they would be changing the act at all. I think that there's certainly people that are weary of changing the act. So...but what we have heard is that the regulation is kind of...and I alluded to this a little bit is giving the states a few more different options, saying, well look, there will be an exchange in 2014, but we're going to provide some level of flexibility with that. For example, maybe you would want to craft a plan to take the exchange back from federal operation. That can be possible. Or you could decide that maybe the state exchange wasn't the right decision, and you want the feds to operate it. You certainly could do that as well, but when you pull back the curtain there to try to find out what that exactly means, there's not a whole lot there. So that's one of the things we're waiting more about is well, you told us that we can do this, but where are the details to that process? And when we look for the details, they're not there so it's something that we're certainly curious about that has to be considered in the overall plan, but the details just aren't there to actually make it highly considerable. []

J.P. SABBY: You can't make an informed decision unless you know all the details and, at this point, we don't have any of those details. Thank you. []

SENATOR COOK: Thank you, Mr. Chair, and thank you for coming this morning. I have a question related to the outreach that has been done heretofore related to getting

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consumer...direct consumer input. I understand that there's quite a bit of engagement among the constituencies--agencies, brokers, associations, and even consumer advocates and providers. But I'm wondering who...to what extent we're investing our time and effort in identifying what you refer to as real people--people who would be in all likely eligible or. []

J.P. SABBY: What we did was we had five stakeholder...we've had five stakeholder meetings open to the public, and we advertise those in the paper and local radio stations across all the three congressional districts. In all of those meetings, we probably, on average, we've probably had about 30 people except in Omaha where we had a little bit over 75. But we advertise two weeks ahead of time and it's on our Web site; it's on our Facebook page--we have a Facebook page where more...where people that like Facebook and like to enter in it (laugh) go and they can leave comments. []

MIKE SCIULLO: Yeah, we thought that just having an on-line presence would add a level of transparency to the process. And we certainly do review that page and we look and hope for comments, but it's not exactly, I guess, the most exciting issue for everybody. So we certainly wanted to make sure that the line of communication is open. Additionally, we've had an open door, open e-mail, open phone policy throughout the process if anyone ever had any particular questions for us or had a concern about the exchange process, that they could contact us and another important thing, I think, to note is that anyone that's requested a meeting with us, we've honored that and had to make time for everybody in (inaudible) to their particular concerns. But certainly, we would be open to suggestions on how to reach consumers better and if you have any ideas, we'd be delighted to hear them. []

SENATOR COOK: Thank you. []

SENATOR PAHLS: Any more questions around the table? I just have a couple of very brief ones. Let's say the state goes ahead, and everything is running in the right place.

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When does the state pick up the cost? []

BRUCE RAMGE: Beginning January 1, 2015. []

SENATOR PAHLS: Okay. So all those costs before that are...I know it's our money anyway, but is subsidized by the federal government. []

BRUCE RAMGE: Yes, except for...there's one cost that the state would have to pick up earlier, and that would be for the navigator program because that particular cost is...it's somewhat of a challenge because it has to be in place right away before the exchange has actually had the opportunity to be out there operational. []

SENATOR PAHLS: Okay, but the technology and all that could be subsidized by the federal dollars is what I'm listening to. []

MIKE SCIULLO: There's some caveats to that when we talk about cost allocation methodology on the IT side. For example, the federal government has said if it's an exchange related cost, we'll pay 100 percent of that cost, but if it's a Medicaid cost, then the match is 90-10. So then we started to ask questions, well, how could it not be an exchange cost because Medicaid is directly involved with the exchange? So these are things that we're waiting on more guidance from the federal government on is how exactly does your cost allocation methodology work? And that's not something that we could just sit down at a table and...we could attempt to say...you know, and argue and say, well, this exchange is tasked with this Medicaid function, so therefore, we should get 100 percent. Well, that's all well and good until, you know, the federal government says, well, no actually, you get 90-10 on this. So to say that it was all covered, IT costs, I think would be a little bit disingenuous. []

SENATOR PAHLS: Okay. Right, but it's significant. It is significant. []

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MIKE SCIULLO: Correct. []

J.P. SABBY: Yeah. []

SENATOR PAHLS: And here's another interesting thing. I think sometimes when you're listening to TV and radio and reading in the newspaper, I think we ought to be a little bit...beware of what we're reading or listening to. Here's a prime example. A little over a month ago, I was at a national conference, and they had a panel there, and one person was just saying, we're doing this, this, this. I'm sitting there, and I said, my goodness, this sounds great. I can't wait to get back to Nebraska and give them a call. Well, we called them, and that state said, no, we're turning the money back. That was the state of Kansas. But at the panel, you would have thought that they had the answers to everything and within a few days, they had literally reversed. So I think what you guys have done of collecting the information so we can make some probably stronger future decisions. And we can give you another suggestion. Every time I meet with you guys, the federal government sends out new regulations (laughter) just as (inaudible), so I suggest we meet more often. You can just smile at me and so then there will be some more coming out, so you know, so I do...there may be a benefit to that. Now I heard earlier that you are willing to give more briefings as the more information you get... []

MIKE SCIULLO: Yes, sir. []

SENATOR PAHLS: ...you're going to have them with us or to the general public. What's your future agenda? []

BRUCE RAMGE: To either would be fine with us. []

SENATOR PAHLS: Okay. Okay. One last chance, you know. Yeah. []

SENATOR CAMPBELL: I just have an announcement for the senators and for everyone

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in the audience. We will be meeting with Director Chaumont at 1:00. You are all invited to return. We will be talking mostly Medicaid issues with regard to the exchange. We thought it might be easier. Senator Pahls and I thought it might be easier to split the two topics up, so you are all welcome to return. []

BRUCE RAMGE: Thank you. []

SENATOR PAHLS: Thank you. And as I drove into Lincoln this morning, there was a rainbow over the Capitol, and I have to be honest with you. You have provided me with some information...new information, so it may not be the total pot of gold, but I do appreciate (laughter) your efforts. Thank you. []

MIKE SCIULLO: Thank you. []

J.P. SABBY: Thank you. []

SENATOR PAHLS: Thank you. []