

**Testimony before the Health Policy Committee of the Michigan House of  
Representatives - Representative Gail Haines, Chair**

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Thank you, Madame Chair, Members of the Committee. Good morning. I am David Jones, a doctoral student at the University of Michigan's School of Public Health and the Department of Political Science. I am addressing you today not as a representative of the University, but as someone who has closely studied the creation of health insurance exchanges. As part of my dissertation research I have logged thousands of miles in the last year interviewing policymakers in more than a dozen states on both sides of the political spectrum. My analysis was recently published by the *New England Journal of Medicine*.

The warning I wrote in that article, and that I am here to give today, is that states that do not act quickly to establish an insurance exchange on their own will by default lose control to the federal government. As I speak with leaders around the country, a sentiment I hear is that there is plenty of time before the exchanges are supposed to be operational in 2014 and therefore there is no reason to rush the planning process. However, as I am sure you know from the many hearings that this committee has held on the exchanges, the deadline by which an exchange needs to be created is actually January 1, 2013, giving states a little more than 11 months from now.

Even still, some people have suggested that it is better to wait until the after Supreme Court's ruling before making a decision. I understand the desire to wait and see what happens in the courts; however, I believe that by deciding to wait, these states are implicitly choosing a federal exchange instead of a state-run exchange.

This is the case for two reasons. First, developing the information technology (IT) necessary to run an exchange will take time. Leaders I have interviewed indicate that improving IT infrastructure is crucial in order to run the exchange as an effective marketplace. States waiting to get started until after the Supreme Court rules will likely not have enough time to act before the January 2013 deadline.

Second, the de facto deadline for creating an exchange may actually be June 29<sup>th</sup> of this year. This is the deadline for the level 2 establishment grant and represents the final opportunity for states to receive federal funding to create an exchange. This grant is designed to provide funding through 2014 when the exchanges are supposed to be self-sustaining. States not receiving this grant will face the choice of spending millions of dollars of their own money to create an exchange or ceding control to the federal government.

One of the conditions for receiving this grant is that the exchange be given legal status and have a governance structure in place. Because the final date of the Supreme Court's session is June 25th, and many experts expect the court to take that long to announce a decision, states will have only a matter of days between the announcement of a decision and the grant deadline. Given the reality of legislative calendars, this is not enough time for states to respond.

In light of this dilemma, an option I have heard that governors in some states are considering is creating an exchange through executive order. Governors in two states have already taken this step. For example, when the Rhode Island Legislature stalled on an exchange bill last year, Independent Governor Lincoln Chafee created an exchange by executive order. His state became the first to receive the level 2 establishment grant. Similarly, Republican Governor Mitch Daniels of Indiana signed an executive order to create an exchange.

In summary, the timing of the final and most important exchange establishment grant means that states choosing to wait until after the Supreme Court ruling is announced face three options:

1. Spend millions of dollars of their own money to create an exchange
2. Create an exchange by executive order of the Governor in time to apply for the establishment grant
3. Cede control to the federal government

Although much of the Affordable Care Act is controversial, the exchanges have consistently received bipartisan support in public opinion surveys. As you have heard from the many people that have testified before this committee, including representatives of the business community, insurers, and leaders from other states such as Utah, the big advantage of operating an exchange at the state-level is that you maintain control over the most important decisions, including who sits on the board, the role of navigators, and the level of regulation. A Michigan-run exchange is more likely to be designed with Michigan markets in mind.

Thank you for the opportunity to speak this morning. I am happy to answer any questions you may have.