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**Governor Gary R. Herbert's Testimony to
House Energy and Commerce Committee
March 1, 2011**

"The Consequences of Obamacare: Impact on Medicaid and State Health Care Reform"

Good morning. I'm Gary Herbert, Governor of the State of Utah. I would like to thank Congressman Upton and the other members of the committee for your invitation to testify today.

Let me begin by stating that I am a firm believer in the principles of Federalism embodied in the 10th Amendment.

A balance of powers between the states and the federal government is not only right and proper, but is essential to finding solutions to the complex problems we face today. Justice Louis Brandeis famously described states as laboratories which can engage in "...novel social and economic experiments without risk to the rest of the country."

In Utah, we began our health system reform efforts five years ago, long before the Patient Protection and Affordable Care Act arrived on the scene. The lessons we've learned in our experiments in health system reform can serve as a guide to other states as they begin their own reform efforts.

The federal government has taken the opposite approach, with a one-size-fits-all decree. The Governors – the very people responsible for shoehorning the details of this decree into our agencies and budgets, were never invited to the table to give our input and our opinions when the Act was proposed by the Obama Administration and debated in Congress. I find that unconscionable.

The states can and should find their own solutions, tailored to their unique circumstances. In Utah, for example, a majority of Utah's uninsured population are employed. Most work for small businesses that do not offer health insurance benefits.

Utah also has the youngest population in the country. Many of our uninsured are so-called "young immortals", who have deemed traditional health insurance coverage to be either unnecessary or too expensive.

In order for health system reform to be effective in Utah, we had to respond to the needs of our small businesses and their employees.

As part of our health system reform efforts, Utah small businesses have the option of using a defined contribution model. This model allows employers to manage and contain their health benefit expenditures.

With the creation of the Utah Health Exchange, Utah employees also benefit from expanded access, choice, and control over their health care options. Employees can now purchase one of the more than 100 plans currently offered through the Exchange.

After just a month of full operation, the Utah Health Exchange has already helped more than 1,000 employees get health insurance that they have chosen, and enrollment continues to climb. Our figures also show that 20% of businesses participating in the Utah Health Exchange are offering health benefits for the first time.

Just as Henry Ford offered his first customers a choice of any color car they wanted as long as it was black, the Affordable Care Act allows states flexibility in implementing the act...as long as they do it the way Washington tells them. Minimum Essential Benefit mandates, obligatory quality improvement activities for carriers, compulsory federal subsidy determination mechanisms; these are just some of the examples of the lack of flexibility of the new national health care program.

Another challenge for Utah is our increasing financial obligation for Medicaid. Even before the Affordable Care Act, Medicaid was already a large and growing part of the Utah state budget.

In the 1990s, Medicaid took 9% of our state general fund. In Fiscal Year 2010 it was 18%. By FY 2020, it is estimated to exceed 30%, and that is without federally mandated expansion in the Affordable Care Act.

I have come to Washington to present solutions to help ease the burden on our state.

First, I call on the Administration to support an expedited appeals process to the Supreme Court for the healthcare litigation. States cannot be left with uncertainty in regards to the implementation of the Act.

Second, I ask Congress to give the states flexibility to find health care solutions based on each states' unique needs.

Third, we have proposed specific solutions for reform. These reforms will require that the Center for Medicare & Medicaid Services (CMS) support our waiver requests.

In the interest of time, I have included details of our recommendations in my submitted testimony. I'll highlight just one example here.

In our efforts to be more innovative and efficient, we developed an approach which uses paperless technology to communicate with our Medicaid clients, reducing costs by as much as \$6.3 million a year.

With this flexibility—in this one area alone—we estimate that all the states adopting this technology could save \$600 million to \$1 billion per year. Communicating by email seems like a no-brainer. However, we waited for 8 months to hear from the federal government. When we did hear something, it was a denial – and in a bitter irony – the denial came . . . by email.

Interestingly, when I raised the issue with the President just yesterday, I received a note from Secretary Sebelius letting me know that we could proceed with this paperless process.

While I appreciate this positive response, I have to ask myself two questions: First, why did it take a personal conversation between a Governor and the President of the United States to resolve this simple issue. Second, and even more important, why would do we even have to ask for permission to make this logical, cost-saving improvement.

For me, this situation illustrates what is wrong with the current partnership between the states and the federal government – a partnership that is one-sided and puts the states in a subservient role!

In conclusion, I emphasize again that real health care reform will rise from the states – the laboratories of democracy – not from the one-size fits all approach imposed by the federal government.

From the days of our pioneer forefathers, Utahns have been finding Utah solutions to Utah problems. I am here today to assert our right and responsibility to continue to do so.