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TESTIMONY BEFORE THE JOINT SUBCOMMITTEE ON ECONOMIC GROWTH, JOB
CREATION AND REGULATORY AFFAIRS,
AND ENERGY POLICY, HEALTH CARE AND ENTITLEMENTS

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Good morning, Chairman Jordan, Chairman Lankford and members of the Subcommittees on Economic Growth and Health Care.

Thank you for holding this hearing on the concerns of state governments related to the federal implementation of the Affordable Care Act. My name is Dr. Jeff Colyer. I am a practicing physician, and I am honored to serve as the Lieutenant Governor of the state of Kansas.

There are several issues that affect states with the implementation of the Affordable Care Act in the short and long runs. Theoretically these issues should be less complex in Kansas than other states because Kansans have chosen not to expand Medicaid nor implement a state based exchange. Nevertheless the issues are profound and detrimental to our citizens.

UNCERTAINTY DRAGGING DOWN BUSINESS

Although we are told the entire law must be fully implemented to achieve its goals, the federal government is having significant problems and is delaying or modifying programs. This month, the Congressional Research Service reported that President Obama has already signed 14 laws that amend, cancel or otherwise change parts of his health care law, and most significantly, just this year his administration has taken five independent steps to delay significant provisions of the ACA on its own.¹ With a law of this size and scope, these haphazard changes are having a devastating effect on the confidence of citizens and businesses in our great state of Kansas, and across the country. And they obviously change the basis of the program.

Uncertainty caused by the Affordable Care Act is a drag on Kansas businesses. A 2012 Mercer study indicates more than sixty percent of small business owners expect ACA to raise their business's health care costs.² Similar research by the Gallup Organization echoes these findings. These higher health insurance costs are creating incentives for businesses to cut back and produce services and products with fewer workers. The July 2013 Gallup poll of small-business owners further reveals that forty-eight percent of business owners believe the Affordable Care Act will be bad for their business, while forty-one percent indicated that they have held off on plans to hire new employees.³

In Kansas, this trend is no different. Wherever I go, the biggest concern I hear is the uncertainty about what the law is going to do to small business. A Kansan named Mike Bergmeier recently testified to Congress about the challenges that all federal regulations have on his business. Mr. Bergmeier, President of Shield Agricultural Equipment in Hutchison, Kansas told the House Small Business Committee he will not grow his company beyond the 44 full time employees and 4-15 part time people he currently employs so as to avoid the mandates that apply to companies with 50 or more employees. Mr. Bergmeier's situation is not unique.

The inability of the Administration to project clearly and articulately how the law will affect small businesses is resulting in economic stagnation. Businesses are scared to invest in jobs, they're scared to invest in expansion, and they're scared to invest in Kansas' future. This is damaging to everyone, but felt most directly by the middle class.

The effect of the Affordable Care Act on the economy is like ice on the wing of an airplane preventing it from taking off. As stories like those told by Shield Agricultural Equipment play out thousands of times across the country, it is easy to understand why our economy refuses to

¹ CRS memorandum to the Honorable Tom Coburn, September 5, 2013.

² Scott Shane, "Obamacare already shrinking small-business job growth" *Entrepreneur*, September 12, 2013.

³ Dennis Jacobs, "Half of U.S. small businesses think health law bad for them" *Gallup: Economy*, May 10, 2013.

take off as it should.

INOPERABLE TIMELINE

One place where states and the federal government interact is in determining eligibility for Medicaid and the individuals on the exchange. In practical terms, this means that the state eligibility data platform must be interoperable with the federal eligibility system. This program has been a challenge to implement under the unreasonable timelines demanded by the law. While our state is significantly advanced in the process and has had a positive working relationship with the Centers for Medicare and Medicaid Services, we continue to face challenges. As recently as September 6, Kansas learned of technical updates that disrupted some of the critical preparation we had previously completed. As a result, countless resources and energy continue to be dedicated to evaluating the ever-changing landscape of ACA implementation. We must continually consider whether or not our timelines will match those of the federal government.

Even if the deadlines are met there is a significant contradiction in determining eligibility. For Medicaid, states must verify incomes or face loss of federal funds. On the other hand income eligibility for subsidies on the federal exchange apparently does not need to be verified with the same rigor. It is hard for the taxpayers to have confidence in a system where exchanges use an “honor system” to verify income for federally run programs while the states – appropriately – use much more stringent verification for Medicaid.

The lack of education and outreach by the federal government is disappointing. As a Federally Facilitated Marketplace, there is ambiguity on the state side because of the late date the federal government awarded navigator grants. This delay is forcing the navigators in Kansas to rapidly get up to speed, while the system they will be working with is not yet fully formed.

The delays prevented many states from enacting appropriate privacy laws and have to deal with issues relating to insurance brokers, navigators, and an apparently a new category of assistors.

GOVERNMENT ENFORCED RATES

Unlike the president and his team have promoted, Kansans will undoubtedly see rate hike and limited competition on the exchange. While most details of the exchange have not been released by the federal government, what we do know about rates is startling. A website recently launched by the Kansas Insurance Department, insureks.org, allows Kansans to estimate their premiums under the new marketplace. The website projects a typical 25 year old uninsured male Kansan in Douglas County with an income of \$30,000 will have a premium of \$163 per month. Further, this individual will only be able to choose between two companies. A similar

search on ehealthinsurance.com indicates this same young man could obtain insurance for \$43 per month today with the option of choosing a higher cost plan should he want. But unlike today, the Kansan in this example will be required by their government to purchase the far more expensive product he may not want or need on January 1.

Lastly, as a physician, I speak with my colleagues in the medical community every day. To a person all have expressed concern that the law will significantly limit their capacity to practice best care. They don't understand how health outcomes can be improved by a law that drives healthcare decisions to be made from Washington rather than the cherished relationship between the doctor and patient.

Kansans and I believe most Americans know the best decisions are made closest to the people. If we repeal the ACA, we can make a health care system that provides better results, provides coverage for the vulnerable, and is affordable.

Mr. Chairman Lankford, Mr. Chairman Jordan, thank you both very much for the opportunity to visit with you today.