Senate Committee on Finance
U.S. Senator Orrin Hatch (R-UT), Ranking Member
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HATCH STATEMENT AT FINANCE COMMITTEE HEARING EXAMINING THE EFFECTIVENESS OF TAX INCENTIVES FOR CHARITABLE GIVING

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following opening statement at a committee hearing examining the effectiveness of tax incentives for charitable giving:

In particular, thank you for the indulgence of an extended opening statement. The issue of our tax code's treatment of charitable contributions is of critical importance to me, to the people of Utah, and to millions of Americans who give every year to their churches and their communities. I am deeply concerned that the current deduction for charitable giving is under quiet assault, and today's testimony does nothing to diminish those concerns.

Mr. Chairman, you have assembled an excellent panel to discuss the issue of our tax code's treatment of charitable giving. I am particularly pleased to have Elder Oaks and Mr. Gallagher testify today. They are uniquely qualified by their lives of service to provide the Committee with the insight we need to understand the importance of maintaining the current charitable deduction.

In advocating for the current deduction, I expect that they will be more diplomatic than I. But from my perspective the tax reform options being discussed today are options that target charitable giving concocted by those who, hungry for more taxpayer dollars to finance reckless government spending, are now casting their sights on the already depleted resources of charities and churches.

Alexis de Tocqueville wrote in *Democracy in America* of the importance of intermediate associations that stand between the individual and a centralized state. The Catholic Church speaks about *subsidiarity*, the principle that matters ought to be handled by the least centralized competent authority. To put these insights into constitutional terms, the federal government cannot — and should not — do it all. The truth of these moral and legal principles is embodied in the work of America's churches and charities, which have played a critical role in securing the welfare of Americans in the face of our nation's worst economic disaster since the Great Depression.

In no small measure thanks to the Administration's lack of focus on jobs and misguided economic policies, our economy is growing much too slowly and unemployment remains stuck above 9 percent. Our jobs deficit is enormous, and neither the President's first stimulus bill, nor its sequels, will get Americans working again. In this economic environment, the charitable community is more important than ever to those in need. As state and local governments grapple with budget deficits and revenue shortfalls, Americans in crisis are turning for help in ever greater numbers to churches, charities, shelters, and other social welfare groups. Charitable donations are the lifeblood of charities and the last thing Congress should do is interrupt the blood supply.

The Administration proposes to cap the itemized deduction at 28 percent, and we know the Administration would raise the top marginal tax rate on individuals to 39.6 percent if it could. One prominent research organization that studied the President's proposal to cap the tax deduction at 28 percent estimated that it would lead to a drop in total charitable giving of $6 billion. That cannot be allowed to happen.

The Congressional Budget Office has published a report that analyzes several proposals to place various limits on the charitable deduction. We will hear about that study today from Dr. Sammartino. However, most of the proposals described in the CBO report would result in less charitable giving, and one would cause a devastating drop of $10 billion per year in donations. Two of the proposals would increase federal tax expenditures by $5 billion and $7 billion per year, an unrealistic proposition in today's deficit climate. And two proposals are projected to increase donations and reduce federal tax expenditures at the same time. Frankly, that sounds too good to be true. And as we all know, when something sounds too good to be true, it probably is.

In addition to curbing the charitable deduction, proposals have been made to convert it to a non-refundable tax credit. The Bowles-Simpson Commission proposed a 12 percent tax credit and the CBO report describes a 15 percent and 25 percent tax credit.

We should make no bones about it. The changes being discussed today are radical ones. There has been a charitable deduction in the tax code for nearly a century, and the proposals on the table would undo it. This is not the area for experimentation by the federal government. Our charitable sector is just recovering from the steep drop in contributions that followed the 2008 stock market meltdown. Charities today face the prospect of enduring another recession that will again put downward pressure on charitable giving. This is not the time to reduce the charitable deduction and further suppress the incentive to give. And it is certainly not the time to experiment with the charitable deduction by converting it to a tax credit.

Commonsense tells us that a greater charitable tax incentive will result in a greater amount of charitable giving; assuming the capacity to give exists. It seems to me that this point is overlooked by those who criticize the charitable tax deduction on "fairness" grounds; that is, on the ground that it is unfair for a donor in a higher marginal tax bracket to receive a larger deduction than a donor in a lower bracket.

This sort of reasoning misses the point entirely. The tax deduction is not an end unto itself. The goal is not to reward some donors more than others. In fact, it's not really about the donor at all.

It's about the charity.

It's about directing sufficient resources to charities so they can carry forward the good works our society so desperately needs them to perform. It makes perfect sense to provide the greatest tax incentive for giving to the donors with the greatest capacity to give. The upper income donors, the ones in the high marginal tax brackets, are the very donors that are in a position to give substantial amounts to charity. It should come as no surprise that for nearly one hundred years the tax code has provided such an incentive.

This is not just an issue for high income donors, however.

It is important to remember that there has never been a floor on the charitable deduction either.

Nor should there be.

The charitable deduction begins with the first dollar given. We should rejoice that we live in a country where people of all income groups give generously to charity. Studies have actually shown that lower-income Americans, those with fewer dollars to spare, are actually more generous than wealthier Americans, giving away a greater percentage of their income than higher-income taxpayers.

Think about that. Taxpayers who receive little or no additional tax benefit for giving to their church or charity give faithfully anyway. Economists have a term for this behavior. It's called *inelastic charitable giving*. I call it *giving from the heart*. But it is this very behavioral prediction that has encouraged some to advocate for curtailing the charitable deduction by placing a floor on the deduction: a minimum amount below which no deduction would be allowed. One proposal would deny a donor the deduction except to the extent their charitable giving exceeded 2 percent of Adjusted Gross Income. The advocates of this proposal say the following:

> "An argument in favor of this option is that, even without a deduction, a significant share of charitable donations would probably still be made. Therefore, allowing taxpayers to deduct contributions is economically inefficient because it results in a large loss of federal revenue for a very small increase in charitable giving."

I have nothing against economists, but please.

Economically inefficient?

Inelastic giving?

I do not believe that Congress should change current law and take away the charitable deduction for modest gifts merely because we can rely on kind and faithful citizens to continue giving their hard-earned money to churches and charities regardless of the tax benefit they receive. That is just not right.

Harrisburg, Pennsylvania, the state capital, declared bankruptcy last week. What do you think will happen to the provision of city services in Harrisburg? Who will step into the breach? Churches and charities will. Poverty in America, including childhood poverty, is reported to be at the highest levels since 1993. These are our neighbors.

Who is there for them?

Local governments, yes.

But churches and charities are there too. The food banks and shelters are busier than ever and in need of donations large and small. I could go on, but we all have heard the stories. We all are aware of the need.

I would like to make another point about the charitable deduction that is a very personal one for me and for many Utahns and Americans across the country. Too often, including just recently, this Administration has taken actions that in my view undermine the mission of our nation's churches and religious institutions. I am deeply concerned that the effect of these proposals to reduce the tax benefit for charitable deductions would have a similar effect, and I urge those who are considering them to think long and hard before going down this path.

I'll just close by saying that the charitable tax deduction is unique. It is the only deduction that encourages you not to spend or invest your income, but to give it away. Every charitable gift has one thing in common: the donor is always left worse off financially. But society is made better. We curtail the charitable tax deduction at our peril.

I look forward to hearing the testimony of all of the witnesses. Thank you, Mr. Chairman.

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