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HATCH, 34 COLLEAGUES LAY CASE FOR WHY PARTISAN HEALTH LAW SHOULD FALL IN BRIEF TO SUPREME COURT

SALT LAKE CITY – U.S. Senator Orrin Hatch (R-Utah), a current member and former chairman of the Senate Judiciary Committee, today joined 34 Senate colleagues in filing a friend-of-the-court brief with the U.S. Supreme Court as part of the constitutional challenge to last year's health law. This brief argues that, if the Court finds the insurance mandate unconstitutional, it cannot be severed from the rest of the statute and that the entire law must be struck down in its entirety.

"The Supreme Court's decision to consider several key issues in this case is welcome news for the American people and for the U.S. Constitution," Hatch said. "I have long argued that the federal government cannot force Americans to purchase something they do not want. This partisan federal takeover of our health care system rests on an unconstitutional foundation and, as we argue in this brief to the Supreme Court, the entire law should fall."

Hatch was the first Senator publicly to argue, in September 2009, that the Constitution does not authorize Congress to require that Americans purchase health insurance or face a financial penalty. Last year and again this year, Hatch introduced the American Liberty Restoration Act (S. 19) which would repeal the unconstitutional individual insurance mandate being challenged in this lawsuit. Twenty-two Senators have so far co-sponsored the bill, which is endorsed by groups such as NFIB and the National Retail Federation.

The following are excerpts from the *amicus* brief:

"If this Court holds that the mandate is indeed unconstitutional, as *amici* believe the Court should, the Court must then determine a solution that maintains the proper balance between the legislative and judicial branches. To do so, the Court must follow Congress' intent and evaluate whether Congress would have enacted the statute without the individual mandate. The Court cannot stray from that intent and drastically alter the law through deletion of an essential component, leaving in place a statute which the governing majority would not have chosen.

"The authors of the PPACA and its proponents believed the individual mandate was indispensable to their reform scheme... Several proponents of the law argued in committees and on the floor that the individual mandate was essential to their view of health care reform and that the legislation would not work

without the mandate. More than merely a component of the insurance reforms, the majority in Congress believed that the entire health care reform effort of the PPACA was unsustainable without it.

“This Court must defer to this clear expression of Congress’ intent regarding the role of the individual mandate... To maintain the Constitution’s balance, this Court cannot ignore Congress’ determination as to what is essential to the PPACA’s scheme and leave in place a statute Congress would not—and did not—enact.”

“If Congress intended for the PPACA to survive without the individual mandate, it could have protected its major legislative reform simply by including a clause which would have guided this Court and resulted in a strong presumption of severability – a clause which was already before it in a prior version of the PPACA. Congress did not do so.

“Under these circumstances, this Court cannot leave a patchwork alternative to the PPACA in place without the heart of the legislation. Rather such a determination must be left to the elected representatives of the people.”

The brief was signed by:

Sen. Kelly Ayotte (R-NH), Sen. John Barrasso (R-WY), Sen. Roy Blunt (R-MO), Sen. John Boozman (R-AR), Sen. Richard Burr (R-NC), Sen. Saxby Chambliss (R-GA), Sen. Daniel Coats (R-IN), Sen. Tom Coburn (R-OK), Sen. Thad Cochran (R-MS), Sen. Susan Collins (R-ME), Sen. John Cornyn (R-TX), Sen. Mike Crapo (R-ID), Sen. Michael Enzi (R-WY), Sen. Chuck Grassley (R-IA), Sen. Orrin Hatch (R-UT), Sen. Dean Heller (R-NV), Sen. John Hoeven (R-ND), Sen. Kay Bailey Hutchison (R-TX), Sen. James Inhofe (R-OK), Sen. Johnny Isakson (R-GA), Sen. Mike Johanns (R-NE), Sen. Ron Johnson (R-WI), Sen. Jon Kyl (R-AZ), Sen. Mike Lee (R-UT), Sen. Richard Lugar (R-IN), Sen. John McCain (R-AZ), Sen. Mitch McConnell (R-KY), Sen. Lisa Murkowski (R-AK), Sen. Rand Paul (R-KY), Sen. James Risch (R-ID), Sen. Pat Roberts (R-KS), Sen. Marco Rubio (R-FL), Sen. Richard Shelby (R-AL), Sen. Olympia Snowe (R-ME), Sen. John Thune (R-SD), Sen. Pat Toomey (R-PA).

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