

No. 11-398

In The
Supreme Court of the United States

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
ET AL.,
Petitioners,

v.

FLORIDA, ET AL.,
Respondents.

*On Writ Of Certiorari To The
United States Court Of Appeals
For The Eleventh Circuit*

**BRIEF AMICI CURIAE OF
STATE LEGISLATORS FROM ALL FIFTY
STATES, THE DISTRICT OF COLUMBIA, AND
PUERTO RICO SUPPORTING PETITIONERS
(Minimum Coverage Provision)**

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INTEREST OF *AMICI CURIAE*

Amici Curiae, a group of 518 State Legislators from all 50 States, the District of Columbia, and Puerto Rico, believe that the Patient Protection and Affordable Care Act (“the Act”) is constitutional and are working hard in their States to implement the Act in a timely, efficient, and effective manner. They have a substantial interest in having this matter resolved expeditiously and in favor of the constitutionality of the Act. A full list of *Amici* State Legislators is contained in the Appendix.

Amici State Legislators include legislators from every single one of the States represented by the Act’s challengers. These legislators have a particular interest in this case in order to represent their constituents and many other residents and State leaders in the challengers’ respective States who disagree with these legal challenges and support health care reform. All of the *Amici* State Legislators have an interest in presenting their view of the respective powers of the federal and State governments, given that the challengers have purported to represent the interests of the States generally in this lawsuit.¹

¹Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae* or their counsel made a monetary contribution to its preparation or submission. Pursuant to Supreme Court Rule 37.3,

INTRODUCTION AND SUMMARY OF ARGUMENT

Our Constitution establishes a vibrant system of federalism that gives broad power to the federal government to act in circumstances in which a national approach is necessary or preferable, while reserving a significant role for the States to craft innovative policy solutions reflecting the diversity of America’s people, places, and ideas. The Patient Protection and Affordable Care Act respects this constitutional balance of power by providing federal mechanisms for achieving national health care reform—including the minimum coverage provision—while maintaining the States’ ability to shape key reform measures.

Ignoring this carefully calibrated constitutional balance of power, the court below and the State officials challenging the Affordable Care Act have promoted a vision of a starkly limited federal government. According to this view, the federal government lacks the power to address national problems, such as the nationwide health care crisis, through rational and well-supported means, including the minimum coverage provision.

This deeply flawed vision has no basis in the Constitution’s text and history. With the failed Articles of Confederation and its feeble central government fresh in their minds, George Washington, James Madison, and the other delegates to the

amici curiae state that all parties have consented to the filing of this brief; blanket letters of consent have been filed with the Clerk of the Court.

Constitutional Convention shared a conviction that the Constitution must establish a national government of substantial power. In considering how to grant such power to the national government, the delegates adopted Resolution VI, which declared that Congress should have authority “to legislate in all Cases for the general Interests of the Union, and also in those to which the States are separately incompetent, or in which the Harmony of the United States may be interrupted by the Exercise of individual legislation.” 2 THE RECORDS OF THE FEDERAL CONVENTION OF 1787 at 131-32 (Max Farrand, ed., rev. ed. 1966). Stated simply, the framers of our founding charter came to the drafting table with the aim of giving the federal government power to provide national solutions to national problems.

Tasked with translating the principle of Resolution VI into specific provisions, the Convention’s Committee of Detail drafted Article I to grant Congress the broad power to, among other things, “regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” U.S. CONST. art I, § 8, cl. 3. The text does not limit “commerce” to existing economic activity or trade, nor does the text’s use of “regulate” imply a power to prohibit but not require certain conduct. The lower court’s vision of a Commerce Clause power strictly curtailed by tests of self-initiated activity thus cannot be squared with the Clause’s text or original meaning and purpose.

Similarly, the lower court’s interpretation of the Necessary and Proper Clause is wholly unsupported by constitutional text and history. Far from the

cramped vision of the Clause suggested by the court below, which would permit Congress to regulate only by using means that are themselves covered by the Commerce Clause (effectively rendering the Necessary and Proper Clause a nullity), the grant of power to “make all Laws which shall be necessary and proper for carrying into execution” constitutionally granted powers was intended to be sweeping. U.S. CONST. art. I, §8, cl. 18. As recognized by our first President, the rest of the framers, and this Court from the Founding to the present, the Necessary and Proper Clause grants Congress the power to use *means* outside the enumerated list of Article I powers to achieve the *ends* contemplated in the Constitution. The general purpose of the Affordable Care Act falls within Congress’s constitutionally granted powers, and the minimum coverage provision, which is part of the means of effecting reform of the national health care industry, does not infringe upon any constitutionally guaranteed rights. There is no constitutional right to freeload that is infringed by the individual responsibility aspect of the minimum coverage provision.

Under a faithful reading of the Constitution, the minimum coverage provision of the Affordable Care Act is a valid exercise of Congress’s Commerce Clause and Necessary and Proper Clause powers. The Act’s challengers may disagree with *Amici* State Legislators and other supporters of the Act about the merits of the law, but policy differences do not add up to constitutional violations. Congress’s regulation of decisions on how and when to finance health care services is constitutional.

ARGUMENT

I. The Framers Wrote The Constitution To Give The Federal Government Broad Legislative Power To Address National Concerns, While Preserving State Authority Over Local Matters.

Our Constitution was drafted in 1787 “in Order to form a more perfect Union”—both more perfect than the British tyranny against which the founding generation had revolted and more perfect than the flawed Articles of Confederation under which Americans had lived for a decade since declaring independence. The result was a vibrant federalist system that empowers the federal government to provide national solutions to national problems, while preserving a significant role for State and local governments to exercise general police power and craft policies “adapted to local conditions and local tastes.” Michael W. McConnell, *Federalism: Evaluating the Founders’ Design*, 54 U. CHI. L. REV. 1484, 1493 (1987).

A. The Founding Generation Recognized The Great Need For A Federal Government Of Sufficient Power.

While some have portrayed the Constitution as a document that is primarily about limiting government, the historical context shows that the Founders were just as, if not more, concerned with creating an empowered, effective national government than with setting stark limits on federal power. *E.g.*, THE FEDERALIST PAPERS, No. 3, at 36 (Jay) (Clinton Rossiter, ed. 1999) (noting Americans’ agreement on “the importance of their continuing firmly united under

one federal government, vested with sufficient powers for all general and national purposes”).

By the time our Founders took up the task of drafting the Constitution in 1787, they had lived for nearly a decade under the dysfunctional Articles of Confederation. The Articles of Confederation, adopted by the Second Continental Congress in 1777 and ratified in 1781, established a confederacy built merely on a “firm league of friendship” among thirteen independent states. ARTICLES OF CONFEDERATION (1781), art. III. There was only a single branch of national government, the Congress, which was made up of state delegations. ARTICLES OF CONFEDERATION, art. V. Under the Articles, Congress had some powers, but was given no means to execute those powers. Congress could not directly tax individuals or legislate upon them; it had no express power to make laws that would be binding in the States’ courts and no general power to establish national courts, and it could raise money only by making requests to the States.

This created such an ineffectual central government that, according to George Washington, it nearly cost Americans victory in the Revolutionary War. In the midst of several American setbacks during the war, Washington lamented that, “unless Congress speaks with a more decisive tone; unless they are vested with powers by the several States competent to the great purposes of War . . . our Cause is lost.” 18 THE WRITINGS OF GEORGE WASHINGTON 453 (John C. Fitzpatrick, ed. 1931) (Letter to Joseph Jones, May 31, 1780). *See also* WASHINGTON: WRITINGS 393 (John Rhodehamel, ed. 1997) (Circular to State Governments, Oct. 18, 1780). Washington believed that the

inability of the central government to address common concerns such as the maintenance of an army could bring disaster: “The sufferings of a complaining army, on the one hand, and the inability of Congress and tardiness of the States on the other, are the forebodings of evil.” *Id.* at 488 (Letter to Alexander Hamilton, March 4, 1783).

Washington favored strong federal power not just for military matters, but also in other general issues of national concern. Shortly after the Revolutionary War was won, Washington wrote to Alexander Hamilton stating plainly that “[n]o man in the United States is, or can be more deeply impressed with the necessity of a reform in our present Confederation than myself.” *Id.* at 505 (Letter to Alexander Hamilton, March 31, 1783). Washington explained that, “unless Congress have powers competent to all *general* purposes, that the distresses we have encountered, the expences we have incurred, and the blood we have spilt in the course of an Eight years war, will avail us nothing.” *Id.* at 490 (Letter to Alexander Hamilton, March 4, 1783) (emphasis in original).² *See also id.* at 519 (Circular to State Gov-

² Indeed, it is indicative of the shift from revolution to statecraft that the Constitution’s first Article gives Congress the power to impose a broad range of “Taxes, Duties, Imposts and Excises.” U.S. CONST. art. I, § 8, cl. 1. “Thus, only a decade after they revolted against imperial taxes, Americans were being asked to authorize a sweeping regime of continental taxes, with the decisive difference that these new taxes would be decided on by public servants chosen by the American people themselves—taxation *with* representation.” AKHIL

ernments, June 8, 1783) (“[I]t is indispensable to the happiness of the individual States, that there should be lodged somewhere, a Supreme Power to regulate and govern the general concerns of the Confederated Republic, without which the Union cannot be of long duration.”).

The difficulty Massachusetts had in quelling Shay’s Rebellion in 1786 further convinced Washington of the great need for improving upon the Articles of Confederation: “What stronger evidence can be given of the want of energy in our governments than these disorders? If there exists not a power to check them, what security has a man of life, liberty, or property?” 4 THE PAPERS OF GEORGE WASHINGTON: CONFEDERATION SERIES 332 (W.W. Abbot et al., eds. 1992) (Letter to James Madison, Nov. 5, 1786).

**B. The Framers Drafted Congress’s
Enumerated Powers To Give The
Federal Government Authority To Solve
National Problems.**

Our nation’s Founders soon turned their focus on creating a new, better form of government with a sufficiently strong federal power. The delegates to the Constitutional Convention shared Washington’s con-

REED AMAR, AMERICA’S CONSTITUTION: A BIOGRAPHY 107 (2005). Analogies between the legitimate complaints of the “Boston Tea Party” in 1775 and the motivations of the framers during the Constitutional Convention in 1787 are thus deeply flawed. *E.g.*, *Florida et al. v. U.S. Dep’t of Health & Human Servs., et al.*, No. 3:10-cv-00091-RV, Order Granting Summary Judgment, Jan. 31, 2011.

viction that the Constitution must establish a government with ample “energy” to protect the Union and the rights and freedoms of its citizens.

In considering how to grant such power to the national government, the delegates adopted Resolution VI, which declared that Congress should have authority “to legislate in all Cases for the general Interests of the Union, and also in those Cases to which the States are separately incompetent, or in which the Harmony of the United States may be interrupted by the Exercise of individual legislation.” 2 THE RECORDS OF THE FEDERAL CONVENTION OF 1787 at 131-32 (Max Farrand, ed., rev. ed. 1966). See AMAR, AMERICA’S CONSTITUTION, at 108; Jack M. Balkin, *Commerce*, 109 MICH. L. REV. 1, 8-12 (2010). The delegates then passed Resolution VI on to the Committee of Detail, which was responsible for drafting the enumerated powers of Congress in Article I, to transform this general principle into a list of powers enumerated in the Constitution. *Id.* at 10.

As constitutional scholar Jack Balkin explains, Resolution VI established a structural constitutional principle with “its focus on state competencies and the general interests of the Union.” *Id.* Translating this principle into specific provisions, the Committee of Detail drafted Article I to grant Congress the broad power to, among other things, regulate interstate commerce and tax and spend to “provide for the . . . general Welfare of the United States.” U.S. CONST. art I, § 8, cl. 1. These enumerated powers were intended to capture the idea that “whatever object of government extends, in its operation or effects, beyond the bounds of a particular state, should be considered as belonging to

the government of the United States.” 2 THE DEBATES IN THE SEVERAL STATE CONVENTIONS ON THE ADOPTION OF THE FEDERAL CONSTITUTION AS RECOMMENDED BY THE GENERAL CONVENTION AT PHILADELPHIA 424 (Jonathan Elliot ed., 2d ed. 1836) (hereinafter ELLIOT’S DEBATES) (Statement of James Wilson). *See also* THE FEDERALIST PAPERS No. 80, at 476 (Hamilton) (“Whatever practices may have a tendency to disturb the harmony between the States, are proper objects of federal superintendence and control.”)

The enumeration of federal powers in the Constitution’s text was not intended to displace or supersede the general principle of Resolution VI that Congress should have the ability to legislate in matters of national concern. As James Wilson, a member of the Committee of Detail who was also “America’s leading lawyer and one of only six men to have signed both the Declaration of Independence and the Constitution,”³ explained:

[T]hough this principle be sound and satisfactory, its application to particular cases would be accompanied with much difficulty, because, in its application, room must be allowed for great discretionary latitude of construction of the principle. In order to lessen or remove the difficulty arising from discretionary construction on this subject, *an enumeration of particular instances, in which the application of the principle ought to take place*, has been attempted with much industry and care.

³ AMAR, AMERICA’S CONSTITUTION, at 7.

2 ELLIOT'S DEBATES 424-25 (emphasis added).

The drafters of the Constitution thus made clear that in each enumerated instance in Article I—whether regulating “commerce” or levying taxes—the understanding was that Congress would exercise the enumerated power while applying the general principle that Congress has power to regulate in cases of national concern.⁴ This list of enumerated

⁴ Some scholars have suggested that the Committee of Detail rejected Resolution VI or that the Convention repudiated it because the precise language of the Resolution was not written into the Constitution. *E.g.*, RANDY E. BARNETT, *RESTORING THE LOST CONSTITUTION: THE PRESUMPTION OF LIBERTY* (2004). But after the delegates passed Resolution VI, the Committee of Detail had no power to reject it, and there is every indication that the Committee embraced the Resolution's principle and attempted to implement it in Article I. *See* Balkin, *Commerce*, at 10-11. While some today may prefer not to have a government of such strength, a faithful reading of the Constitution's text and history, as even conservative scholars have acknowledged, leads to the conclusion that the national government has substantial power—even if the nation's voters may not always sanction the full exercise of that authority. Michael Stokes Paulsen, *A Government of Adequate Powers*, 31 *HARV. J.L. & PUB. POL'Y* 991, 992 (2008) (noting that even if one believes that, “politically, the full exercise of such powers might be unpopular or constitute bad public policy does not mean that the Constitution did not, in fact, confer such broad powers”).

powers was not an attempt to limit the federal government for its own sake, but rather “[t]he list of enumerated powers was designed so that the new federal government would have power to pass laws on subjects and concerning problems that are federal by nature.” Balkin, *Commerce*, at 12.

The specific powers given to the federal government under the Constitution are, of course, “few and defined,” while the powers “which are to remain in the State governments are numerous and indefinite.” THE FEDERALIST PAPERS No. 45, at 289 (Madison). But where the drafters of the Constitution saw fit to delegate power to the central government, the federal government has full power to exercise that authority to achieve the “objects of the Union.” *Id.* at 285. See *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1, 196 (1824) (“[The commerce] power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.”).

II. The Framers Included The Commerce Clause In The Constitution To Allow The Federal Government To Regulate Affairs Among The Several States That Require A Federal Response.

In drafting our enduring Constitution, the framers were keenly aware of “[t]he defect of power in the existing Confederacy to regulate the commerce between its several members.” THE FEDERALIST PAPERS, No. 42, at 263. Correcting that defect, the Constitution’s Commerce Clause provides that “Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the

several States, and with the Indian Tribes.” U.S. CONST. art. I, § 8, cl. 3. *See also* THE FEDERALIST PAPERS No. 45, at 290 (Madison) (noting that federal “regulation of commerce, it is true, is a new power”).

Given that the Committee of Detail drafted the Commerce Clause to manifest the principle of Resolution VI that Congress should have power to regulate matters of national concern, as described above in Section I.B, the Commerce Clause’s “text looks the way it does because a basic structural principle underlies the text, and in fact, the text was written precisely to articulate that general principle.” Balkin, *Commerce*, at 7. In other words, “Congress’s power to regulate commerce ‘among the several states’ is closely linked to the general structural purpose of Congress’s enumerated powers as articulated by the Framers: to give Congress power to legislate in all cases where states are separately incompetent or where the interest of the nation might be undermined by unilateral or conflicting state action.” *Id.* at 6.

The text itself does not contradict or contract this general principle. With respect to “regulate,” as Judge Laurence Silberman has explained, “[a]t the time the Constitution was fashioned, to ‘regulate’ meant, as it does now, ‘[t]o adjust by rule or method,’ as well as ‘[t]o direct.’” *Seven-Sky v. Holder*, 661 F.3d 1, 16 (D.C. Cir. 2011) (quoting 2 SAMUEL JOHNSON, DICTIONARY OF THE ENGLISH LANGUAGE 1619 (4th ed. 1773) (reprinted 1978) (emphasis added by Judge Silberman). “To direct” was understood at the Founding to include the ability “[t]o prescribe certain measure[s]; to mark out a certain course,” and “to command.” *Id.* (quoting JOHNSON, at 514). The

drafters of the Constitution thus gave Congress the substantial power to direct, command, and adjust by rule—that is, to regulate—commerce among the several States.

With respect to “commerce,” the original meaning at the time of the Founding carried “a broader meaning referring to all forms of intercourse in the affairs of life, whether or not narrowly economic or mediated by explicit markets.” AMAR, AMERICA’S CONSTITUTION, at 107. *See also* Balkin, *Commerce*, at 15-17.⁵ As Chief Justice John Marshall observed in *Gibbons v. Ogden*, if the term “commerce” were limited merely to active trade of goods, Congress would not be able to regulate in areas of keen federal interest, such as navigation to and from foreign nations. 22 U.S. (9 Wheat.) at 194. Chief Justice Marshall explained that “[c]ommerce, undoubtedly, is traffic, but it is something more: it is intercourse.” *Id.* And there is nothing in the text of the Constitution to suggest that the “commerce” or “intercourse” contemplated by the Commerce Clause was limited

⁵ Indeed, scholars have noted that “[t]he concept of ‘commerce’ in the eighteenth century had strong social connotations which are almost the opposite of our modern focus on commodities.” *Id.* at 16. To demonstrate, constitutional scholar Akhil Amar cites Bolingbroke’s famous mid-eighteenth-century tract, *The Idea of a Patriot King*, which spoke of the “free and easy commerce of social life,” and the Oxford English Dictionary, which referred to “our Lord’s commerce with his disciples.” AMAR, AMERICA’S CONSTITUTION, at 107.

“to only *existing* commerce,” *Seven-Sky*, 661 F.3d at 16, as the court below suggests.

Reading the Constitution’s grant of power to regulate interstate and international commerce broadly fits with “the framers’ general goals by enabling Congress to regulate . . . interactions that, if improperly handled by a single state acting on its own, might lead to needless wars or otherwise compromise the interests of sister states.” AMAR, AMERICA’S CONSTITUTION, at 107. Indeed, before the Constitutional Convention, George Washington noted the dangers of a lack of federal power to act uniformly in areas of commerce, predicting that if states tried to regulate trade, “a many-headed monster would be the issue.” 3 THE PAPERS OF GEORGE WASHINGTON: CONFEDERATION SERIES 423 (W.W. Abbot et al., eds. 1992) (Letter to David Stuart, Nov. 30, 1785).

After the Constitution’s ratification, Washington demonstrated the importance he placed on federal authority to regulate commerce. On his way to his first inauguration as President, Washington stopped to declare to a Delaware crowd that, “[t]he promotion of domestic manufactures will, in my conception, be among the first consequences which may naturally be expected to flow from an energetic government.” 2 THE PAPERS OF GEORGE WASHINGTON: PRESIDENTIAL SERIES 78 (W.W. Abbot et al., eds. 1987). (“To the Delaware Soc’y for Promoting Domestic Manufacturers,” April 19-20, 1789). Washington’s Delaware speech indicates that he considered the “promotion” of commerce as an appropriate function of “an energetic government.” 2 THE PAPERS OF GEORGE WASHINGTON: PRESIDENTIAL SERIES 78. *Cf.*

Wickard v. Filburn, 317 U.S. 111, 128 (1942) (“The *stimulation* of commerce is a use of the regulatory function quite as definitely as prohibitions or restrictions thereon.”) (emphasis added).

While the meanings of “regulate” and “commerce” in the Constitution were certainly intended to be broad, the text of the Commerce Clause nonetheless places significant limits on federal regulation: Congress can only act if a given problem genuinely spills across state or national lines. As Chief Justice Marshall explained in *Gibbons*, the Commerce Clause uses the word “among” to mean “intermingled with” and that “commerce among the States” means “commerce which concerns more States than one.” 22 U.S. (9 Wheat.) at 194. If commerce within a single State has external effects on other States or on the nation as a whole then it falls under Congress’s constitutional regulatory authority; if commerce is “completely internal” to a State, then Congress has no power to regulate. *Id.* at 194. The “among” requirement of the Commerce Clause thus allows Congress to regulate interactions or affairs among the several States, including matters “that are mingled among the states or affect more than one state, because they cross state borders, because they produce collective action problems among the states, or because they involve activity in one state that has spillover effects in other states.” Balkin, *Commerce*, at 23. *See also United States v. Lopez*, 514 U.S. 549 (1995). In other words, the Commerce Clause contains an important limiting principle—but it is derived more from the word “among” than from an improperly narrow reading of “regulate” or “commerce.”

Reading the Commerce Clause with the understanding that “regulat[i]ons” of “commerce” must address matters truly federal in nature—for example, matters that affect national interests or which the States cannot effectively address on their own—connects the text of the Clause to the principle in Resolution VI that animated the drafting of Congress’s enumerated powers. As Chief Justice Marshall explained in interpreting the Commerce Clause:

The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government.

Gibbons, 22 U.S. (9 Wheat.) at 195.

III. Under The Text And Original Meaning Of The Necessary And Proper Clause, Congress Has Broad Latitude To Employ Legislative Means Naturally Related To The Lawful Objects Or Ends Of The Federal Government.

As discussed above, the drafters of the Constitution wrote Congress’s enumerated powers to implement the basic idea that the federal government should be empowered to respond to matters of national concern. This animating

principle is reflected not only in the subjects and objects of Congress's enumerated powers, but in the way the Constitution grants Congress the broad authority to execute these powers. During ratification, Alexander Hamilton reminded the nation that

we must bear in mind that we are not to confine our view to the present period, but to look forward to remote futurity. . . . Nothing, therefore, can be more fallacious than to infer the extent of any power, proper to be lodged in the national government from an estimate of its immediate necessities. There ought to be a *capacity* to provide for future exigencies as they may happen; and as these are illimitable in their nature, so it is impossible safely to limit that capacity.

THE FEDERALIST PAPERS No. 34, at 203 (emphasis in original). Perhaps nowhere in the Constitution is the goal to provide Congress with discretion to address matters both now and in the future more manifest than in the Necessary and Proper Clause.

The Necessary and Proper Clause gives Congress the power “[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” U.S. Const. art. I, § 8, cl. 18. As Madison put it bluntly, “[w]ithout the *substance* of this power, the whole Constitution would be a dead letter.” THE FEDERALIST PAPERS No. 44, at 280 (emphasis in original).

Our nation's Founders were faced with interpreting the scope of the Necessary and Proper Clause early in President Washington's administration. In considering how the Necessary and Proper Clause should interact with federal power, Treasury Secretary Hamilton explained to Washington that "[t]he means by which national exigencies are to be provided for, national inconveniences obviated, national prosperity promoted, are of such infinite variety, extent and complexity, that there must of necessity be great latitude of discretion in the selection and application of those means." THE PAPERS OF GEORGE WASHINGTON DIGITAL EDITION (Theodore J. Crackel, ed. 2008) (Letter from Alexander Hamilton to George Washington, Opinion on the Constitutionality of an Act to Establish a Bank, 1791). *See also* THE FEDERALIST PAPERS No. 44, at 282 (Madison) ("No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included.").

As Hamilton explained to President Washington, "[t]he whole turn of the [Necessary and Proper Clause] indicates that it was the intent of the Convention, by that clause, to give a liberal latitude to the exercise of the specified powers." Letter from Hamilton to Washington, Opinion on the Constitutionality of an Act to Establish a Bank, 1791. The congressional powers written into the Constitution are therefore even stronger when coupled with Article I, section 8's sweeping grant of authority to Congress to make laws that are "necessary and proper" for carrying out the other

federal powers granted by the Constitution. While the government obviously has no right “to do merely what it pleases,” Hamilton explained the broad discretion given to Congress under the Necessary and Proper Clause as follows: “If the end be clearly comprehended within any of the specified powers, and if the measure have an obvious relation to that end, and is not forbidden by any particular provision of the constitution; it may safely be deemed to come within the compass of the national authority.” *Id.*

President Washington agreed with Hamilton’s exegesis of the constitutional powers of the federal government, approving the bill to establish a national bank over the objections of other members of his cabinet, including Secretary of State Thomas Jefferson, and hailing Hamilton’s vision of federal power. 8 THE PAPERS OF GEORGE WASHINGTON: PRESIDENTIAL SERIES 359 (Letter to David Humphreys, July 20, 1791).

This Court, from the Founding-era to the present, has also agreed with Hamilton’s view of federal power under the Necessary and Proper Clause. Chief Justice Marshall explained in *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819), that Congress should be shown significant deference regarding what laws it considers to be appropriate in carrying out its constitutional duties. In language very similar to Hamilton’s, the Court in *McCulloch* explained, “[l]et the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.” *Id.* at 421.

Just last Term, the Court affirmed that so long as Congress does not run afoul of any other constitutional provision, the Necessary and Proper Clause affords Congress the power to use any “means that is rationally related to the implementation of a constitutionally enumerated power.” *United States v. Comstock*, 130 S. Ct. 1949, 1956 (2010). As this Court has long held, “the Necessary and Proper Clause makes clear that the Constitution’s grants of specific federal legislative authority are accompanied by broad power to enact laws that are ‘convenient, or useful’ or ‘conducive’ to the authority’s ‘beneficial exercise.’” *Id.* (quoting *McCulloch*, 17 U.S. (4 Wheat.) at 413, 418, 421).

To be sure, the powers of the federal government under our Constitution are not unlimited. As the Tenth Amendment affirms, U.S. CONST. amend. X, the Constitution establishes a central government of enumerated powers, and the States play a vital role in our federalist system. But the powers our charter *does* grant to the federal government are broad and substantial. And, since the Founding, the American people have amended the Constitution to ensure that Congress has all the tools it needs to address national problems and protect the rights and liberties of all Americans. *E.g.*, U.S. CONST. amends. XIII, XIV, XV, XVI, XIX. Through particular enumerated powers, as well as through sweeping enforcement clauses such as Article I’s Necessary and Proper Clause, the Constitution realizes the framers’ design for a federal government able “to legislate in all Cases for the general interests of the Union, and also in those to which the States are separately incompetent, or in which the Harmony of the United States may be interrupted by the Exercise of

individual legislation.” 2 THE RECORDS OF THE FEDERAL CONVENTION OF 1787 at 131-32.

IV. The Constitution’s Text And History Support The Constitutionality Of The Affordable Care Act’s Minimum Coverage Provision.

Congress’s authority to pass legislation to fix problems in the health care industry is firmly rooted in Congress’s constitutional power to regulate interstate commerce and to enact laws that are necessary and proper to exercise that power.⁶ Since the health care industry comprises nearly 20 percent of the U.S. economy, no one can seriously dispute that Congress has the authority to regulate health care and the health insurance industries under its Commerce Clause power. The question is therefore whether Congress has the power to enact the minimum coverage provision, which generally requires individuals who can afford it to purchase health insurance or pay a tax penalty if they refuse to do so. Through a fundamentally flawed reading of the Constitution, the court below held that Congress did not have the power to enact the minimum coverage provision.

The United States has demonstrated that Court precedent supports the constitutionality of the individual mandate. U.S. Br. at 41-43, 48-52. Looking at Congress’s power under the text and

⁶ This brief focuses on the constitutionality of the Affordable Care Act under the Commerce Clause and the Necessary and Proper Clause; it does not address other potential sources of constitutional power to enact the Act.

history of the Constitution, as detailed above, the constitutionality of the minimum coverage provision is also clear.

Under Resolution VI, the principle behind enumerated powers such as the Commerce Clause is to give Congress the ability “to legislate in all Cases for the general interests of the Union, and also in those to which the States are separately incompetent.” 2 THE RECORDS OF THE FEDERAL CONVENTION OF 1787 at 131-32. After extensive review, Congress determined that the decision not to buy health insurance substantially affects interstate commerce. *See, e.g.*, U.S. Br. at 33-34. The spillover effects caused by the decisions of individuals to remain uninsured affect the nation as a whole. *See, e.g.*, U.S. Br. at 30; Balkin, *Commerce*, at 44.

In addition, the minimum coverage provision addresses collective action problems in the States: there is the distinct possibility that “[p]eople with health problems will have incentives to move to a state where they cannot be turned down [for health insurance], raising health care costs for everyone, while insurers will prefer to do business in states where they can avoid more expensive patients with pre-existing conditions, and younger and healthier people may leave for jurisdictions where they can avoid paying for health insurance.” *Id.* at 46. The minimum coverage provision is within Congress’s authority to regulate commerce “for the general interests of the Union,” and also in those instances in “which the States are separately incompetent.” 2 THE RECORDS OF THE FEDERAL CONVENTION OF 1787 at 131-32.

The Court could also uphold the minimum coverage provision as a law that is “necessary and proper for carrying into execution” Congress’s power to regulate commerce among the several States. The Affordable Care Act is designed to make health care coverage affordable to all Americans and to prohibit certain insurance practices, such as the denial of coverage to individuals with pre-existing conditions. *See, e.g.*, U.S. Br. at 29-32. But if Americans could go uninsured until they got sick and then impose the consequent costs on those who already have health insurance policies, the ban on discrimination based on pre-existing conditions would be prohibitively expensive and the cost of insurance would increase across the board. Congress determined that the minimum coverage provision was an appropriate means of securing a workable ban on discriminating against individuals with pre-existing health conditions, in particular, and ensuring the efficient regulation of the national health care and insurance markets more generally. Since the Act does not run afoul of any other constitutional provision—there is no constitutional right to inflict uninsured health care costs on the American taxpayers—health care reform falls squarely within Congress’s power to regulate commerce and enact necessary and proper legislation to carry out this power.

The court below appears to have read the Necessary and Proper Clause to allow only those means of execution that are absolutely indispensable to the power being executed. But this interpretation of the Clause was soundly rejected more than two hundred years ago. *McCulloch*, 17 U.S. (4 Wheat.) at 413 (rejecting the argument that the Necessary and Proper Clause allows Congress to pass only those

laws “such as are indispensable, and without which the power would be nugatory”). *See also id.* at 406, 408 (explaining that the framers of the Constitution did not intend to impede the exercise of enumerated powers “by withholding a choice of means,” noting that, unlike the Articles of Confederation, the Constitution does not “require[] that everything granted shall be expressly and minutely described”). As Alexander Hamilton wrote to President Washington, the idea that the Clause allows only means of execution that are so necessary that without them “the grant of the power *would be nugatory*,” is so potentially detrimental to constitutional government that “[i]t is essential to the *being* of the National Government that so erroneous a conception of the word *necessary*, shou’d be exploded.” Letter from Alexander Hamilton to George Washington, Opinion on the Constitutionality of an Act to Establish a Bank, 1791 (emphasis in original).

“Necessary” in the Clause “means no more than *needful, requisite, incidental, useful, or conducive to*” the enumerated grant of power. *Id.* (emphasis in original). *See also Comstock*, 130 S. Ct. at 1956 (holding that the Necessary and Proper Clause affords Congress the power to use any “means that is rationally related to the implementation of a constitutionally enumerated power”). As Congress determined, the minimum coverage provision is a rational means of implementing health care regulations.

* * *

From the broad and substantial powers granted to Congress in the 1787 Constitution, to the sweeping enforcement powers added to the Constitution through the amendment process in the last two centuries, our Constitution establishes a federal government that is strong enough to act when the national interest requires a national solution. The idea that the federal government does not have the power to address a national problem such as the health care crisis has no basis in the Constitution's text and history.

Congress has the power to regulate the nearly 20 percent of the U.S. economy that is the health care industry, and, when faced with a national health care crisis in which millions are uninsured and cannot afford decent health care, is empowered to act to reform the health care industry. The Affordable Care Act's minimum coverage provision fits within Congress's Commerce Clause power and is also a necessary and proper means of effectuating Congress's regulation of the health care industry. Far from offending our Constitution's careful balance of Federal-State power, the Act reflects our system of vibrant federalism and allows the federal and State governments to better protect their citizens and resources.

CONCLUSION

Amici State Legislators support the steps toward effective health care reform undertaken in the Affordable Care Act and believe that the Act is fully constitutional. As State leaders who have taken an oath to be faithful to the U.S. Constitution and who

are actively working to implement and prepare for various requirements of the Act, *Amici* respectfully urge the Court to uphold the constitutionality of the minimum coverage provision and reverse the lower court's contrary holding.

Respectfully submitted,

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State Legislators

January 12, 2012

APPENDIX

**LIST OF *AMICI CURIAE*
STATE LEGISLATORS**

Abercrombie, Catherine, Assistant Majority Whip
Representative—Connecticut

Abinanti, Thomas J.
Assemblyperson—New York

Abrams, Stacey, Minority Leader
Representative—Georgia

Adams, Alma
Representative—North Carolina

Aguiar, James
Representative—New Hampshire

Albis, James
Representative—Connecticut

Alexander, Kelly
Representative—North Carolina

Alexander, Martha
Representative—North Carolina

Alfond, Justin, Assistant Senate Minority Leader
Senator—Maine

Allen, Alma
Representative—Texas

Almy, Susan
Representative—New Hampshire

Alonzo, Roberto
Representative—Texas

Alvarado, Carol
Representative—Texas

Anchia, Rafael
Representative—Texas

Antonio, Nickie
Senator—Ohio

Anzelc, Tom
Representative—Minnesota

Appleton, Sherry
Representative—Washington

Arce, Luz
Senator—Puerto Rico

Aresimowicz, Joe, Deputy Speaker of the House
Representative—Connecticut

Armstrong, Joe
Representative—Tennessee

Arora, Sam
Delegate—Maryland

Ashe, Kathy
Representative—Georgia

Atkins, Bert
Representative—Missouri

Austin, Terri
Representative—Indiana

BaCote, Mamyé
Delegate—Virginia

Baker, Glenn
Representative—Georgia

Bakk, Tom, Minority Leader
Senator—Minnesota

Bartlett, Philip
Senator—Maine

Barve, Kumar
Delegate—Maryland

Beall, Daryl
Senator—Iowa

Beasley-Teague, Sharon
Representative—Georgia

Beavers, Roberta
Representative—Maine

Beck, Henry
Representative—Maine

Beliveau, Devin
Representative—Maine

Bell, Larry
Representative—North Carolina

Benedetto, Michael R.
Assemblyman—New York

Benn, Bernard
Representative—New Hampshire

Berry, Seth
Representative—Maine

Bobo, Elizabeth
Delegate—Maryland

Boland, Andrea
Representative—Maine

Bolkcom, Joe, Assistant Majority Leader
Senator—Iowa

Borsden, Alice
Representative—North Carolina

Botzow, Bill
Representative—Vermont

Brannigan, Joe
Senator—Maine

Brennan, James
Assemblyperson—New York

Briggs, Sheryl
Representative—Maine

Brown, Charlie
Representative—Indiana

Brown, Michael
Representative—Missouri

Brown, Lisa, Majority Leader
Senator—Washington

Brown, Bonnie
Delegate—West Virginia

Bryant, Angela
Representative—North Carolina

Brynaert, Kathy
Representative—Minnesota

Buckner, Debbie, Minority Caucus Chair
Representative—Georgia

Buhl, Angie
Senator—South Dakota

Bullard, Dwight
Representative—Florida

Burnam, Lon
Representative—Texas

Butler, Larry
Representative—Connecticut

Butler, Gloria
Senator—Georgia

Cain, Emily
Representative—Maine

Cafaro, Capri
Senator—Ohio

Cahhill, Kevin A.
Assemblyperson—New York

Camper, Karen
Representative—Tennessee

Carey, Mike
Representative—Maine

Carlson, Lyndon
Representative—Minnesota

Carlson, Susan
Representative—Missouri

Carlton, Maggie
Assemblyperson—Nevada

Carney, Becky
Representative—North Carolina

Carr, Al
Delegate—Maryland

Carr, Daniel
Representative—New Hampshire

Casavant, Alan
Representative—Maine

Carter, Jason
Senator—Georgia

Carter, Chris, Minority Caucus Vice-Chair
Representative—Missouri

Carter Peterson, Karen
Senator—Louisiana

Catania, David
Councilman—District of Columbia

Celeste, Ted
Representative—Ohio

Chapman, Ralph
Representative—Maine

Chase, Cynthia
Representative—New Hampshire

Chase, Maralyn
Senator—Washington

Chasey, Gail
Representative—New Mexico

Chavez, Eleanor
Representative—New Mexico

Chavez-Houck, Rebecca
Representative—Utah

Clark, Karen
Representative—Minnesota

Clibborn, Judy
Representative—Washington

Cobb Hunter, Gilda
Representative—South Carolina

Cody, Eileen
Representative—Washington

Coggs, Spence
Senator—Minnesota

Cohen, Richard
Senator—Minnesota

Cohen, Mark
Representative—Pennsylvania

Coleman, Merika
Representative—Alabama

Coleman, Mary H.
Representative—Mississippi

Coleman, Garnet
Representative—Texas

Colona, Mike, Minority Whip
Representative—Missouri

Conaway, Herb
Assemblyperson—New Jersey

Conrad, Danielle
Senator—Nebraska

Conway, Steve
Senator—Washington

Cook, Michelle
Representative—Connecticut

Copeland Hanzas, Sarah
Representative—Vermont

Cornell du Houx, Alex
Representative—Maine

Cote, David E.
Representative—New Hampshire

Cotham, Tricia
Representative—North Carolina

Council, Brenda
Senator—Nebraska

Court, Lois, Minority Caucus Chair
Representative—Colorado

Craven, Margaret
Senator—Maine

Crisco, Joseph
Senator—Connecticut

Danielson, Jeff, President Pro Tempore
Senator—Iowa

Dannelly, Charlie S.
Senator—North Carolina

Darneille, Jeannie
Representative—Washington

Davenport, Gail
Senator—Georgia

Davis, Bettye
Senator—Alaska

Davnie, Jim
Representative—Minnesota

Delgado, William
Senator—Illinois

Dembowski, Nancy
Representative—Indiana

DePentima, Rich
Representative—New Hampshire

Deshotel, Joe
Representative—Texas

Dibble, Scott
Senator—Minnesota

Dickerson, Pamela
Representative—Georgia

Dinowitz, Jeffery
Assemblyperson—New York

Dill, Cynthia
Senator—Maine

Dill, Jim
Representative—Maine

Dillon, Patricia
Representative—Connecticut

Dobbs, Elisabeth J.
Representative—Georgia

Donovan, Christopher G., Speaker of the House
Representative—Connecticut

Driscoll, Timothy
Representative—Maine

Duchesne, Bob
Representative—Maine

Dukes, Dawna
Representative—Texas

Dvorsky, Robert
Senator—Iowa

Earle, Beverly
Representative—North Carolina

Eaves, Mark
Representative—Maine

Ebbin, Adam
Senator—Virginia

Ellinger, Rory
Representative—Missouri

Ellington, Brandon
Representative—Missouri

Elliott, Joyce
Senator—Arkansas

Ellis, Rodney G.
Senator—Texas

Englin, David, Minority Caucus 2nd Vice Chair
Delegate—Virginia

Erpenbach, Jon
Senator—Wisconsin

Esquibel, Ken
Representative—Wyoming

Evans, Stacey
Representative—Georgia

Falk, Andrew
Representative—Minnesota

Farmer-Butterfield, Jean
Representative—North Carolina

Farrar, Jessica, House Democratic Leader
Representative—Texas

Favola, Barbara
Senator—Virginia

Feldman, Dede
Senator—New Mexico

Ferri, Frank
Representative—Rhode Island

Finney, Gail
Representative—Kansas

Fisher, Susan
Representative—North Carolina

Fisher, Michael
Representative—Vermont

Fitzgibbon, Joe
Representative—Washington

Fleischauer, Barbara
Delegate—West Virginia

Flexer, Mae
Representative—Connecticut

Flowers, Mary
Representative—Illinois

Fludd, Virgil
Representative—Georgia

Foley, Mike
Representative—Ohio

Foster, Joyce
Senator—Colorado

Foster, Daniel
Senator—West Virginia

Frankel, Dan, Democratic Caucus Chair
Representative—Pennsylvania

Fraser, Karen, Majority Caucus Chair
Senator—Washington

Frazier, Hillman
Senator—Mississippi

French, Patsy
Representative—Vermont

Fritz, Patti
Representative—Minnesota

Frocht, David, Majority Assistant Floor Leader
Senator—Washington

Frush, Barbara
Delegate—Maryland

Galef, Sandra R.
Assemblyperson—New York

Gallegos, Mario
Senator—Texas

Garcia, Mary Jane M., Senate Majority Whip
Senator—New Mexico

Garcia, Miguel
Representative—New Mexico

Gardner, Deborah
Representative—Colorado

Gardner, Pat
Representative—Georgia

Garland, Nancy
Representative—Ohio

Gauthier, Kerry
Representative—Minnesota

Genga, Henry
Representative—Connecticut

Gentile, Linda
Representative—Connecticut

Gerratana, Terry
Senator—Connecticut

Gibson, Vanessa L.
Assemblyperson—New York

Gilbert, Paul E.
Representative—Maine

Gill, Rosa
Representative—North Carolina

Giron, Angela
Senator—Colorado

Glassheim, Elliott
Representative—North Dakota

Glazier, Rick, House Minority Whip
Representative—North Carolina

Glick, Deborah
Assemblyperson—New York

Godfrey, Robert, Deputy Speaker of the House
Representative—Connecticut

Gonzales, Veronica
Representative—Texas

Goodall, Seth
Senator—Maine

Goode, Adam
Representative—Maine

Goodwin, Barb
Senator—Minnesota

Gordon, J. Craig
Representative—Georgia

Gottfried, Richard
Assemblyperson—New York

Graham, Anne
Representative—Maine

Graham, Charles
Representative—North Carolina

Green, Tami, Majority Floor Leader
Representative—Washington

Greene, Marion
Representative—Minnesota

Greiling, Mindy
Representative—Minnesota

Grogins, Audin
Representative—Connecticut

Gutierrez Kenney, Phyllis
Representative—Washington

Gutierrez, Roland
Representative—Texas

Haddad, Gregory
Representative—Connecticut

Hagan, Robert
Representative—Ohio

Haire, Phil
Representative—North Carolina

Hall, Laura
Representative—Alabama

Hall, Larry D., House Minority Whip
Representative—North Carolina

Hansen, Rick, Assistant Minority Leader
Representative—Minnesota

Hansen, Drew, Assistant Majority Whip
Representative—Washington

Harbison, Ed
Senator—Georgia

Harding, Laurie
Representative—New Hampshire

Harlow, Denise
Representative—Maine

Harrison, Pricey
Representative—North Carolina

Hatch, Jack
Senator—Iowa

Hayden, Jeff
Senator—Minnesota

Hayes, Terry, Assistant House Minority Floor Leader
Representative—Maine

Head, Helen
Representative—Vermont

Healey, Anne
Delegate—Maryland

Heinz, Matt
Representative—Arizona

Higgins, Linda
Senator—Minnesota

Hernandez Luna, Ana
Representative—Texas

Hinck, John
Representative—Maine

Hixson, Sheila
Delegate—Maryland

Hodges, Steve
Representative—Missouri

Holmes, Jr., Marvin E.
Delegate—Maryland

Hope, Patrick
Delegate—Virginia

Hornstein, Frank
Representative—Minnesota

Hosch, Larry, Minority Whip
Representative—Minnesota

Hovey-Wright, Marcia
Representative—Michigan

Howard, Donna
Representative—Texas

Hubbard, James W., Assistant Majority Leader
Delegate—Maryland

Hubbard, Penny
Representative—Missouri

Hucker, Tom
Delegate—Maryland

Hudgins, Zack
Representative—Washington

Hughes, Leonard
Representative—Missouri

Hummel, Jacob
Representative—Missouri

Hunt, Sam
Representative—Washington

Hunter, Bruce
Representative—Iowa

Huntley, Thomas
Representative—Minnesota

Hurlburt, Bryan, Assistant Majority Leader
Representative—Connecticut

Insko, Verla
Representative—North Carolina

Isenhardt, Chuck
Representative—Iowa

Jackson, Lester G.
Senator—Georgia

Jackson, Robert L.
Senator—Mississippi

Jackson, Darren
Representative—North Carolina

Jacobs, Rhoda S.
Assemblyperson—New York

Jaffee, Ellen C.
Assemblyperson—New York

James, Donzella
Senator—Georgia

Jenkins, Laurie
Representative—Washington

Johnson, Susan
Representative—Connecticut

Johnson, Sheldon
Representative—Minnesota

Jones, Mia
Representative—Florida

Jones, Emmanuel
Senator—Georgia

Jones, Sheila
Representative—Georgia

Jones, Adrienne, Speaker Pro Tem
Delegate—Maryland

Jones, Tishaura, Assistant Minority Floor Leader
Representative—Missouri

Jones McClendon, Ruth
Representative—Texas

Jordan, Darryl
Representative—Georgia

Josephs, Babette
Representative—Pennsylvania

Joyner, Arthenia, Minority Leader Pro Tempore
Senator—Florida

Kahn, Phyllis
Representative—Minnesota

Kaiser, Anne, Chief Deputy Majority Whip
Delegate—Maryland

Keever, Patsy
Representative—North Carolina

Kefalas, John
Representative—Colorado

Keiser, Karen
Senator—Washington

Kelly, Ariana
Delegate—Maryland

Kent, Peter
Representative—Maine

King, Phylis
Representative—Idaho

Kinnaird, Ellie
Senator—North Carolina

Kirkley-Bey, Marie Lopez, Deputy Speaker
Representative—Connecticut

Kirkton, Jeanne
Representative—Missouri

Kirschman, Patrick
Representative—South Dakota

Kitzmiller, Warren
Representative—Vermont

Kline, Adam
Senator—Washington

Kloucek, Frank
Representative—South Dakota

Knuth, Kate
Representative—Minnesota

Koehler, David
Senator—Iowa

Kohl-Welles, Jeanne
Senator—Washington

Kramer, Benjamin F.
Delegate—Maryland

Kratky, Michele
Representative—Missouri

Kruger, Chuck
Representative—Maine

Kumiega, Walter
Representative—Maine

Laine, Carolyn
Representative—Minnesota

Langseth, Keith
Senator—Minnesota

Lavine, Charles D.
Assemblyperson—New York

Lee, Chris
Representative—Hawaii

Lemar, Roland
Representative—Connecticut

Lensing, Vicki
Representative—Iowa

Lesser, Matthew
Representative—Connecticut

Leubke, Paul
Representative—North Carolina

Levy, Claire
Representative—Colorado

Liebling, Tina
Representative—Minnesota

Lifton, Barbara
Assemblyperson—New York

Liias, Marko
Representative—Washington

Loeffler, Diane
Representative—Minnesota

Long, Patrick
Representative—New Hampshire

Longstaff, Thomas
Representative—Maine

Lopez, Linda
Senator—Arizona

Lorber, Jason
Representative—Vermont

Lourey, Tony
Senator—Minnesota

Lucas, Marvin
Representative—North Carolina

Lucio, Eddie
Senator—Texas

Luedtke, Eric
Delegate—Maryland

Luxenberg, Geoff
Representative—Connecticut

Lyddy, Christopher
Representative—Connecticut

Ma, Fiona
Assemblyperson—California

Maisel, Alan
Assemblyperson—New York

Malek, Sue
Representative—Montana

Maloney, Maeghan
Representative—Maine

Manno, Roger
Senator—Maryland

Marrero, Beverly
Senator—Tennessee

Marsh, III, Henry L.
Senator—Virginia

Marzian, Mary Lou
Representative—Kentucky

Masland, Jim
Representative—Vermont

Mathern, Tim
Senator—North Dakota

Maxwell, Marcie
Representative—Washington

May, Karla
Representative—Missouri

Mazurek, Ed
Representative—Maine

McCann, Beth
Representative—Colorado

McCann Beatty, Gail
Representative—Missouri

McCreary, Tracy
Representative—Missouri

McCullough, Jim
Representative—Vermont

McDonald, Tom
Representative—Missouri

McGeoghegan, Eileen
Representative—Missouri

McGill, Amanda
Senator—Nebraska

McGuire, Mary Jo
Senator—Minnesota

McGuirt, Frank
Representative—North Carolina

McLawhorn, Marian
Representative—North Carolina

McManus, Kevin
Representative—Missouri

McNeil, Margo
Representative—Missouri

McSorley, Cisco
Senator—New Mexico

McVitty Weber, Lucy
Representative—New Hampshire

Megna, Robert
Representative—Connecticut

Melin, Carly
Representative—Minnesota

Merrick, Evalyn
Representative—New Hampshire

Miller, Aruna
Delegate—Maryland

Miller, Joshua
Senator—Rhode Island

Millman, Joan L.
Assemblyperson—New York

Mobley, Annie
Representative—North Carolina

Moeller, Jim, Speaker Pro Tempore
Representative—Washington

Montecillo, Genise
Representative—Missouri

Moran, Rena
Representative—Minnesota

Morgan, Judy
Representative—Missouri

Morin, Russell
Representative—Connecticut

Morrison, Terry
Representative—Maine

Morrissey, Joseph
Delegate—Virginia

Morrow, Terry, Minority Whip
Representative—Minnesota

Mott Oxford, Jeanette
Representative—Missouri

Mullery, Joe
Representative—Minnesota

Murphy, Wm. Quincy
Representative—Georgia

Murphy, Patrick
Representative—Iowa

Murphy, Erin, Assistant Minority Leader
Representative—Minnesota

Murphy, Mary
Representative—Minnesota

Murray, Ed
Senator—Washington

Mushinsky, Mary, Assistant Majority Whip
Representative—Connecticut

Naishtat, Elliott
Representative—Texas

Nasheed, Jamilah
Representative—Missouri

Neal, Yasmin
Representative—Georgia

Nelson, Mary
Representative—Maine

Nelson, Mike
Representative—Minnesota

Nelson, Sharon
Senator—Washington

Newman, Stacey
Representative—Missouri

Nichols, Mary
Representative—Missouri

Niemann, Doyle
Delegate—Maryland

Nordquist, Jeremy
Senator—Nebraska

Norton, Kim, Assistant Minority Leader
Representative—Minnesota

O'Brien, Andrew
Representative—Maine

Oliver, Mary Margaret
Representative—Georgia

Orange, Linda
Representative—Connecticut

Orrock, Nan
Senator, Georgia

Ortiz, Felix
Assemblyperson—New York

Ortiz Y Pino, Jerry
Senator—New Mexico

Osienski, Edward
Representative—Delaware

Pace, Sharon
Representative—Missouri

Pappas, Sandy
Senator—Minnesota

Parfitt, Diane, Democratic Freshman Leader
Representative—North Carolina

Paris, Miriam
Senator—Georgia

Park, Al
Representative—New Mexico

Parmon, Earline
Representative—North Carolina

Partridge, Carolyn
Representative—Vermont

Pashinski, Eddie
Representative—Pennsylvania

Patterson, Daniel
Representative—Arizona

Payton, Jr., Tony
Representative—Pennsylvania

Pena, Richard Raymond
Representative—Texas

Pena-Melnyk, Joseline
Delegate—Maryland

Pendergrass, Shane
Delegate—Maryland

Peoples, Ann
Representative—Maine

Peoples-Stokes, Crystal D.
Assemblyperson—New York

Perone, Chris, Deputy Majority Leader
Representative—Connecticut

Perry, Nick N.
Assemblyperson—New York

Persell, John, Assistant Minority Leader
Representative—Minnesota

Peterson, Matt
Representative—Maine

Pichardo, Juan, Senate President Pro Tempore
Senator—Rhode Island

Pickett, Joe
Representative—Texas

Pierson, Tommie
Representative—Missouri

Plum, Kenneth
Delegate—Virginia

Pocan, Marc
Representative—Wisconsin

Pollet, J.D., Gerry
Representative—Washington

Prague, Edith
Senator—Connecticut

Prentice, Margarita
Senator—Washington

Pridemore, Craig
Senator—Washington

Priest, Charles R.
Representative—Maine

Purcell, William
Senator—North Carolina

Ram, Kesha
Representative—Vermont

Ramirez, Victor
Senator—Maryland

Ramos, Dan
Representative—Ohio

Rapp, Ray
Representative—North Carolina

Read, Robin
Representative—New Hampshire

Reinert, Roger
Senator—Minnesota

Rest, Ann
Senator—Minnesota

Reynolds, Ron
Representative—Texas

Reznik, Kirill
Delegate—Maryland

Riley, Melissa
Representative—Connecticut

Ritter, Betsy
Representative—Connecticut

Ritter, Matthew
Representative—Connecticut

Rivera, Gustavo
Senator—New York

Rivera, Peter M.
Assemblyperson—New York

Roberts, Mary Helen
Representative—Washington

Rochelo, Megan
Representative—Maine

Rodriguez, Robert J.
Assemblyperson—New York

Rodriguez, Jose
Senator—Texas

Roebuck, Johnnie J.
Representative—Arkansas

Rosenbaum, Diane, Senate Majority Leader
Senator—Oregon

Rosenberg, Samuel
Delegate—Maryland

Rosenthal, Linda
Assemblyperson—New York

Rosenwald, Cindy
Representative—New Hampshire

Ross, Deborah, House Minority Whip
Representative—North Carolina

Rotundo, Margaret
Representative—Maine

Roys, Kelda Helen, Democratic Caucus Chair
Representative—Wisconsin

Rukavina, Tom
Representative—Minnesota

Russell, Diane
Representative—Maine

Ryan, Kevin, Deputy Speaker of the House
Representative—Connecticut

Ryu, Cindy
Representative—Washington

Sanborn, Linda
Representative—Maine

Sanchez, Robert
Representative—Connecticut

Sawyer, Tom
Senator—Ohio

Saxhaug, Tom
Senator—Minnesota

Scalze, Bev
Representative—Minnesota

Schimel, Michelle
Assemblyperson—New York

Schupp, Jill
Representative—Missouri

Scott, Sandra
Representative—Georgia

Scott, Omeria
Representative—Mississippi

Seay, Valencia
Senator—Georgia

Sells, Mike
Representative—Washington

Sharkey, J. Brendan, House Majority Leader
Representative—Connecticut

Shelton, Mike, Assistant Minority Floor Leader
Representative—Oklahoma

Sheran, Kathy
Senator—Minnesota

Shinn, Paul
Senator—Washington

Sickles, Mark, Minority Caucus Chairman
Delegate—Virginia

Sieben, Katie
Senator—Minnesota

Sigdestad, David
Representative—South Dakota

Simmons, Derrick T.
Senator—Mississippi

Skindell, Michael
Senator—Ohio

Slawik, Nora
Representative—Minnesota

Slocum, Linda
Representative—Minnesota

Smith, Clem
Representative—Missouri

Sol-Gutierrez, Ana
Delegate—Maryland

Spreng, Churie
Representative—Missouri

Stanford, Derek
Representative—Washington

Steaman, Pat
Senator—Colorado

Steckman, Sharon
Representative—Iowa

Stevens, Mickey
Representative—Georgia

Stevenson, Eric
Assemblyperson—New York

Stewart, Mimi
Representative—New Mexico

Stillman, Andrea
Senator—Connecticut

Stuckey, Peter
Representative—Maine

Stuckey Benfield, Stephanie
Representative—Georgia

Surovell, Scott
Delegate—Virginia

Swaim, Kurt
Representative—Iowa

Swearinger, Jay
Representative—Missouri

Takumi, Roy
Representative—Hawaii

Talbot, Mike, Minority Floor Leader
Representative—Missouri

Tate, Horacena
Senator—Georgia

Tavares, Charletta
Senator—Ohio

Taylor, Sylvester
Representative—Missouri

Taylor, Kathleen
Representative—New Hampshire

Tercyak, Peter
Representative—Connecticut

Tharinger, Steve
Representative—Washington

Thissen, Paul, Minority Leader
Representative—Minnesota

Thomas, Brian, Minority Caucus Chair
Representative—Georgia

Thompson, John, Assistant Majority Whip
Representative—Connecticut

Thompson, Curt
Senator—Georgia

Till, George
Representative—Vermont

Tinsley-Talabi, Alberta
Representative—Michigan

Tlaib, Rashida
Representative—Michigan

Tolson, Joe
Representative—North Carolina

Tomassoni, David
Senator—Minnesota

Townsend, Charles
Representative—New Hampshire

Treat, Sharon
Representative—Maine

Turner, Veronica
Delegate—Maryland

Turner, Nina
Senator—Ohio

Turner, Sylvester
Representative—Texas

Upthegrove, Dave
Representative—Washington

Urban, Diana
Representative—Connecticut

Valderrama, Kriselda
Delegate—Maryland

Van de Putte, Leticia
Senator—Texas

Veasey, Mark
Representative—Texas

Wagenius, Jean
Representative—Minnesota

Waldstreicher, Jeff
Delegate—Maryland

Walker, Toni
Representative—Connecticut

Walle, Armando
Representative—Texas

Walsh Innes, Melissa
Representative—Maine

Walton Gray, Rochelle
Representative—Missouri

Ward, John
Representative—Minnesota

Watts, Vivian E.
Delegate—Virginia

Webb, Kathy
Representative—Arkansas

Webb, Steve
Representative—Missouri

Webster, David
Representative—Maine

Weed, Charles
Representative—New Hampshire

Weiss, Jennifer
Representative—North Carolina

Welsh, Joan
Representative—Maine

Weprin, David L.
Assemblyperson—New York

Wiger, Chuck
Senator—Minnesota

Wilkerson, David
Representative—Georgia

Williams, Alan
Representative—Florida

Williams, Robert W.
Representative—New Hampshire

Willis, Roberta
Representative—Connecticut

Winkler, Ryan
Representative—Minnesota

Wirth, Peter
Senator—New Mexico

Witt, Brad
Representative—Oregon

Wizowaty, Suzi
Representative—Vermont

Wolf, Alice
Representative—Massachusetts

Wooley, Jessica
Representative—Hawaii

Wright, Elissa
Representative—Connecticut

Yantachka, Michael
Representative—Vermont

Zalaski, Zeke
Representative—Connecticut

Zamarripa, JoCasta
Representative—Wisconsin