

No. 11-398

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In The  
**Supreme Court of the United States**

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

*v.*

FLORIDA, ET AL.,  
*Respondents.*

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

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**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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DOUGLAS T. KENDALL  
ELIZABETH B. WYDRA\*  
*\*Counsel of Record*  
CONSTITUTIONAL  
ACCOUNTABILITY  
CENTER  
1200 18th St., NW, Ste 1002  
Washington, D.C. 20036  
(202) 296-6889  
elizabeth@theusconstitution.org

*Counsel for Amici Curiae*

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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.<sup>1</sup>

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<sup>1</sup>Pursuant 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

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*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 freeloader 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).<sup>2</sup> *See also id.* at 519 (Circular to State Gov-

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<sup>2</sup> 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-

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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,”<sup>3</sup> 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.

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<sup>3</sup> 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.<sup>4</sup> This list of enumerated

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<sup>4</sup> 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 (4<sup>th</sup> 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.<sup>5</sup> 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

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<sup>5</sup> 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.<sup>6</sup> 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

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<sup>6</sup> 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,

DOUGLAS T. KENDALL

ELIZABETH B. WYDRA\*

*\*Counsel of Record*

CONSTITUTIONAL ACCOUNTABILITY  
CENTER

1200 18th St., NW, Suite 1002

Washington, D.C. 20036

(202) 296-6889

[elizabeth@theusconstitution.org](mailto:elizabeth@theusconstitution.org)

*Counsel for Amici Curiae*

*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 2<sup>nd</sup> 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*

Schimmel, 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  
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Thomas, Brian, Minority Caucus Chair  
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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*

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Turner, Nina  
*Senator—Ohio*

Turner, Sylvester  
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*Representative—Washington*

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*Representative—Texas*

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*Representative—Maine*

Walton Gray, Rochelle  
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Ward, John  
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Webb, Steve  
*Representative—Missouri*

Webster, David  
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Weed, Charles  
*Representative—New Hampshire*

Weiss, Jennifer  
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*Representative—Florida*

Williams, Robert W.  
*Representative—New Hampshire*

Willis, Roberta  
*Representative—Connecticut*

Winkler, Ryan  
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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*