

February 27, 2023

## Constitutional Authority Statements: A Quick Guide

House Rule XII, clause 7(c), requires that all bills or joint resolutions introduced in the House include a Constitutional Authority Statement (CAS). No statement is required for simple or concurrent resolutions, neither of which can become law. A CAS identifies Congress's constitutional authority to enact the bill or joint resolution. This In Focus provides background on the rule, as well as questions and suggested citations to consider when drafting CASs.

### House Rule XII, Clause 7(c)

The CAS requirement was adopted as an amendment to House Rule XII on January 5, 2011, and has been incorporated in the standing rules of each subsequent Congress. House Rule XII, clause 7(c), requires Members to submit at the time of introduction a "statement citing as specifically as practicable the power or powers granted to Congress in the Constitution to enact the bill or joint resolution." A CAS is not part of a bill or joint resolution's text; instead, it "accompanie[s]" the legislation. The submitted CAS appears in the *Congressional Record* and is published on [Congress.gov](https://www.congress.gov).

### Form of Compliance with the CAS Rule

While the CAS rule requires Members to provide as "specifically as practicable" a statement of Congress's constitutional authority, the rule does not prescribe any particular format or level of detail for CASs. The House Office of the Legislative Counsel suggests on its website the following citation formats:

For citation to a clause or section in an article of the original Constitution: "[clause xx of] section xx of article xx of the Constitution", such as "clause 3 of section 8 of article I of the Constitution".

For citation to a section in an Amendment to the Constitution: "[section xx of] Amendment xx to the Constitution", such as "section 5 of Amendment XIV to the Constitution".

### Legal Implications of a CAS

CASs have limited legal significance in that the CAS of a bill enacted into law is unlikely to alter a court's view of the constitutionality of the legislation. The CAS is essentially a statement by the sponsor when legislation is introduced and is not formally part of a bill or joint resolution. Constitutionally, it can have no legislative effect because it is not subject to the approval of both houses of Congress or presented to the President, as is required by Article I, Section 7. Instead, a CAS is a type of legislative history that describes the basis proffered by the bill's sponsor as to Congress's power to enact the bill. CASs may be viewed as akin to a statement in the *Congressional Record* or a statement issued by the sponsor of a bill.

### Considerations for Drafting a CAS

To help Members draft these statements, **Table 1** below provides a list of suggested citations that could potentially be submitted in a CAS for various types of commonly introduced legislation. It may also be helpful to consider the following questions before submitting a CAS:

#### Does the CAS cite to a specific clause of the Constitution?

While some CASs cite to an entire article or section of the Constitution, such as "Article I" or "Article I, Section 8," the prevailing customary practice has been to cite to a *specific* clause of the Constitution, such as the Commerce Clause found in Article I, Section 8, clause 3. To the extent a Member wishes to cite to a specific clause in a CAS, **Table 1** may be a helpful resource to consult. A CAS may include more than one of these sources of constitutional authority for a bill, either because the bill as a whole is supported by more than one constitutional provision or because different parts of the bill require Congress to exercise different authorities.

**Does the CAS cite to a clause that affirmatively empowers Congress to take an action?** Article I, Section 9, of the Constitution (which contains limitations on the powers of the federal government) and the first 10 constitutional amendments (also known as the Bill of Rights) are commonly understood as *restrictions* on the powers of the federal government rather than affirmative grants of power. These provisions might help explain a bill's purpose (for example, supporting the freedom of speech) but alone are unlikely to establish Congress's authority to enact legislation. In contrast, Article I, Section 8, contains the majority of commonly cited clauses that provide Congress the affirmative power to legislate with respect to various subjects.

#### Does the CAS cite to a clause that relates to and authorizes the underlying legislation?

A Member may wish to cite to a constitutional provision that, based on either historical understandings or judicial interpretations, has some relationship with the subject matter of the legislation. Citations to constitutional provisions such as the General Welfare Clause and the Military Regulation Clause, for example, may not provide the necessary authority to support all the provisions of a multifaceted bill. Attorneys in CRS's American Law Division can provide advice with regard to specific CAS citations for proposed legislation.

#### Does the CAS cite only to the Necessary and Proper Clause?

To the extent that a Member wishes to cite exclusively to the Necessary and Proper Clause (Article I, Section 8, clause 18), it may be helpful to remember that courts have understood the Necessary and Proper Clause to



**The House of Representatives and Senate Explained**

# Congressional Procedure

**A Practical Guide to the Legislative Process in the U.S. Congress**

**Richard A. Arenberg**

Foreword by Alan S. Frumin

 **TheCapitolNet**

supplement Congress's enumerated powers under the Constitution but have not construed the clause as an independent source of power. Importantly, the Necessary and Proper Clause authorizes Congress not only to take action to assist in the execution of its legislative powers but also to provide support for the execution of "all other Powers vested by this Constitution in the Government of the United States," including to assist the executive and judicial branches in carrying out their constitutional

functions. The Necessary and Proper Clause might be identified in a CAS in combination with an enumerated power identified in **Table 1** as support for a piece of legislation.

For more information, see CRS Report R44729, *Constitutional Authority Statements and the Powers of Congress: An Overview*.

**Table 1. Suggested CAS Citations for Commonly Introduced Legislation**

Subject Matter of Legislation	Suggested Citation
Appropriations (i.e., legislation that sets aside a sum of money for a specific purpose)	<b>Article I, Section 8, clause 1 (Taxing and Spending Clause)</b>
Appropriations Related to the Military	<b>Article I, Section 8, clause 1 (Taxing and Spending Clause)</b> <b>Article I, Section 8, clause 12</b> <b>Article I, Section 8, clause 13</b>
Appropriations that Place Conditions on an Expenditure (e.g., a grant to the states)	<b>Article I, Section 8, clause 1 (Taxing and Spending Clause);</b>
Awards—Military Awards (e.g., Congressional Medal of Honor)	<b>Article I, Section 8, clause 14</b>
Awards—Non-Military Awards (e.g., Congressional Gold Medal)	<b>Article I, Section 8, clause 5</b>
Civil Rights Legislation	<b>Article I, Section 8, clause 3 (Commerce Clause);</b> <b>Thirteenth Amendment, Section 2;</b> <b>Fourteenth Amendment, Section 5;</b> <b>Fifteenth Amendment, Section 2</b>
Constitutional Amendments	<b>Article V</b>
Courts—Regulation of the Jurisdiction of Federal Courts	<b>Article I, Section 8, clause 9</b>
Courts—Procedures, Practices, and Rules of Federal Courts	<b>Article III, Section 1</b>
Regulations with an Effect on Interstate Commerce	<b>Article I, Section 8, clause 3 (Commerce Clause)</b>
Election Regulations	<b>Article I, Section 4, clause 1</b>
Federal Lands (e.g., selling federal lands; creating rules for national parks)	<b>Article IV, Section 3, clause 2 (Property Clause)</b>
Immigration—Naturalization	<b>Article I, Section 8, clause 4</b>
Immigration—Other than Naturalization (e.g., granting of temporary visas to nonimmigrants, regulating the entry and deportation of aliens)	<b>Article I, Section 8, clause 3 (Commerce Clause);</b> <b>Article I, Section 8, clauses 11-16</b>
Internal Rules of the House	<b>Article I, Section 5, clause 2</b>
Intellectual Property—Patents and Copyright	<b>Article I, Section 8, clause 8</b>
Military Rules and Regulations (e.g., amending the Uniform Code of Military Justice)	<b>Article I, Section 8, clause 14</b>
Post Offices (e.g., naming post offices; creating honorary stamps)	<b>Article I, Section 8, clause 7</b>
Taxes, Duties, Imposts, and Excises	<b>Article I, Section 8, clause 1 (Taxing and Spending Clause)</b>
Taxes (Income)	<b>Sixteenth Amendment</b>

**Source:** Congressional Research Service.

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.



# Learn how Capitol Hill really works

**All of our programs and any combination of their topics can be tailored for custom training for your organization.**

For more than 40 years, TheCapitol.Net and its predecessor, Congressional Quarterly Executive Conferences, have been teaching professionals from government, military, business, and NGOs about the dynamics and operations of the legislative and executive branches and how to work with them.

Our training, on-site and online, and publications include congressional operations, legislative and budget process, communication and advocacy, media and public relations, research, testifying before Congress, legislative drafting, critical thinking and writing, and more.

- **Diverse Client Base**—We have tailored hundreds of custom on-site and online training programs for Congress, numerous agencies in all federal departments, the military, law firms, lobbying firms, unions, think tanks and NGOs, foreign delegations, associations and corporations, delivering exceptional insight into how Washington works.™
- **Experienced Program Design and Delivery**—We have designed and delivered hundreds of custom programs covering congressional/legislative operations, budget process, media training, writing skills, legislative drafting, advocacy, research, testifying before Congress, grassroots, and more.
- **Professional Materials**—We provide training materials and publications that show how Washington works. Our publications are designed both as course materials and as invaluable reference tools.
- **Large Team of Experienced Faculty**—More than 150 faculty members provide independent subject matter expertise. Each program is designed using the best faculty member for each session.
- **Non-Partisan**—TheCapitol.Net is non-partisan.
- **GSA Schedule**—TheCapitol.Net is on the GSA Schedule for custom training: GSA Contract GS02F0192X.

Please see our Capability Statement on our web site at [TCNCS.com](http://TCNCS.com).

Custom training programs are designed to meet your educational and training goals, each led by independent subject-matter experts best qualified to help you reach your educational objectives and align with your audience.

As part of your custom program, we can also provide online venue, classroom space, breaks and meals, receptions, tours, and online registration and individual attendee billing services.

For more information about custom on-site training for your organization, please see our web site: [TCNCustom.com](http://TCNCustom.com) or call us: 202-678-1600, ext 115.



## TheCapitol.Net

*Non-partisan training and publications that show how Washington works.™*

PO Box 25706, Alexandria, VA 22313-5706  
202-678-1600 • [www.thecapitol.net](http://www.thecapitol.net)



TheCapitol.Net is  
on the GSA Schedule  
for custom training.  
GSA Contract GS02F0192X

