



Constitutional Authority Statements Year-End Analysis

December 20, 2012

On January 5, 2011, the House adopted a new rule requiring that each bill or joint resolution introduced be accompanied by a Constitutional Authority Statement. It was hoped that the rule would push all Member offices to respect the legitimate role of Congress and the rule of law.

As the House Rules website states on the purpose and necessity of this rule: *“Just as a cost estimate from the Congressional Budget Office informs the debate on a proposed bill, a statement outlining the power under the Constitution that Congress has to enact a proposed bill will inform and provide the basis for debate. It also demonstrates to the American people that we in Congress understand that we have an obligation under our founding document to stay within the role established therein for the legislative branch.”*

The current version of this rule has seemingly failed to achieve this objective. The majority of statements for legislation introduced in the 112th Congress do not make a thorough attempt to constitutionally justify the bill in question.

Unfortunately, even some bills considered and passed by the House contained wholly inadequate statements of constitutional authority. The RSC has reviewed the Constitutional Authority Statements for **bills which passed the House of Representatives in the 112th Congress** (477 total, as of time of writing). Selected findings are below:

- ❖ 65 cite only Article 1, Section 8 (enumerated powers of Congress) without citing any specific clause.
- ❖ 70 do not cite any specific clause whatsoever in the U.S. Constitution.
- ❖ 5 cite clauses which either do not exist or are incorrectly numbered.
- ❖ 1 not only did not provide a constitutional basis for the particular bill, but also actively attacked the idea of a Constitutional Authority Statement requirement.
- ❖ 1 cited only the preamble to the Constitution.
- ❖ 343 (72% of the bills passed by the House of Representatives) did not include any sort of explanation beyond the number of the clause or article, and a copy of the clause(s) in question. In other words, 72% did not explain why their particular legislation was justified by the U.S. Constitution.

Additional analyses of the Constitutional Authority Statements are available from RSC Staff at the request of an RSC office.

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