

BLOCK AND BLAME

The Conservative Strategy of Obstruction in the 110th Congress

By Eric Lotke, Alex Carter, Molly Swartz, Chris Rasmussen

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On Tuesday, December 18, 2007, conservatives in the U.S. Senate set a modern-day record¹ for obstruction. They forced the 62nd cloture vote to move beyond a filibuster. The previous record was 61 cloture votes, reached during the 107th Congress in 2002. The conservatives of 2007 surpassed that mark, in only the first session of the 110th.

The record vote came in a dispute over funding for military action Iraq. The \$516 billion budget package for 2008 had already passed the House of Representatives, providing funding for nearly every federal agency. Conservative senators threatened to filibuster the entire package unless it added \$20 billion in war funding to the House bill, and removed language intended to bring the troops home.

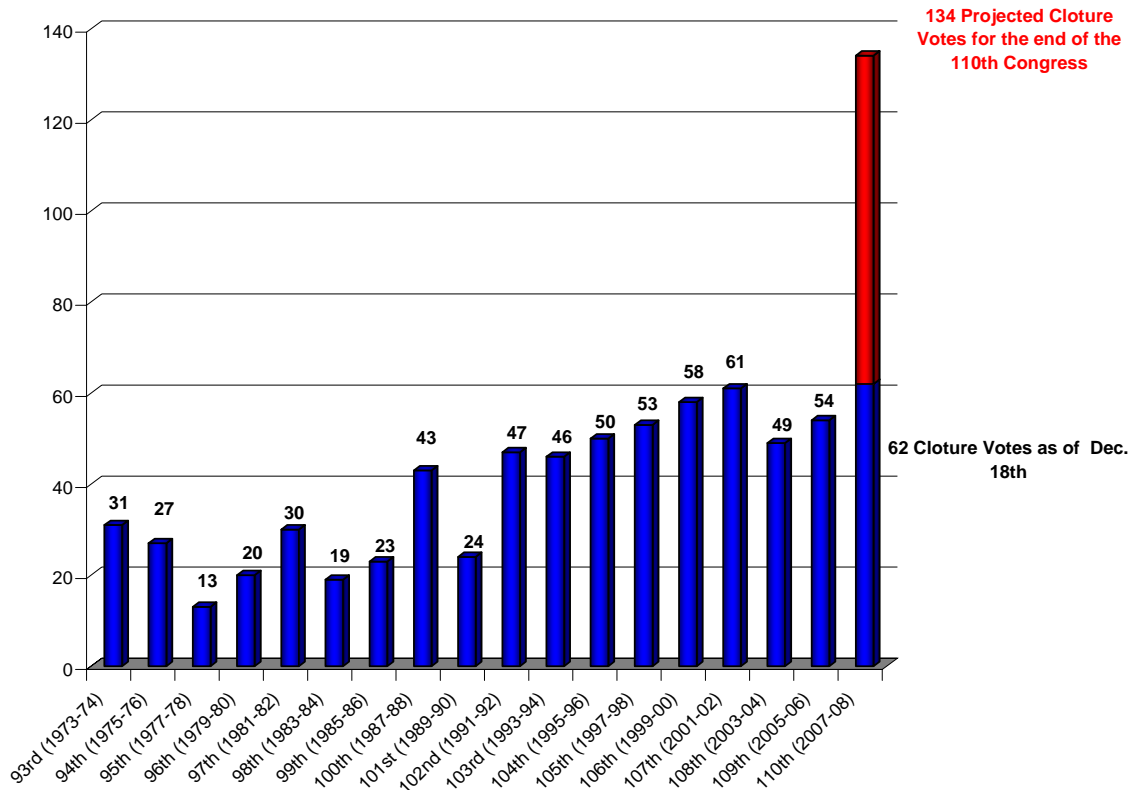
A review of the 110th Congress reveals that this performance was typical. Although the Democrats achieved several goals – student loans, an increase in the minimum wage, an increase in automotive fuel efficiency standards – many people remain frustrated. The first session of Congress was more marked by conservative obstruction than by progressive gains.

Conservative Obstruction: Filibuster and Veto Threats

Speaker of the House of Representatives Nancy Pelosi's "100 Hours" agenda moved speedily through the House but got bogged down in the Senate. In that chamber, a 51-vote majority was not enough to pass bills. A 60-vote margin to defeat a filibuster (a "cloture vote") became the only way to pass legislation.

So far in just the first session of the 110th Congress, Republicans have required cloture votes against filibusters 62 times. The Republicans are on pace to force 134 cloture votes, more than double the recent historical average and more than double the previous Congress, when the Democrats were in the minority. As the figure below shows, Democrats in the last Congress imposed only 54 filibuster threats and cloture votes. The previous record was 61 cloture votes during the entire 107th Congress of 2001-02. The conservatives of 2007 matched that mark in only the first session.

Figure 1



Source: http://www.senate.gov/pagelayout/reference/cloture_motions/110.htm

A roll call of the bills subject to conservative filibuster (Table 1) shows a vision for a different America. Conservatives filibustered bills to end the occupation of Iraq, reduce subsidies for oil companies, and allow residents of the District of Columbia to vote. Conservatives used the filibuster to kill legislation that would increase renewable sources for electricity and that would allow soldiers in Iraq rest time equal to their deployments.

Even if bills can make it past the Senate, they face veto by President Bush. As of December 18, 2007, Bush has threatened to veto 86 bills and has vetoed six (Table 2). In contrast, during the period when the Republicans were in the congressional majority, Bush went the longest time without vetoing a bill since President Arthur Garfield. Now he has threatened to veto bills to prevent hate crimes, allow Medicare to use its bulk buying power to negotiate lower prices for prescription drugs, to stop gasoline price gouging by big oil companies and expand the State Children Health Insurance program. These bills, and many others, have substantial popular support.² They passed the House of Representatives and most of them passed the Senate with a majority.

The combination of the filibuster and veto threat is proving lethal. Last week, the President vetoed a bill to expand health coverage for 10 million American children. The very next day, Senate Republicans filibustered an energy bill designed to reduce American dependence on foreign oil.³ It didn't matter that 235 representatives in the House of Representatives and 59 Senators supported the bill – very solid majorities in both houses. Nor did it matter that 64 percent of the American public support energy independence or that 75 percent of the people are

willing “to pay more for electricity if it were generated by renewable sources like solar or wind.”⁴ A majority of conservative elected representatives fell in line with Republican lockstep.

Details of filibuster threats are in Table 1. Veto threats and are in Table 2.

Never has any party been so brazen or systematic in using the filibuster to block the majority on all issues at all times. Just a few years ago, Republicans complained when Democrats threatened to filibuster far right-wing judicial nominees. Although Democrats only used the tool occasionally – 86 percent of Bush’s judicial nominees passed – Republicans acted as if Democrats were thwarting the will of the people.⁵

The Republican talking points on Democratic filibusters were quite clear. They wanted an “up or down vote.” Senator Bill Frist of Tennessee, the majority leader at the time, put it this way:

- “[J]udicial nominees with the support of the majority of senators deserve up or down votes on this floor.”⁶
- "Republicans believe in the regular order of fair up and down votes and letting the Senate decide yes or no on judicial confirmations free from procedural gimmicks like the filibuster.”⁷

However, with the Democratic takeover of congress in the 2006 elections, the Republicans have contradicted their previous filibuster philosophy. Now they use the threat of filibuster in unprecedented numbers.

Obstruction as Strategy

The obstruction strategy is no secret. Republicans block everything and blame Democrats for getting nothing done. In April, Senate Minority Whip Trent Lott (R-Miss.) told *Roll Call*, “The strategy of being obstructionist can work or fail ... and so far it's working for us.”

Over the summer recess, Sen. John Kyl, R-Ariz., reportedly distributed talking points about the “do-nothing Congress.” They laughingly called it a “post-office Congress” that does nothing but name post offices and launch divisive witch hunts against the administration.

Indeed, conservatives openly gloat about the strategy. As conservative pundit Charles Krauthammer put it on Fox News, “I think [Democrats’ inability to pass legislation] will give the Republicans the one opening they are going to have in 2008. Everything is running against the Republicans, but I think they have a chance if they argue that the Democrats have been in charge and they are the do-nothing Congress.”⁸

Facts Unreported

Despite conservatives’ openness about their obstructionist strategy, the mass media has remained largely silent. The extraordinary frequency of the conservatives’ obstruction goes unreported, and headlines refer to 60 Senate votes as if it is necessary, not excessive.

In September, a front-page *Washington Post* story covering Senator Jim Webb's proposal to extend home leaves for U.S. troops was headlined, "Senate bill short of 60 votes needed."⁹ The article said that the proposal "failed on a 56 to 44 vote, with 60 votes needed for passage." However, only 51 votes are supposed to be needed to pass Senate legislation. The Webb proposal failed because of the Republican filibuster threat, a move that required 60 votes to override. With the Democrats unable to garner 60 votes in favor of the proposal, Republicans were once again successful in their obstruction.

Similarly, a November 2007 *New York Times* article discussing the failure of a Democrat-sponsored Iraq-spending bill blamed the bill's failure on the Democrats – not the obstructionist Republicans. The article reported that the bill "fell seven votes short of the 60 needed to prevent a Republican filibuster."¹⁰ In fact, the 60 votes were needed to overcome a filibuster, not prevent it. Again, the media failed to accurately portray the conservatives' bill-blocking tactics.

Instead of reporting on Republican obstruction, the press focuses on Democrats' failure to defeat the obstruction and Democratic disagreement over how to do this. "Democrats Blaming Each Other for Failures," ran the A1 headline in the *Washington Post* on December 13, 2007.¹¹

Moreover, Republican talking points on the ineffectiveness of the Democratic congress appear throughout media coverage of congress.

- "Nothing has been accomplished all year," Rep. John Boehner of Ohio, the Republican leader in the House of Representatives, stated in December 2007.¹²
- "We can't seem to get the kind of bipartisan agreement that allows the minority to have some say," argued Senate Minority Leader Mitch McConnell of Kentucky.¹³
- "Congress is not getting its work done," President Bush recently declared, claiming that the Democratic-controlled Congress had "the worst record in 20 years."¹⁴

Only a quarter of Americans approve of the way Congress is doing its job, lower ratings even than President Bush. Detailed surveys show the Republicans score fractionally lower than the Democrats but the big picture is one of frustration. The 2006 election was supposed to bring change, and the Democrats have failed to deliver it. However, congressional stasis cannot solely be attributed to Democrats. It is a deliberate Republican goal.

An Uncertain Future

The Republican strategy is clear – and could well succeed. The public expects the party in charge to get things done. They hold the majority responsible for finding a way to move forward. When Democratic leaders charge the Republicans with obstruction, it sounds like the partisan bickering and the inside-the-Beltway politics that Americans loathe. They don't realize that the Republican strategy of obstruction isn't the norm. It is simply an effort to block reform for partisan advantage. For scandal-stained Republican legislators yoked to an unpopular president pursuing an unpopular war, this may be their best hope for survival. They can bring down the temple in the hope that both parties will be equally discredited in the rubble.

The Democrats must become more effective in their counter-messaging. While Democrats have mentioned Republican obstructionism in some speeches and interviews, the theme has not stuck with the public. *The Washington Post* asserted that public support for Democrats decreased as

the “liberal base grew outraged over the Democratic inability to counter the president on any war issue” and the “moderates and centrists looking for bipartisan kitchen-table accomplishments instead saw partisan gridlock.”¹⁵ The Democrats need to craft a unified message that exposes the Republicans’ extreme obstructionist tactics as impediments to bipartisan consensus.

Moreover, the media must be responsible for reading between the lines of the Republican talking points. The press must be more accurate and conscientious in their reporting and expose the extraordinary scope of the Republican strategy of obstruction.

The public is hungry for change. They elected the new Democratic majorities to get us out of the war and to change our course at home. They are and will be increasingly frustrated if nothing happens. The American public needs to understand that a conservative congressional minority is sabotaging political progress through a deliberate agenda of obstruction.

| Table 1: FILIBUSTER THREATS | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| Bill Name (Bill Number) | Cloture Vote Date | Senate Vote (Y-N) |
| Department of State, Foreign Operations, and Related Programs, and Other Purposes Appropriations Act, 2008 (Consolidated Appropriations Act, 2008) (HR 2764) | Dec. 18 | |
| “Second Energy Bill” Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007 (Try #2) (HR6) | Dec. 13 | 59 - 40 |
| “Second Energy Bill” Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007 (Try #1) (HR6) | Dec. 7 | 53 - 42 |
| “AMT Relief Bill” Temporary Tax Relief Act of 2007 (HR 3996) | Dec. 6 | 46 - 48 |
| “Democratic Proposal” Orderly and Responsible Iraq Redeployment Appropriations Act, 2008 (HR 4156) | Nov. 16 | 53 - 45 |
| “Republican Proposal” Emergency Supplemental Appropriations for Department of Defense, FY2008 (S 2340) | Nov. 16 | 45 - 53 |
| “Farm Bill” Farm, Nutrition, and Bio-Energy Act of 2007 (HR 2419) | Nov. 16 | 55 - 42 |
| Development, Relief and Education for Alien Minors (DREAM) Act (S 2205) | Oct. 24 | 52 - 44 |
| “Restore Habeas Corpus Amendment” National Defense Authorization Act for Fiscal Year 2008 (S Amdt. 2022) (HR 1585) | Sep. 19 | 56 - 43 |
| District of Columbia House Voting Rights Act of 2007 (S 1257) | Sep. 18 | 57 - 42 |
| “Troop Reduction Amendment” National Defense Authorization Act for Fiscal Year 2008 (S Amdt. 2087) (HR 1585) | Jul. 18 | 52 - 47 |
| “Rest for the Weary Amendment” National Defense Authorization Act for Fiscal Year 2008 (S. Amdt. 2012) (HR 1585) | Jul. 11 | 56 - 41 |
| “Immigration Reform Bill #2” Comprehensive Immigration Reform (S 1639) | Jun. 28 | 46 - 53 |
| Employee Free Choice Act of 2007 (HR 800) | Jun. 26 | 51 - 48 |
| “First Energy Bill” CLEAN Energy Act of 2007 (HR 6) | Jun. 21 | 57 - 36 |
| No Confidence for Alberto Gonzales (SJ RES 14) | Jun. 11 | 53 - 38 |
| “Immigration Reform Bill #1” Comprehensive Immigration Reform Act of 2007 (S 1348) | Jun. 7 | 34 - 61 |
| “Immigration Reform Bill #1 (Kennedy Amendment)” Comprehensive Immigration Reform Act of 2007 (S. Amdt. 1150) (S 1348) | Jun. 7 | 45 - 50 |
| “Warner Amendment to Withdraw Troops” Water Resources Development Act of 2007 (S. Amdt. 1134) (HR 1495) | May. 16 | 52 - 44 |
| “Iraq Mission Transition” Water Resources Development Act of 2007(S. Amdt. 1098) (HR 1495) | May. 16 | 29 - 67 |
| Medicare Prescription Drug Price Negotiation (S 3) | Apr. 18 | 55 - 42 |
| Intelligence Authorization Act (S 372) | Apr. 17 | 50 - 45 |
| Implementing Recommendations of the 9/11 Commission (Republican Amendment) (S 4) | Mar. 9 | 46 - 49 |

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| “Non - Enforceable Troop Withdrawal Bill” Sense of Congress on Iraq – motion to proceed(S 574) | Feb. 17 | 56 - 34 |
| “Troop Withdrawal Bill” Sense of Congress on Iraq – motion to proceed (S 470) | Feb. 5 | 49 - 47 |
| “Resolution Condemning the Iraq War” Bipartisan Resolution on Iraq (S CON RES 2) | Feb. 1 | 0 - 97 |
| Fair Minimum Wage Act (HR2) | Jan. 24 | 54 - 43 |
| “Republican Poison Pill” Fair Minimum Wage Act (HR2) | Jan. 24 | 49 - 48 |
| “Ethics Bill” Honest Leadership & Open Government Act (S1) | Jan. 17 | 51 - 46 |

Table 2: VETOES AND VETO THREATS

| Vetoed | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Bill | Date Vetoed |
| Children's Health Insurance Program Reauthorization Act of 2007 (HR 3963) | 12/12/2007 |
| Departments of Labor, Health, and Human Services, and Education, and Related Agencies Appropriations Act, 2008 (HR 3043) | 11/13/2007 |
| Water Resources Development Act of 2007 (HR 1495) | 11/2/2007 |
| Children's Health Insurance Reauthorization Act of 2007 (HR 976) | 10/3/2007 |
| Ending the Iraq War (HR 1591) | 5/1/2007 |
| Stem Cell Research Enhancement Act of 2007 (HR 3/S 5) | 1/11/07 |
| Veto Threats | |
| Bill | Date |
| Department of State, Foreign Operations, and Related Programs, and Other Purposes Appropriations Act, 2008 (Consolidated Appropriations Act, 2008) (HR 2764) | 12/18/07 |
| “FISA Amendments Act of 2007” To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that act, and for other purposes (S 2248) | 12/17/07 |
| Energy Independence and Security Act of 2007 (Reid Amendment) (HR 6) | 12/13/07 |
| AMT Tax Relief Act of 2007 (HR 4351) | 12/12/07 |
| Intelligence Authorization Act for Fiscal Year 2008 (HR 2082) | 12/11/07 |
| Terrorism Risk Insurance Program Reauthorization Act of 2007 (HR 2761) | 12/11/07 |
| Energy Independence and Security Act of 2007 (HR 6) | 12/7/07 |
| Orderly and Responsible Iraq Redeployment Appropriations Act, 2008 (HR 4156) | 11/14/07 |
| Temporary Tax Relief Act of 2007 (HR 3996) | 11/8/07 |
| Homeowners Defense Act (HR 3355) | 11/6/07 |
| Farm Bill Extension Act of 2007 (HR 2419) | 11/6/07 |
| Water Resources Development Act of 2007 (HR 1495) | 11/2/07 |
| Hardrock Mining and Reclamation Act of 2007 (HR 2262) | 11/1/07 |
| Trade and Globalization Assistance Act of 2007 (HR 3920) | 10/30/07 |
| Children's Health Insurance Program Reauthorization Act of 2007 | 10/25/07 |

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| (HR 3963) | |
| The Employment Non-Discrimination Act (HR 3685) | 10/23/07 |
| Native Hawaiian Government Reorganization Act of 2007 (HR 505) | 10/22/07 |
| Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008 (S 1710) | 10/17/07 |
| Responsible Electronic Surveillance That is Overseen, Reviewed, and Effective Act of 2007 | 10/16/07 |
| Free Flow of Information Act of 2007 (HR 2102) | 10/16/07 |
| Federal Railroad Safety Improvement Act of 2007 (HR 2095) | 10/10/07 |
| Tax Collection Responsibility Act of 2007 (HR 3056) | 10/10/07 |
| National Affordable Housing Trust Fund Act of 2007 (HR 2895) | 10/9/07 |
| Depts. of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2008 (HR 3093) | 10/4/07 |
| Regional Economic and Infrastructure Development Act of 2007 (HR 3246) | 10/3/07 |
| MEJA Expansion and Enforcement Act of 2007 (HR 2740) | 10/3/07 |
| Department of Defense Appropriations Act, 2008 (HR 3222) | 10/2/07 |
| Improving Government Accountability Act (HR 928) | 10/1/07 |
| Flood Insurance Reform and Modernization Act of 2007 (HR 3121) | 9/26/07 |
| Children's Health Insurance Reauthorization Act of 2007 (HR 976) | 9/25/07 |
| FAA Reauthorization Act of 2007 (HR 2881) | 9/19/07 |
| District of Columbia House Voting Rights Act of 2007 (S 1257) | 9/18/07 |
| Terrorism Risk Insurance Revision and Extension Act of 2007 (HR 2761) | 9/17/07 |
| Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (S 1789) | 9/11/07 |
| Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (HR 2764) | 9/6/07 |
| Military Construction, the Department of Veterans Affairs, Related Agencies Appropriations Act, 2008 (S 1645) | 9/4/07 |
| New Direction for Energy Independence, National Security, and Consumer Protection Act (HR 3221) | 8/3/07 |
| Renewable Energy and Energy Conservation Tax Act of 2007 (HR 2776) | 8/3/07 |
| Ensuring Military Readiness Through Stability and Predictability Deployment Policy Act (HR 3159) | 8/2/07 |
| Children's Health and Medicare Protection Act of 2007 (HR 3162) | 8/1/07 |
| Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FY 2008 (HR 3161) | 7/31/07 |
| Children's Health Insurance Reauthorization Act of 2007 (S 1893) | 7/30/07 |
| Lilly Ledbetter Fair Pay Act of 2007 (HR 2831) | 7/27/07 |
| Department of Homeland Security Appropriations Act, 2008 (S 1644) | 7/25/07 |
| Farm, Nutrition and Bio-Energy Act of 2007 (HR 2419) | 7/25/07 |
| Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2008 (HR 3093) | 7/24/07 |
| Transportation, Housing and Urban Development, and Related Agencies Appropriations Bills, 2008 (HR 3074) | 7/23/07 |
| Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008 (HR 3043) | 7/17/07 |
| Responsible Redeployment from Iraq Act (HR 2956) | 7/12/07 |
| National Defense Authorization Act, FY 2008 (S 1547) | 7/10/07 |
| College Cost Reduction and Access Act of 2007 (HR 2669) | 7/10/07 |
| Financial Services and General Government Appropriations Act, FY 2008 (HR 2829) | 6/26/07 |

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| Interior, Environment, and Related Agencies Appropriations Act, FY 2008 (HR 2643) | 6/25/07 |
| Employee Free Choice Act (HR 800) | 6/20/07 |
| State, Foreign Operations, and Related Programs Appropriations Act, 2008 (HR 2764) | 6/19/07 |
| Energy and Water Development and Related Agencies Appropriations Act, FY 2008 (HR 2641) | 6/13/07 |
| Military Construction, the Department of Veterans Affairs, and Related Agencies Appropriations Act, FY 2008 (HR 2642) | 6/13/07 |
| Department of Homeland Security Appropriations Act, FY 2008 (HR 2638) | 6/12/07 |
| Creating Long-term Energy Alternatives for the Nation (CLEAN) Act (HR 6) | 6/12/07 |
| Stem Cell Research Enhancement Act of 2007 (S 5) | 6/7/07 |
| Human Cloning Prohibition Act of 2007 (HR 2560) | 6/6/07 |
| Federal Price Gouging Prevention Act of 2007 (HR 1252) | 5/23/07 |
| No Oil Producing and Exporting Cartels (NOPEC) Act of 2007 (HR 2264) | 5/22/07 |
| National Defense Authorization Act, FY 2008 (HR 1585) | 5/16/07 |
| To provide for the redeployment of United States Armed Forces and defense contractors from Iraq | 5/10/07 |
| U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (HR 2206) | 5/10/07 |
| Agricultural Disaster Assistance and Western States Emergency Unfinished Business Appropriations Act, 2007 (HR 2207) | 5/10/07 |
| Department of Homeland Security Authorization Act for FY 2008 (HR 1684) | 5/9/07 |
| Local Law Enforcement Hate Crimes Prevention Act of 2007 (HR 1529) | 5/3/07 |
| Food and Drug Administration Revitalization Act (S 1082) | 5/1/07 |
| Medicare Fair Prescription Drug Price Act of 2007 (S 3) | 4/17/07 |
| Intelligence Authorization Act of FY 2007 (S 372) | 4/12/07 |
| Stem Cell Research Enhancement Act of 2007 (S 5) | 4/10/07 |
| U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (S 965) | 3/27/07 |
| Rail and Public Transportation Security Act of 2007 (HR 1401) | 3/27/07 |
| District of Columbia House Voting Rights Act of 2007 (HR 1433) | 3/20/07 |
| U.S. Troop Readiness, Veterans' Health, and Iraq Accountability Act (HR 1591) | 3/19/07 |
| United States Policy in Iraq Resolution of 2007 (SJR 9) | 3/14/07 |
| Presidential Records Act Amendments of 2007 (HR 1255) | 3/13/07 |
| Whistleblower Protection Enhancement Act of 2007 (HR 985) | 3/13/07 |
| Water Quality Financing Act of 2007 (HR 720) | 3/8/07 |
| Employee Free Choice Act of 2007 (HR 800) | 2/28/07 |
| Improving American's Security by Implementing Unfinished Recommendations of the 9/11 Commission Act of 2007 (S 4) | 2/28/07 |
| Creating Long-Term Energy Alternatives for the Nation (CLEAN) Act (HR 6) | 1/17/07 |
| Stem Cell Research Enhancement Act of 2007 (HR 3) | 1/11/07 |
| Medicare Prescription Drug Price Negotiation Act of 2007 (HR 4) | 1/11/07 |

ENDNOTES

¹ The “modern” era in this report begins in the 93rd Congress in 1973, when electronic records become available.

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⁸ Charles Krauthammer. “Fox News All-Stars: Special Report with Brit Hume.” *Fox News*. 24 July 2007.

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