

Obstruction by Filibuster

How Kansas Senator Pat Roberts is Obstructing Progress

August 2007

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Campaign for America's Future

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The 2006 election was a repudiation of President Bush and his conservative policies, and a mandate for change. The American people wanted a new course in Iraq. They wanted an increase in the minimum wage. They wanted stem-cell research, increased student aid and investments in renewable energy.

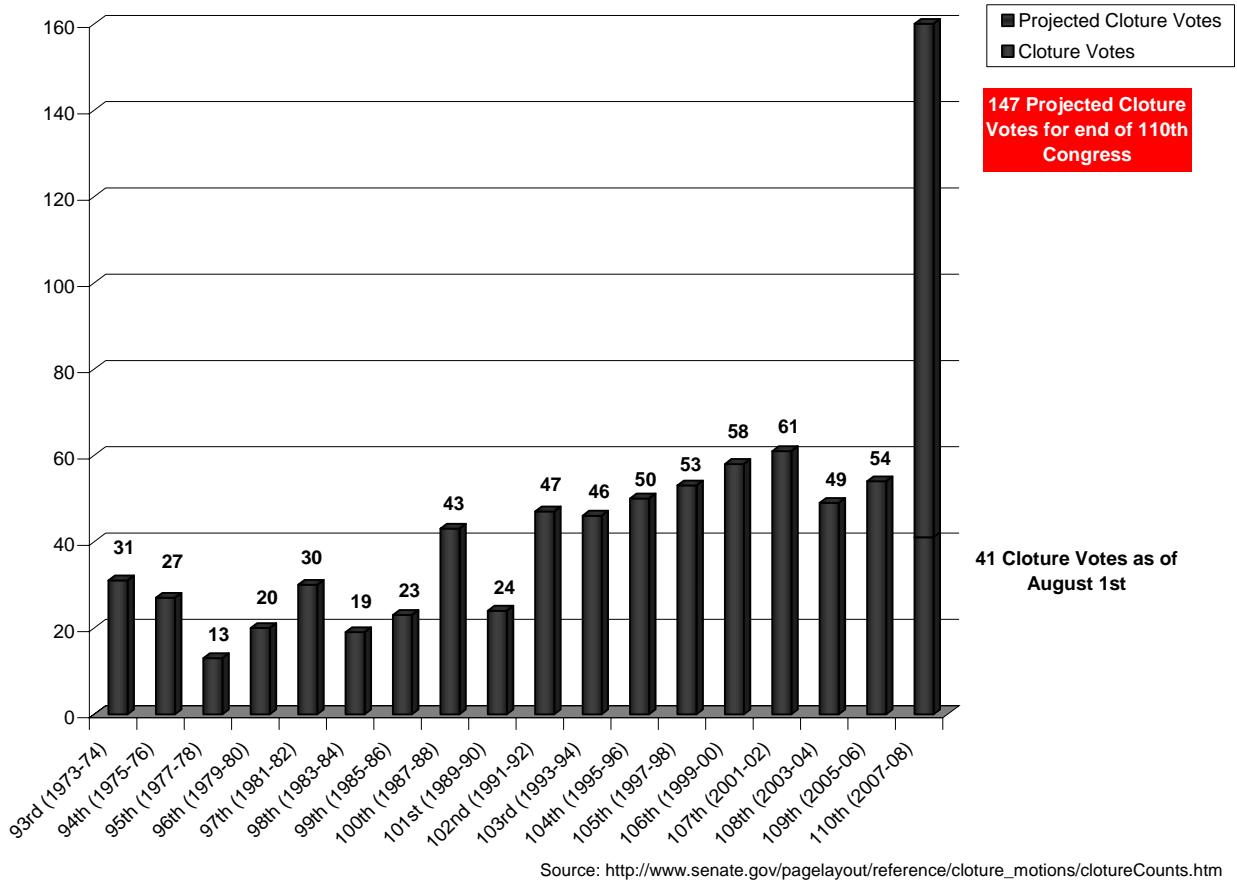
Six months into the new 110th Congress, little has changed. The American people's initial enthusiasm has degenerated into disappointment. Congressional approval ratings are at all-time lows, with 71 percent of Americans disapproving of how Congress is handling its job. The Democrats' approval rating, only fractionally higher than the Republicans', is sinking, especially after Congress was unable to override Bush's veto of the bill that would have ended the war in Iraq. The American people want change. The Democratic Congress has been unable to deliver.

An analysis of voting records, however, makes clear that the problem is not a failure of Democratic leadership; instead, the problem is Republican obstructionism. The Democrats had a remarkably productive first six months. Every single item on House Speaker Nancy Pelosi's 100 Hours Agenda passed the House, often by considerable margins.

The Senate and the President, however, stopped progress. The President vetoed the bill that would end the occupation of Iraq. Republican Senators like Pat Roberts continually threaten to filibuster, requiring 60 votes for cloture (a limit on debate) to proceed on a wide variety of measures. The first session of the 110th Congress saw 41 cloture votes in seven months,¹ far above historical norms (see the chart on the next page). Republicans are on pace to bring the number of filibuster threats and cloture votes to a level *nearly half again as high as the 108th and 109th Congress put together*.

This is a deliberate strategy. Republican whip Trent Lott told *Roll Call*, "The strategy of being obstructionist can work or fail... and so far, it's working for us."² Democrats are the ones taking the blame for not getting anything done.

Senate Republicans act as if this obstruction is normal. Minority Leader Mitch McConnell told *CNN*, "That's the ordinary procedure [to force cloture votes], not the unusual."³ But it is not normal. It is a tactic to stop everything and blame Democrats for not getting anything done.



The American people think the country is heading in the wrong direction. The most recent Gallup poll shows 71 percent of participants said they are dissatisfied with the way things are going in the United States.⁴ This dissatisfaction is based in fact. The country is stuck in Iraq, wages are stagnant, prices for gasoline and college tuition are on the rise, the number of people in poverty and without health insurance are steadily increasing. These figures tell the story:

- Median Household Income: Fell by \$1,273 from 2000 to 2005, adjusted for inflation.⁵
- Total soldiers killed in the Iraq War as of July 30, 2007: 3,653⁶
- Gas Prices: Up \$1.31 per gallon from April 2000 to April 2007, adjusted for inflation.⁷
- People in Poverty in 2005: 37 million.⁸
- Families in Poverty in 2005: 7.7 million.⁹
- People without health insurance in 2005: 46.6 million.¹⁰

In Robert's state of Kansas:

- Median Household Income: Fell by \$4,516 from 2000 to 2005, adjusted for inflation.¹¹
- Kansas soldiers killed in the Iraq War as of August 1, 2007: 41.¹²
- People in Poverty in 2004: 279,000.¹³
- Families in Poverty in 2004: 48,000.¹⁴
- People without health insurance in 2004: 297,000¹⁵

The Democrats have introduced legislation that would put the country on a better course. The bills would end the occupation of Iraq, increase investment in renewable energy, raise the minimum wage without giving companies tax breaks and tax loopholes, and increase the ability of workers to unionize so they can bargain collectively for better wages and benefits.

Polls show that these kinds of changes are what the electorate wants. Earlier research by the Campaign for America’s Future shows that the American people want to move in a progressive direction.¹⁶ This report documents the legislation that the Democrats would pass, but that Roberts and the Senate Republicans have successfully blocked.

Employee Free Choice Act
H.R. 800

The Employee Free Choice Act of 2007 simplifies the procedures by which members of a workplace can unionize for collective bargaining. At present, workers are typically required to hold formal elections. This Act would allow people to form unions simply upon proof of interest. Workers would be able to use formal elections if they choose, but elections would not be required. As an alternative, workers could check cards and sign their names to indicate their interest in organizing.

To reduce other obstacles to worker organizing, the act provides civil fines of up to \$20,000 per violation against employers found to have willfully violated employees’ rights during an organizing campaign. It provides victims of illegal firing with three times the amount of back pay owed to them. Lastly, the Act gives the option to call in a neutral third party to settle collective bargaining disputes between employers and newly certified unions when a contract is not reached after three months. These provisions are designed to respond to concerns that employers often stretch out or prejudice the unionization process by harassing or intimidating employees and organizers.

The Employee Free Choice Act of 2007 could be a tremendous help to Kansas’s workers. Median household income is down \$4,516 from 2000 to 2005 and union representation fell by 10,000 workers between 2000 and 2006.¹⁷ In addition, 297,000 people in Kansas are without health insurance. The Employee Free Choice Act could improve this situation. Fully implemented, this act could increase the number of people with health insurance in Kansas by over 28,100 and would provide over 23,300 people with employer-based pension benefits.¹⁸

The bill was passed by the House of Representatives by a wide margin, but did not survive Republican opposition in the Senate. A majority vote was achieved, but not the 60-vote supermajority needed for cloture against a filibuster.

Senator McConnell boasted, “They [Democrats] know the bill will fail. Senate and House Republicans have vowed to block it. The President has vowed to veto it.”¹⁹

House Vote
 Employee Free Choice Act; H.R. 800; Roll Call #118
 Passed March 1, 2007

	Total	Democrat	Republican
Yes	241	228	13
No	185	2	183
Not Voting	8	3	5

Senate Vote
Employee Free Choice Act; H.R. 800; Roll Call #227
Rejected on Cloture Vote, June 26, 2007

	Total	Democrat	Republican	Independent
Yes	51	48	1	2
No	48	0	48	0
Not Voting	1	1	0	0

Part D – Medicare Prescription Drug Price Negotiation Act
H.R. 4/S. 3

The 2003 Medicare Modernization and Reauthorization Act, which provides prescription drug coverage to senior citizens, includes a provision that prohibits Medicare from using its bulk-buying power to negotiate lower prices with drug manufacturers. Enterprises ranging from Costco to the Department of Veterans Affairs to health plans in foreign countries negotiate for lower prices; but Medicare can not. Allowing Medicare to negotiate lower prices would yield combined estimated savings for seniors and taxpayers of between \$40 billion and \$65 billion a year.²⁰

The bill passed the House by a wide margin. However, it was unable to overcome Republican opposition in the Senate. While the bill received a simple majority of votes, 60 votes were needed for cloture against a filibuster. Minority Leader McConnell said, “Today the Senate protected healthcare access for tens of millions of seniors as well as price negotiations to ensure they pay the least amount of money for the prescription drugs they need.”²¹ However, his statement is false: In Kansas, over 238,900 people receive Part D help; if Medicare could negotiate prices, it could save over \$301 million statewide in prescription costs.²²

House Vote
Drug Price Negotiation Act; H.R. 4; Roll Call #23
Passed January 12, 2007

	Total	Democrat	Republican
Yes	255	231	24
No	170	0	170
Not Voting	10	2	8

Senate Vote
Drug Price Negotiation Act; S. 3; Roll Call #132
Rejected on Cloture Vote April 18, 2007

	Total	Democrat	Republican	Independent
Yes	55	47	6	2
No	42	1	41	0
Not Voting	3	1	2	0

Minimum Wage Act
H.R. 2

Until the Democratic Congress finally passed an increase in July 2007, the federal minimum wage had not risen since 1997 and had its lowest buying power in 50 years.

Responding to its own sense of fairness and 77 percent of Americans’ desire for change, one of the new Democratic Congress’s first bills was a bill to raise the minimum wage. Democrats drafted a

simple, clean bill to increase the minimum wage to \$7.25 over two years. The measure quickly and overwhelmingly passed the House on January 10, 2007, mere days after the new Congress was sworn in.

Workers in Kansas would especially appreciate such an increase. In Kansas, the annual weekly wage only increased by \$13 from 2000 to 2005.²³ Poverty increased by 31,000 individuals and 5,000 families from 2000 to 2004.²⁴ An estimated 240,000 people would be affected by the minimum wage increase.²⁵

In the Senate, however, the bill was subjected to Republican amendments that included tax breaks and other unrelated provisions that slowed it down. Senator McConnell said, "An increase in the minimum wage needs to help both the workers who earn it and the small businesses that pay it....That's why it just makes sense to pair the increased wage with tax and regulatory relief to help the small businesses that provide most of the jobs in this country stay competitive and employ even more people."²⁶ Senate Democrats had a simple majority but they were nonetheless thwarted in their effort to pass a clean bill. Eventually, enough Senate Democrats conceded to the amendments to allow the bill to pass in the chamber. However, the Republican Senate amendments were unacceptable in the House. The bill stalled in conference between the chambers of Congress.

House Vote
Fair Minimum Wage; H.R.2; Roll Call #18
Passed January 10, 2007

	Total	Democrat	Republican
Yes	315	233	82
No	116	0	116
Not Voting	4	0	4

Senate Vote
Minimum Wage Act, H.R. 2, with tax amendment; Roll Call #42
Passed February 1, 2007

	Total	Democrat	Republican	Independent
Yes	94	47	45	2
No	3	0	3	0
Not Voting	3	2	1	0

The minimum wage bill remained in a conference committee until it was attached to the war appropriation, described below.

Ending the War in Iraq
H.R. 1591

At the end of March 2007, the House and Senate passed the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007. The bill provided \$124 billion to fully fund the war, the troops and veterans who returned home. However, unlike past appropriations for the war, it imposed conditions on funding. Specifically, it imposed a timetable for withdrawal of U.S. forces. It started to end the war.

House Vote
 Bill to End the War in Iraq; H.R.1591; Roll Call #186
 Passed House March 23, 2007

	Total	Democrat	Republican
Yes	218	216	2
No	212	14	198
Present, Not Voting	1	1	0
Not Voting	3	2	1

Senate Vote
 Bill to End the War in Iraq; H.R.1591; Roll Call #126
 Passed Senate March 29, 2007

	Total	Democrat	Republican	Independent
Yes	51	48	2	1
No	47	0	46	1
Not Voting	2	1	1	0

The House and Senate spent a few weeks in April hammering out details and presented the bill to end the war to the President Bush on May 1, 2007. He vetoed it the same day.

On May 2, House Democrats tried to override the veto. They failed, however, to produce the two-thirds majority necessary. In the Senate, the leadership recognized they did not have the votes necessary to override and did not bring the measure to a vote. In the end, the Democrats surrendered on the requirement to end the war and voted to authorize funding for continued military operations without withdrawal provisions. “The debate will go on,” Speaker Nancy Pelosi vowed.²⁷ For now, however, the crucial vote is the one that attempted to end the war.

As of July 30, 2007, the Iraq War has cost 41 lives from Kansas and an additional 3,609 lives across America.²⁸

House Vote
 Bill to end the War in Iraq; H.R.1591; Roll Call #276
 Veto Override Failed; May 2, 2007

	Total	Democrat	Republican
Yes	222	220	2
No	203	7	196
Present, Not Voting	1	1	0
Not Voting	7	4	3

In the aftermath of the veto over the troop withdrawal, negotiators reconsidered their positions. The Iraq war funding and minimum wage bills were combined, along with funding for Katrina recovery and veterans care. In some cases, the considerations of the Iraq war outweighed consideration of the minimum wage, leading some Democrats to vote against the measure. Finally, at the end of May, the minimum wage increase along with Iraq war funding, without troop removal deadlines, passed in both chambers of Congress and was signed into law.²⁹

House Vote

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007; H.R.2206; Roll Call #333
Passed March 24, 2007

	Total	Democrat	Republican
Yes	348	225	123
No	73	1	72
Not Voting	12	6	6

Senate Vote

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007; H.R.2206: Roll Call # 181
Passed May 24, 2007

	Total	Democrat	Republican	Independent
Yes	80	37	42	1
No	14	10	3	1
Not Voting	6	2	4	0

Webb Amendment: Rest for the Weary
S. Amdt. 2012

The Webb Amendment, proposed by Sen. Jim Webb, D-Va, would enforce break periods during the deployment of individual U.S. troops in Iraq. Despite unanimous Democratic support, a supermajority of 60 votes was not reached. Thus the threat of a filibuster prevented the amendment from moving forward. Senator McConnell attacked the amendment because he believed legislation would make it next to impossible to reinforce the current troop surge in Iraq.³⁰

Senate Vote

Webb Amendment; S.Amdt.2012; Roll Call #241
Rejected on Cloture July 11, 2007

	Total	Democrat	Republican	Independent
Yes	56	48	7	1
No	41	0	40	1
Not Voting	3	1	2	0

Levin Amendment: Iraq Pullout
S.Amdt.2087

Senate Amendment 2087 to H.R. 1585, the National Defense Authorization Act for Fiscal Year 2008, would have resulted in the withdrawal of troops 120 days after the bill became a law. Except for some specific exceptions, the measure aimed to withdrawal all troops by April of 2008. The remaining troop activity in Iraq would be primarily related to training Iraqi security forces, conducting counterterrorism operations against al-Qaida, and protecting U.S. personnel. The amendment failed on a motion to invoke cloture and was not included in the Senate version of H.R.1585 to be considered.

Senate Vote
Iraq Pullout; H.R.1585; Roll Call #252

	Total	Democrat	Republican	Independent
Yes	52	47	4	1
No	47	1	45	1
Not Voting	1	1	0	0

NOTE: Senate Majority Leader Harry Reid voted against cloture for procedural reasons. Otherwise, the vote would have been 53-46.

Senate Majority Leader Harry Reid fought fiercely to encourage members of both parties to vote on the merits of the bill. He held the Senate in session overnight, and even succeeding in changing one Republican vote. However, in the end there were not enough votes to invoke cloture. Reid ultimately voted against the motion so that under Senate rules he could reintroduce the amendment at a later time. Senator Roberts commented, “The Levin Amendment to the National Defense Authorization Bill and others like it, which include a phased redeployment of troops and date certain withdrawal, does not help Petraeus’ mission and would be counterproductive.”³¹

Intelligence Authorization Act
S. 372

S.372 was a bill written to authorize appropriations for fiscal year of 2007 for the intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the CIA Retirement and Disability System. The bill would have authorized funding for the intelligence community, believed to have a budget of approximately \$44 billion (although the actual budget figure is classified). Backers of the legislation hailed its directives to the spy community, such as one to create an inspector general position for the Office of the Director of National Intelligence

“Before the vote, Intelligence Chairman [John D.] Rockefeller called on Republicans to ‘put politics aside’ and vote for cloture...Earlier in the day, the Senate accepted several amendments proposed by Rockefeller to address objections by the White House last week when it threatened to veto the legislation.”³²

Again, a majority voted in favor of the bill, but there were an insufficient number of votes to prevent a filibuster. Republican obstructionism ruled the day once more.

Senate Vote
Intelligence Authorization Act; S.372; Roll Call #131
Rejected on Cloture Vote, April 17, 2007

	Total	Democrat	Republican	Independent
Yes	50	46	2	2
No	45	0	45	0
Not Voting	5	3	2	0

Sense of Senate on Alberto Gonzales
S. J. Res. 14

S. J. Res.14 was a joint resolution to reflect the American people and the Senate’s sense of no confidence in Attorney General Alberto Gonzales. The Senate investigation into the firings of nine U.S. attorneys last year led to the resolution, which was an attempt to keep the heat on the Attorney General. Other serious concerns involve Gonzales’s role in the misuse of National Security Letters by

the Federal Bureau of Investigation, allowing the National Security Agency to violate the Foreign Intelligence Surveillance Act in conducting domestic warrantless wiretapping, politicizing the hiring of career attorneys in the Civil Rights Division of the Department of Justice, and developing the legal framework for the use of torture and the creation of military commissions.

Gonzales has said he will not resign, and President Bush has refused to fire him, despite bipartisan sentiment on Capitol Hill that Gonzales should be replaced. The bill would not have directly affected Gonzales' role as attorney general; however, it is likely that upon passage of the resolution the pressure on him to resign or be forcibly removed would have increased. Despite Gonzales' poor record as attorney general, the resolution was rejected on a cloture vote due to Republican obstructionism.

Senator McConnell believes that the lack of confidence members of Congress or the American people have in Gonzales should not be of any concern to the Senate. "[Alberto Gonzales' future] is for the president to decide," McConnell said. "As long as he's satisfied the president, I think he's going to continue." The Senate would not vote on Gonzales "unless there are other resolutions."³³

Senate Vote
Sense of Senate of Alberto Gonzales; S.J.Res.14; Roll Call #207
Rejected on Cloture June 11, 2007

	Total	Democrat	Republican	Independent
Yes	53	45	7	1
No	38	0	37	1
Present	1	0	1	0
Not Voting	7	4	3	0

Stem Cell Research Enhancement Act
S. 5

Embryonic stem cell research has the potential to produce cures for different forms of cancer and diabetes, and neurological disorders such as Parkinson's and Lou Gehrig's disease. This type of research could make a difference in the life of 13,210 Kansas residents that are estimated by the American Cancer Society to be diagnosed with cancer in 2006.³⁴ Although all of the uses of stem cells are not yet understood, it is widely considered to be a highly promising therapy for otherwise untreatable diseases. Studies conducted for years have led to the general consensus that embryonic stem cells hold more promise than adult stem cells.

There has been significant bipartisan support for legislation to repeal the order issued by President Bush on August 9, 2001, preventing any federal funding for research on stem cells taken from embryos after that date. The proposed bill would have lifted that federal ban and allowed stem cells to be collected from donated embryos from in vitro fertilization clinics. The embryos collected for further stem cell research would only be taken with the informed consent of the donor, and would otherwise be discarded by the clinic. Embryo donors would not be permitted to receive any inducement, financial or otherwise, to make a donation.

In a poll conducted by *The Washington Post* in January 2007,³⁵ 61 percent of Americans said they favored further embryonic stem cell research, compared to 31 percent who oppose it. Despite widespread support of the Stem Cell Research Enhancement Act, President Bush vetoed the bill after it passed the House and the Senate on June 20, 2007.

House Vote
Passed January 11, 2007
Stem Cell Research; H.R.3; Roll Call #44

	Total	Democrat	Republican
Yes	253	216	37
No	174	16	158
Not Voting	8	1	7

Senate Vote
Passed June 7, 2007
Stem Cell Research; S.5; Roll Call #127

	Total	Democrat	Republican	Independent
Yes	63	44	17	2
No	34	2	32	0
Not Voting	3	3	0	0

Past efforts to override a Presidential veto on stem cell research have failed. It is unclear at present if and how further efforts will be made, since there do not appear to be sufficient Republican dissenters to overcome the obstruction of the Republican president.

Ethics and Lobbying Disclosure Act
S. 1, H.R. 2316

Corruption in the Republican controlled Congress was legion. House Majority leader Tom DeLay, R-Texas, was indicted for money laundering; Rep. Duke Cunningham, R-Calif., pled guilty to taking million-dollar bribes; Rep. Billy Tauzin, R-La., negotiated his new \$2 million job as president of the drug industry's top lobbying group while designing Medicare's new prescription drug coverage.

The 2006 election results reflected the voters' demands to change that. In response, legislation on lobbyist financing, gifts and travel, and the revolving door between Congress and industry passed in both houses of Congress in the spring of 2007.

But then it stalled. Senator McConnell blocked appointment of Senate conferees so the bills passed in each chamber could not be reconciled. The bills sat in conference and never became law.

House Vote
Ethics and Lobbying; H.R.2316; Roll Call #423
Passed May 24, 2007

	Total	Democrat	Republican
Yes	346	158	188
No	71	64	7
No Vote	16	10	6

Senate Vote
Ethics and Lobbying; S.1; Roll Call #19
Passed January 18, 2007

	Total	Democrat	Republican	Independent
Yes	96	48	46	2
No	2	0	2	0
No Vote	2	1	1	0

Comprehensive Immigration Reform Act
S.1348/S.1639

The Comprehensive Immigration Reform Act was first and most significant effort to solve immigration problems in years. The bill was much negotiated, with extensive compromises made by the White House and about a dozen senators from both parties. In the end, the compromises suited almost no one entirely, and the bill was overwhelmed by doubts from all sides.

One of the most controversial provisions in the legislation would allow the approximately 14 million illegal immigrants to stay in America and work their way towards legal status and ultimately citizenship. In addition, the bill would have provided \$4.4 billion in mandatory spending for border security and enforcement, and would create a temporary guest worker program.

Some Democrats expressed dissatisfaction with the guest worker program and provisions that would reduce the role that family ties play in awarding “green cards,” or permanent legal resident status. Others in both parties, particularly Republicans, questioned the legalization provision — calling it “amnesty” — and complained that past enforcement promises have yet to be fulfilled. After the first iteration of the bill, introduced by Majority Leader Harry Reid, was unsuccessful, Sen. Edward Kennedy introduced a slightly altered version as S.1639. Although it was closer to pleasing everyone, Republican-led obstructionism stopped the bill from moving forward.

Senate Vote
Immigration Reform; S. 1348; Roll Call #204
Rejected on Cloture June 7, 2007

	Total	Democrat	Republican	Independent
Yes	34	33	0	1
No	61	13	47	1
No Vote	4	3	1	0

Senate Vote
Immigration Reform; S.1639; Roll Call #235
Rejected on Cloture June 28, 2007

	Total	Democrat	Republican	Independent
Yes	46	33	12	1
No	53	15	37	1
No Vote	1	1	0	0

Senate Campaign Disclosure Parity Act
S. 223

The Senate Campaign Disclosure Parity Act would end the Senate practice of submitting campaign financial disclosure reports on paper rather than electronically. Currently, Senate candidates print their computerized finance reports on paper and then physically deliver them to the Senate office of public records, where the paper records are scanned into computer files for electronic transmission to the Federal Elections Commission (FEC). The FEC then prints these records on paper and ships them to Virginia, where the information is manually entered into electronic databases. This antiquated process increases the cost and slows the process, defeating the very purpose of disclosure. In the 2006 election cycle, the watchdog group Campaign Finance Institute found that contributions received by candidates

five months earlier still were not available online a week before the November 6 elections for six of the 10 most competitive Senate races.³⁶

The House has filed its financial disclosure reports electronically for years, and they are available for scrutiny without delay. The Senate Campaign Disclosure Parity Act would mandate similar procedures in the Senate.

But it has never come up to a vote.

An anonymous Republican Senator has used an obscure rule to place a “hold” on the bill, preventing it from leaving committee. Nobody knows which Senator placed the hold, although Republican Jim Bunning of Kentucky admitted that the hold originated on the Republican side of the aisle. The Sunlight Foundation reports that it called every single Republican Senator on the committee, and none of them admitted to placing the original hold. “[W]e now know that one or more Senators are lying to their constituents,” the foundation staff concluded.³⁷

Conclusion

The country wants to move forward. The American people want change, and the Democrats in Congress are trying to deliver it. The votes in this report indicate both the direction the country could go and the forces obstructing change. The following chart shows important bills that Pat Roberts helped to obstruct.

Yes votes in the House and Senate on key bills		
	House (majority 218)	Senate (majority 51)
Minimum Wage (with tax amendments) H.R.2206	348	80
Stem Cell Research Enhancement Act S.5	253	63
End the War H.R. 1591	222 (284 needed to override veto)	51 (67 needed to override veto)
Employee Free Choice Act H.R.800	241	51
Medicare Prescription Drug Price Negotiation Act H.R.4/S.3	255	55
Ethics and Lobbying Disclosure Act S.1, H.R.2316	346	96 (Senate Minority Leader blocking naming of conferees)
Senate Campaign Disclosure Parity Act	N/A	Unnamed Republican placed hold on bill, blocking vote
Intelligence Authorization Act S.372	N/A	50
Sense of Senate – Alberto Gonzales S.J.Res.14	N/A	53
Webb Amendment S.Amdt.2012	N/A	56
Comprehensive Immigration Reform Act S.1348	N/A	34
Comprehensive Immigration Reform Act S.1639	N/A	46
Levin Amendment S.Amdt.2087	397	52

In the nearly every one of these votes, the Democrats had a majority. In a functioning democracy, this would be enough to pass these bills and send them to the President to be signed into law. But it isn't happening. This report identifies the reason for the delay in moving America forward.

ENDNOTES

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