

Mending the Broken Branch



One Year Later: Is Congress Still the Broken Branch?

A Report on the 110th Congress

Sarah A. Binder, Thomas E. Mann and Molly Reynolds

EXECUTIVE SUMMARY

With a flurry of legislative activity as the first session wound down, the 110th Congress passed a delayed package of appropriations bills for the fiscal year that began on October 1, a one-year fix in the Alternative Minimum Tax (AMT) that prevented its impact on millions of middle-class households, and the first increase in automobile fuel efficiency standards in decades. In each case, however, Democrats were unable to advance some of their key priorities, as they faced Senate filibusters and presidential vetoes. The omnibus spending bill contained no restrictions on the war in Iraq and also conformed to the president's domestic spending cap that reduced spending in real terms. The AMT measure was shorn of offsetting tax increases sought by Democrats to comply with their party's commitment to pay-as-you-go budgeting. The energy bill that finally emerged dropped provisions to reallocate tax subsidies from fossil fuel production to renewable energy and failed to require utilities to include a fraction of clean energy sources in their generation of electricity.



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No serious student of Congress and national policymaking could be surprised by these outcomes. Deep partisan differences, narrow majorities, the routine partisan use of the Senate filibuster, and Republican George W. Bush in the White House

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were bound to limit what the Democratic majority could accomplish following their stunning victory in the 2006 midterm elections. But with expectations set high after years of public distemper and with the dysfunction of Congress itself a key factor in the demise of the Republican majority, it was inevitable that the new Democratic team would be held to high (though differing) standards by partisan allies and adversaries as well as by those viewing the Congress from an institutional perspective. The argument and evidence that Congress had become “the broken branch” was spelled out in a book with that title, by Thomas E. Mann and Norman J. Ornstein, and published the summer before the 2006 election. The critique that Congress had failed to fulfill its responsibilities as the first branch of government – to engage in responsible and deliberative lawmaking, to police the ethical behavior of its members, and to check and balance the other branches – was explicitly embraced by the then-Democratic minority. This report seeks to track and assess congressional performance in those terms.

How well did Congress perform under its new Democratic leadership in 2007, the first session of the 110th Congress? Most observers came to a quick and decidedly negative conclusion, one based in large part on the abysmally low ratings of the new Congress in public opinion polls. By this standard, the new majority would not get anywhere near a passing grade. Ratings of Congress were low (in the mid-30s) shortly after Democrats took control in January 2007 and trended downward thereafter, reaching a low of 18 percent in August (matching Gallup’s lowest recorded rating in March 1992) before stabilizing in the low 20s. To be sure, these ratings reflected, to some degree, a broader public discontent with the direction of the country, the war in Iraq, the state of the economy, and the performance of government more generally. But the decline in approval of Congress during 2007 was also driven by the frustration of Democrats at the inability of Congress to force a change in policy on the Iraq war and the wider public unhappiness with the pitched partisan battles and policy standoffs that characterized much of the year in Washington.

In strictly political terms, the Democratic majority appeared not to be paying a political price for the public’s low esteem of Congress as an institution. The public continued to give “Democrats in Congress” more favorable ratings than “Republicans in Congress,” rated the Democrats as substantially better than the Republicans in being able to deal with almost every pressing public issue, and preferred to maintain the current majority in power while also electing a Democratic president. But no serious member of Congress can take great comfort from this sour public mood.



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There are more objective and revealing ways to judge the performance of the 110th Congress, starting with an examination of how it spent its time, what it achieved, and how the legislative process operated, relative to the 109th Congress under unified Republican government and to the more comparable situation of the 104th Congress following the 1994 election, when a new Republican majority in both houses took office under a Democratic president. A careful look at key indicators of congressional performance document that some significant and consequential changes are brewing on Capitol Hill but a genuine mending of the first branch requires a transformation in the broader political environment that only a presidential election can spark. The chart below provides measures of legislative activity, achievements and process for the first year of the four congresses that bracketed the 1994 and 2006 elections.

Activity

Both new majorities put in control following their stunning midterm election victories clearly worked longer and harder in Washington than their predecessors. Time in session, committee meetings, roll call votes and substantive measures passed in each chamber increased relative to the previous Congress. The level of energy and activity on Capitol Hill picked up markedly in 2007 as it had in 1995. House Speaker Nancy Pelosi and Senate Majority Leader Harry Reid promised to put Congress back to work on a full-time basis and, despite some grumbling from some members in both chambers, they delivered.

The most striking change in congressional activity in 2007 was the dramatic increase in oversight following years of inattention and deference under the Republican majority. Much of that oversight was devoted to Iraq, the dominant concern of the public. Particular areas of focus included readiness issues, reconstruction abuse and fraud, and veterans' medical care. But oversight activity in 2007 ranged across a diverse set of subjects, was mostly serious in its approach, and often had real consequences for policy and administration. Examples here include the firing of U.S. attorneys, political activities of government employees, the response to Hurricane Katrina, the student loan industry, mine safety, the Federal Communications Commission, global warming, inspectors general, credit card company malfeasance, intelligence gathering and the accountability of government contractors. The new Republican House majority in the 104th Congress, by contrast, actually did less real oversight than that done by Democrats of a Democratic administration in the 103rd Congress.

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The oversight in 2007 included more than an examination of scandals or abuses; it also involved a more systematic scrutiny of programs and agencies. The new Congress revitalized the authorization process, which had atrophied in the previous decade. Authorizations increased in number, quality and content in 2007.

Committees held nearly twice the number of non-Department of Defense related authorization hearings in 2007 as in 2005 (77, up from 42), and several major reauthorizations were signed into law, including the first complete renewal of the Head Start program in nearly a decade.

Achievements

The first year of the 110th Congress is probably best known for what it didn't accomplish: a disengagement from Iraq, immigration reform, a farm bill, reauthorization and expansion of the State Children's Health Insurance Program, stem cell research funding, a repeal or permanent restructuring of the AMT, a timely completion of appropriations bills and the elimination of earmarks. Unrealistically high expectations – the inevitable result of their midterm election victory but also encouraged by overly bullish rhetoric from their leaders – contributed to a perception of a meager Democratic legislative record.

The underlying reality is more complicated. The Democratic majority in 2007 significantly outperformed the Republican Congress that took up the gavel in 1995 in terms of both the number and the significance of new public laws. Only one item in the Republican Contract with America was signed into law at the end of 1995 while most of the Democratic New Direction Agenda proposals were enacted. Democrats aimed lower in their specific legislative promises and managed to overcome the many obstacles in their way. Their legislative harvest included a minimum wage increase, higher fuel efficiency standards for motor vehicles, a restructuring and expansion of college student assistance, implementation of the 9/11 Commission recommendations, an innovation and competitiveness package, and substantially increased funding for veterans' health care and Gulf Coast recovery. Republicans in 1995 shot the moon and ended the year frustrated by Senate inaction, presidential vetoes, and a government shutdown that proved politically damaging to them. After their sobering experience, the Republicans regrouped in 1996 and ultimately reached agreement with President Clinton on a number of significant measures including welfare reform.

Two other achievements of the new Democratic Congress are worthy of note. They

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succeeded in passing a major ethics and lobbying reform bill, one designed to respond to scandals involving lobbyist Jack Abramoff and the infamous K Street Project – primarily by tightening gift and travel rules and increasing transparency. And a House ethics task force produced a plan for a new Office of Congressional Ethics which, if adopted by the full House, would for the first time establish an important role in ethics enforcement for an independent panel of outsiders.

Contrary to most press coverage and popular perceptions, Congress also made some progress in reining in the explosion and abuse of earmarks that occurred under the previous 12 years of mostly Republican rule. They adopted and largely followed new transparency rules that made it more difficult and risky for members to garner personal financial benefits from their earmarks and that ensured that information about the cost and sponsorship of earmarks was made available before appropriations bills were considered on the House and Senate floors. To be sure, transparency itself will not diminish the demand for earmarks by members who are rewarded by their constituents for bringing home the bacon. But over time it should help eliminate more egregious uses of federal funds, reduce conflicts of interest between members and private and nonprofit contractors, and increase the ability of the federal government to allocate resources in more objective and constructive ways.

Congress also came a long way toward meeting the promise announced by House Appropriations Committee Chairman David R. Obey, D-Wis., at the beginning of the 110th Congress to reduce the cost of appropriations earmarks by 50 percent. Democrats made an initial down payment in the spring by eliminating all new earmarks in the bill completing the FY 2007 appropriations left undone by the previous Congress. While estimates vary, one spending watchdog group (Citizens Against Government Waste) puts the reduction in the total cost of FY 2008 appropriations earmarks at 51 percent.

Budget policy and politics were front and center both in 1995 and 2007. In the former, House-Senate differences and disputes with the president on appropriations bills provided an embarrassing contrast with the relatively orderly and timely record on these bills in the previous Democratic Congress. In 2007, Democrats began strongly by finishing the appropriations work for the current fiscal year left undone by the previous Republican Congress but then encountered a series of setbacks and frustrations in their efforts to restrict funds for the Iraq war and to negotiate spending levels with the president. While the House still managed to get its appropriations work done on time for the 2008 fiscal year, the Senate lagged far behind, leading to

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major delays in enacting appropriations bills and presenting them to the president, with only the defense appropriations bill signed into law before a protracted end-of-year showdown. Democratic leaders finally acknowledged their limited leverage, conceded the largely symbolic political fight over discretionary spending totals and the substantive one over Iraq funding, and passed a massive omnibus bill that incorporated all of the non-defense appropriations bills. At the same time, facing a Republican filibuster, Democrats were forced to set aside their pay-as-you-go rule, which was adhered to through most of the year, and approve a \$53 billion one-year patch in the AMT without any offsetting revenue increases.

Concerted Republican and presidential opposition also left the Democrats unable to make progress in ending U.S. military involvement in Iraq. The 2006 elections did contribute significantly to a shift in President Bush's Iraq strategy, including a change in the civilian and military leadership of the war. Aggressive oversight by the new Democratic majority also forced the administration to set accountability standards for the Iraqi government and contractors working in the region. But broader change in the course of the war in Iraq proved impossible.

Democrats' strategy was to use the oversight process and repeated House and Senate floor votes to gradually increase pressure on their Republican colleagues, aiming to produce filibuster- and veto-proof majorities to change policy course. President Bush regained the policy initiative and bought some time with wavering Republicans in Congress by embracing a new strategy of a temporary troop surge designed to reduce violence and create the conditions under which warring factions in Iraq could reach political accommodation. As bad news from Iraq continued to dominate the headlines, Democrats were encouraged to keep up the pressure even as every restrictive measure failed to clear Congress. GOP restiveness returned by summer but the September testimony of General David Petraeus proved pivotal. His twin message – the surge is working and the troops are starting to come home – shored up Republican support and virtually guaranteed Bush a free hand, at least until the March 2008 Petraeus report to Congress and likely extending until the end of his term.

Democrats were slow to recognize how decisively the political ground on the Republican side of the aisle had shifted, partly because they correctly noted the failure of the military gains to produce any political successes and the real possibility that even the security gains would prove evanescent. By year's end, however, the situation was crystal clear. Henceforth, they would cease their efforts to use the power of the purse to change course in Iraq and instead closely monitor and critique

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the conduct of the war, the readiness of the military, and the performance of the Iraqi government in meeting its political and economic benchmarks. And they would carry their argument over Iraq with the President and Republicans in Congress into the 2008 election campaign.

Process

Much of the critique of the broken branch centers on the culture of corruption, the demise of deliberation, and the rise of a destructive form of extreme partisanship. As discussed above, the new Democratic Congress made considerable process on the first, with major ethics and lobbying reform and a substantial move to begin to curb the abuse of earmarks. But they failed in most respects to return to regular order and to dampen partisanship in the legislative process.

Regular Order in the House

Democratic leaders quickly came to the conclusion that the implacable opposition to their agenda by the president and Republican congressional leadership combined with the 60-vote hurdle in the Senate made it virtually impossible to return to regular order in committee, on the floor, and in conference and still advance their agenda. In this intensely competitive, partisan environment, facing high expectations to set a new direction in policy following the decisive 2006 midterm election, they opted for action and product over process. Their pledge to curb the procedural abuses of the previous Republican majority would for the most part have to be set aside. The choice was not surprising. Still, it had the effect of exacerbating partisan tensions in Congress and further fouling the toxic atmosphere permeating Washington.

House Democratic leaders began the new Congress with a pledge of bipartisanship, promising regular meetings and consultation with Republican party leaders, and ranking members on committees and ample opportunities for the minority to play a meaningful role in the legislative process. Unfortunately, their commitment to deliver on their “Six in ‘06” agenda in the first 100 hours of the new Congress meant no time for new committee hearings and markups and closed rules on the floor. Thus, Democrats lost an early opportunity to include in the legislative process a number of rank-and-file Republicans who were not ideologically opposed to the underlying measures and who themselves had been largely shut out of a policy role in their own 109th Congress.

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When Democrats did show more openness in the legislative process, Republicans did not offer much of a positive response. Shortly after the “Six in ’06” movement, Republicans took advantage of an open rule to attack Speaker Pelosi for allegedly demanding that an Air Force jet be placed at her disposal for traveling home to San Francisco on weekends. No matter that the charge was bogus and later withdrawn by the Republicans. It generated a flood of unfavorable publicity and got the relationship between Pelosi and Majority Leader John Boehner off to a decidedly chilly start, one that has shown little improvement to this day.

Some pockets of cooperation and civil engagement between the parties were to be found, in committees such as Financial Services and Ways and Means and among some individual party leaders and rank-and-file members. Although this Speaker’s Office, like its predecessor, was deeply involved in setting the agenda and drafting legislation central to it, Pelosi to some extent loosened the reins on committees and gave them more room to operate. But as the session progressed and the agenda became more controversial, opposition tactics in the House and frustrations with the Senate led the House Democratic majority to routinely embrace many of the same unorthodox means (circumventing standing committees, writing closed rules, using the suspension calendar, waiving layover requirements, avoiding the conference process) that Republicans had employed to advance their agenda. The number and percentage of restrictive rules used by Democratic leaders to control debate and amending activity on the House floor rivaled the degree of control and departure from regular order exercised by their Republican predecessors.

The highly partisan environment in the House combined with the chamber’s complex rules means that a certain amount of procedural gamesmanship is inevitable. Perhaps the most frequently used tactic of this type in 2007 was the motion to recommit with instructions; under House rules, the motion is a protected right of the minority and represents one last attempt to amend a bill before final passage. During the 110th’s first session, House Republicans offered 86 motions to recommit, up from just 35 during the first session of the 109th. Republicans were successful in passing 21 of these motions in 2007 while Democrats in 2005 passed none.

The House’s experience this past year with motions to recommit illustrates the tradeoff between procedural fairness and policy resolution. At the start of the 110th Congress, Speaker Pelosi ended the previous majority’s practice of making votes on motions to recommit strict party-line affairs. Members—particularly the freshmen from more conservative districts that had helped build the Democrats’ new majority—welcomed this move, as it allowed them to vote sometimes for Republican motions to



recommit with which many of their constituents might agree. As a result, the Republicans averaged roughly 39 Democratic votes in favor of their motions in 2007, while the Democrats averaged less than two votes from Republicans across their motions in 2005.

The House minority, however, quickly seized on this flexibility. Because House pay-as-you-go budgeting rules drastically expanded the number of motions that are considered “germane” and thus permitted, Republicans began to offer motions explicitly designed to force these same vulnerable Democrats to cast embarrassing votes. In addition, Republicans frequently changed the wording of their motions, which had the effect of killing the underlying bill, rather than returning it amended to the chamber floor for a final passage vote.

How did the Democrats respond? In some cases—such as with bills involving voting privileges in the House for the representative from Washington, DC, the federal government’s surveillance abilities, and the agricultural spending bill—the leadership simply pulled the measure from the floor until a compromise on the recommitment proposal could be reached. More worrisomely, House Democrats have threatened to reform House rules to limit the minority’s right to offer such motions; the chair of the House Rules panel has acknowledged meetings with current and former Parliamentarians to explore such changes. One such proposal nearly reached the House floor in May before Republicans threatened to halt all legislative action in advance of the Memorial Day recess if the Democrats attempted to pass it. This dynamic—progress on the part of the Democrats towards reform, followed by Republican efforts to seize an advantage and a corresponding retreat away from regular order by the majority—has characterized much of the House process during the first session of the 110th.

Senate Filibusters

The award for the most arresting statistic in the first session was earned by the Senate, where 78 cloture motions were filed in a single year—an all-time Senate high and nearly 50 percent higher than the previous record set in 2002. In comparison, 42 cloture motions were filed in 1995 when Republicans took back control of the Senate, and just 27 cloture motions were filed in 2005. More than once a week, on average, senators last year resorted to the chamber’s cloture rule in an effort to limit debate and to bring the chamber to a vote. Not surprisingly, given the Senate’s slim majorities and polarized parties, Senate leaders succeeded only about half the time in securing the necessary majority of 60 votes to invoke cloture. Reflecting the deep

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divide between the two Senate parties, over 80 percent of the majority party typically voted in favor of cloture, while over half of the minority party typically voted against.

Why did Senate leaders file for cloture so often? Democratic leaders argued that Republican filibusters—threatened and real—made necessary Democrats’ reliance on cloture motions. Otherwise, slews of minority party amendments and extended debate would render legislative action impossible. Republicans strongly disagreed with the Democrats’ diagnosis, arguing instead that the majority leader too often filed for cloture before the minority had been given the chance to fully debate and amend the majority’s proposals.

To be sure, there is some truth to both sides. More generally, however, the rise in cloture motions reflects forces that are unique to the 110th Congress, as well as longer-term trends that have been underway in the Senate for some time. There is no doubt that the Democrats’ repeated efforts to force a change in the course of the war in Iraq this past year contributed to the exponential rise in both Republican filibusters and Democrats’ use of cloture. Almost one in five cloture motions were filed on measures related to the war. Senate consideration of House Democrats’ “Six-for-06” agenda also helps account for the rise in cloture motions, with nearly one in three aimed at ending debate on these Democratic policy initiatives. In other words, roughly half of the cloture motions were aimed at bringing the Senate to a vote on Democratic policy priorities. Given the differences between the parties, the Democrats’ tenuous hold on the Senate majority, and the most wide open presidential race in nearly a century, we suspect it is no coincidence that Republicans targeted Democratic priorities with filibusters.

The rise in cloture motions likely also reflects the Senate’s frequent reluctance to go to conference to resolve differences between House and Senate versions of major measures. Only about half of the major measures enacted into law in 2007 went to conference, and none of those conference reports faced cloture votes when considered on the Senate floor. Securing Republican consent in conference eliminated the minority’s incentive to defeat the conference report on the floor. In contrast, roughly half of the major measures that did not go to conference required cloture motions to bring the Senate to a vote. Republican filibusters of energy, appropriations, and Alternative Minimum Tax measures, for example, forced Democrats to drop major parts of these bills that were opposed by Republicans. Had the Senate attempted to negotiate their differences with the House in conference committees—rather than bringing compromises directly to the floor—Republicans might have reined in their obstruction and Democrats would have been less likely to



file for cloture.

It is important to recognize that the rise in cloture is not simply due to deep partisan differences. Often times in the past year, maverick Republicans like Tom Coburn (Oklahoma) and Jim DeMint (South Carolina) attempted to derail measures they deemed too costly or to force the Senate to consider cost-cutting reforms, even when such obstruction ran counter to the preferences of a majority of the Republican Conference. Not surprisingly then, cloture voting is not always partisan. When Senate Democrats succeeded in invoking cloture, on average cloture earned the votes of nearly 80 percent of the chamber. Amendments to the measure extending surveillance authority to the president, a water projects bill, ethics and lobbying reform, a measure to improve federal court security—these and other measures were enacted after cloture secured widespread support in the Senate. Granted, several of these measures had a rocky road to enactment. But the broader point is that the use of cloture need not always signal that a filibuster is imminent. Often times, leaders file for cloture to lend some predictability to floor action, as cloture blocks non-germane amendments and moves the Senate to a scheduled vote on passage.

Although the Senate's record of 78 votes is remarkable, the chamber's reliance on 60-vote thresholds is even more common than a count of cloture votes suggests. Although the practice is certainly not new, it seems that the Senate in 2007 moved more often than before to agree to 60-vote thresholds for passage even on occasions when the majority leader did not file a cloture motion. On numerous occasions last year, Senate leaders negotiated unanimous consent agreements that required amendments or bills to secure 60 votes for passage. In other words, counting cloture votes understates the power of the Senate minority to block majority will. Amendments to the farm bill, surveillance bills, the AMT measure, and defense bills, among others, were subject to 60-vote requirements negotiated by Senate leaders. The House member who declared that "it takes 60 votes to order pizza in the Senate" was not too far off the mark.

Despite the noted rise in cloture motions, it would be a mistake to conclude that the Senate's record this past year was an aberration and thus without precedent. The 60-vote requirement has been a stranglehold on the Senate for sometime. Harry Reid is not the first frustrated Senate majority leader to decry the minority party's ability to tie the chamber in knots. Bill Frist bemoaned filibusters against judicial nominees, Trent Lott and Tom Daschle before him often resorted to filing cloture motions in efforts to defeat minority filibusters. So too did earlier party leaders Bob



Dole and George Mitchell feel compelled to rely on cloture and complicated unanimous consent agreements to resolve chamber gridlock. So long as minority parties have strong incentives to exploit Senate rules, majority leaders will find themselves innovating at the margins to rein obstruction across the aisle.

Advice and Consent

Handing control of Senate committees to the Democrats has been a mixed blessing for President Bush's executive and judicial nominees. In some ways, the heat over judicial nominations has been turned down by the Democrats, who no longer need to exploit the filibuster to block nominees they perceive to be outside the judicial mainstream. Instead, Democrats have confirmed a steady stream of appointments to the U.S. District Courts. In fact, Democrats in 2007 confirmed nearly twice as many Bush nominees to the trial courts than did Republicans in 2005. Democrats have been far more selective in their consideration of the president's picks for the more salient Courts of Appeals, confirming just six of the 18 pending nominees. Still, to the Senate's credit, Democrats secured confirmation of a controversial Bush pick for a judgeship on the southern 5th Circuit Court of Appeals.

Scrutiny of executive branch appointees has certainly increased since Republicans gave up their gavels. Democrats have raised objections to the president's practice of naming only Republicans to bipartisan commissions, and have grilled numerous nominees in confirmation hearings. Senate Democrats' concerns about many of the president's nominees has often led to stalemate, with nominees to the Federal Election Commission, Nuclear Regulatory Commission, the CIA, EPA and other bodies unable to secure confirmation. Most striking, gridlock over appointments to the FEC has hobbled the commission by depriving it of the quorum necessary to do business—an unfortunate development in the midst of a highly contested presidential election. In hopes of preventing President Bush from using his power of recess appointments to skirt the Senate confirmation process, Democrats have led a charade of "pro forma" sessions during the Senate's Christmas break. Whether or not such sessions could truly forestall a recess appointment remains to be seen, and perhaps tested, by the president.

Conclusion

Arguments that nothing has changed in Congress, and that the broken branch remains utterly broken, are wide of the mark. Decisive elections make a difference.

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The agenda has shifted markedly. Congress is working longer and harder.

Congressional oversight of the executive branch has increased dramatically, with real consequences for policy and administration. Assertions of the inherent powers of the presidency are now routinely challenged in both the House and Senate. Congress has toughened ethics regulations, increased the transparency of and reduced the amount spent on earmarks, and reaped a modest but significant legislative harvest.

But the venomous partisan atmosphere, routine suspension of regular order, and increasing use of the Senate filibuster continue unabated, with serious consequences for the capacity of government to deal effectively with pressing problems and for the reputation of Congress among voters. Major change in these basic dimensions of legislative behavior must await a further transformation of the broader political environment, which only an election can set in motion. To change the dynamic on Capitol Hill, the burden will be especially heavy on the new president for a very different kind of leadership, one that creates incentives and opportunities for cross-party collaboration.

In the meantime, Democratic leaders in Congress might take some initial steps during the second session of the 110th Congress to engage their Republican colleagues in genuine debate and deliberation. A promising opportunity is presented by the widespread call for an economic stimulus package in the face of a looming recession. It would be a shame if ideological differences, partisan interests, and electoral ambitions frustrate such an effort. Those in charge have a special responsibility to go the extra mile to make it happen.

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examines policy-making and oversight activity in
the 110th Congress as well as action on key
issues to provide a complete picture of the
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Democratic majorities in the House and Senate.

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*This publication was made possible in part by a
grant from the Carnegie Corporation of New
York. The statements made and views
expressed are solely the responsibility of the
author(s).*





House	103 rd Congress (1993)	104 th Congress (1995)	109 th Congress (2005)	110 th Congress (2007)
<i>Time In Session^j</i>				
Legislative Days	142	167	140	164
Hours	982	1525	1067	1376
<i>Roll Call Votes</i>	615	885	671	1186
<i>Measures Passed</i>				
Substantive	94	132	82	148
Routine	258	154	159	358
Symbolic	94	44	191	447
<i>Oversight Hearings</i>				
Full Committee and Subcommittee	679	576	521	844
Appropriations	288	300	132	208
Iraq			68	166
<i>Markups</i>	360	392	188	259
<i>Rules</i>				
Open	20 (9 on appropriations bills)	46 (12 on appropriations bills)	12 (11 on appropriations bills)	12 (11 on appropriations bills)
Modified Open	7	16	2	9
Structured	18	15	29	38
Modified Closed	14	10	12	12
Closed	10	15	24	46
Self-Executing	16	8	17	36
<i>Suspensions</i>	241	143	441	797
<i>Motions to Recommit</i>				
Total Offered	27	47	35	86
Successful	2	4	0	21
<i>Waivers of Layover Requirements</i>				
Expedited Rules	6	9	9	7
Waivers on Conference Reports	8	11	16	8
<i>Average Party Unity Scores</i>				
Democrats	85	80	88	92
Republicans	84	91	90	85



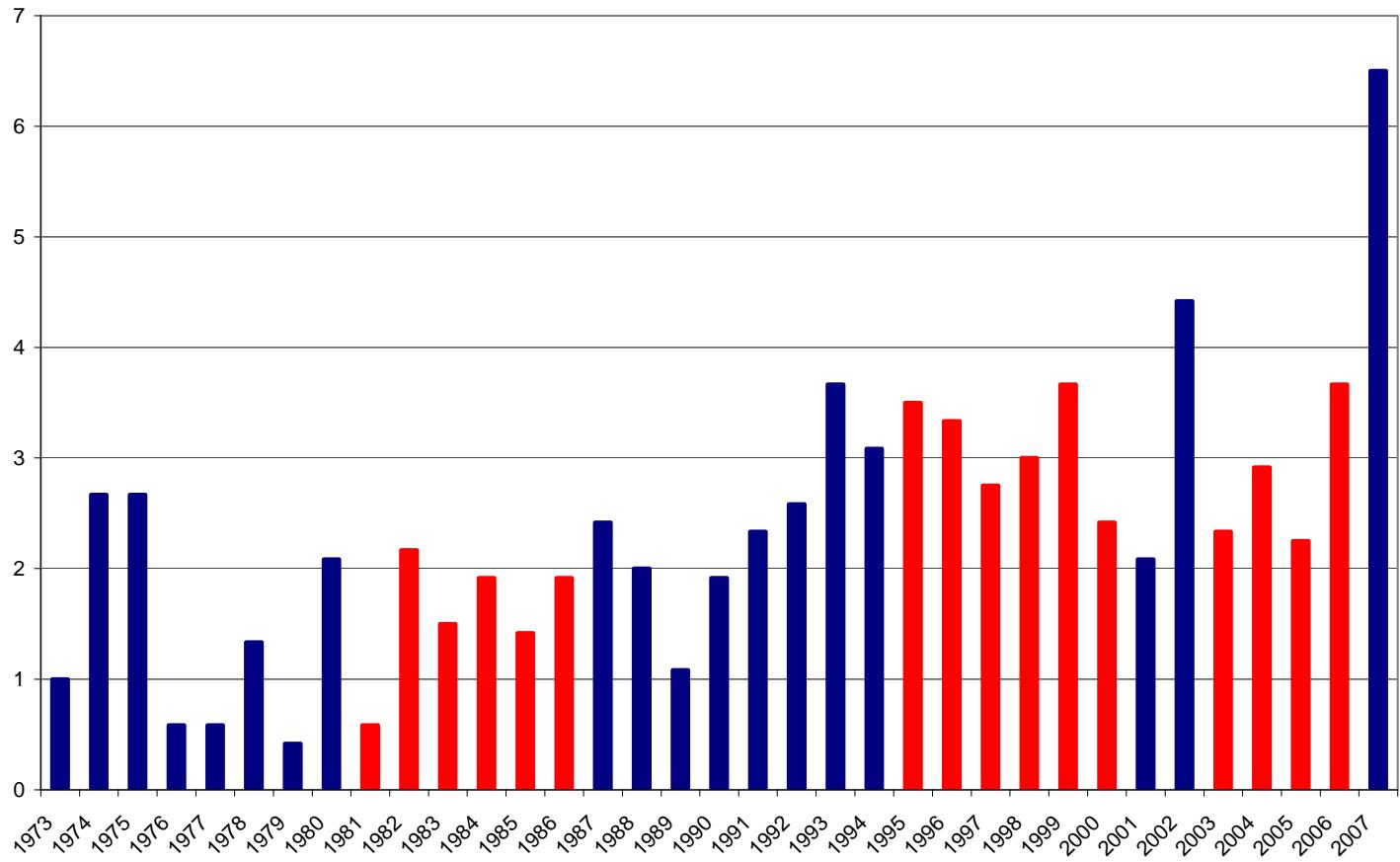
Senate	103 rd Congress (1993)	104 th Congress (1995)	109 th Congress (2005)	110 th Congress (2007)
<i>Time In Session</i>				
Legislative Days	153	211	159	189
Hours	1270	1839	1222	1478
<i>Roll Call Votes</i>	395	613	366	442
<i>Measures Passed</i>				
Substantive	77	98	62	68
Routine	262	127	171	153
Symbolic	120	75	268	382
<i>Oversight Hearings</i>				
Full Committee and Subcommittee	262	319	313	437
Appropriations	135	128	77	85
Iraq			64	75
<i>Markups</i>	137	153	126	136
<i>Cloture Motions</i>				
Successful	4	4	13	31
Failed	20	17	7	29
Withdrawn	15	12	7	13
No Action Taken	4	9	0	5
<i>Judicial Nominations</i>				
Percentage of Court of Appeals Nominees Confirmed	60%	56.3%	50%	33.3%
Percentage of District Court Nominees Confirmed	60.5%	64.7%	58.3%	64.2%
<i>Average Party Unity Scores</i>				
Democrats	85	81	88	87
Republicans	84	89	88	81





Congress	103 rd Congress (1993)	104 th Congress (1995)	109 th Congress (2005)	110 th Congress (2007)
<i>Public Laws</i>				
Signed by President	210	94	169	180
Vetoed	0	11	0	7
Vetoes Overridden	0	1	0	1
<i>Approval Ratings</i>				
Pre-Election	18%	23%	40%	26%
Beginning of Congress	27%	33%	43%	35%
August Recess	23%	30%	36%	18%
End of Session	24% (Nov. 1993)	30% (Sept. 1995)	29% (Dec. 2005)	22% (Dec. 2007)
<i>Appropriations</i>				
Number of Appropriations Bills Enacted by October 1	10 of 12	0 of 13	2 of 11	0 of 13
Number of Days Between October 1 and Enactment of Final Spending Bill	42	208	90	86
Number of Days Between April 15 and Enactment of Budget Resolution	0 (passed April 1)	75	13	32
Number of Continuing Resolutions Needed	4	5	3	4
Total Number of Earmarks			9,963	11,043
Total Amount of Earmarks			\$29 billion	\$14.1 billion

Average Number of Cloture Motions Filed per Month, 1973-present



Glossary

Measures Passed: Substantive measures are those that make notable changes to policy or that pertain to high-profile issues. (In the 109th Congress, these included the Terri Schiavo matter; in the 110th, ethics reforms.) Routine measures concern non-controversial matters or make only small changes to existing policy. Symbolic measures are those without force or effect, like those honoring particular people or calling on a group to take a particular action.

Oversight Hearings: These include hearings that a committee calls oversight hearings (for example, “the committee concluded an oversight hearing to examine CAFE standards”); hearings held by oversight subcommittees; reauthorization hearings for specific federal programs; hearings on specific portions of the federal budget; and hearings that investigate an established problem or an existing program or policy.

Rules: The House Rules Committee determines which of five types of rules will set the conditions for the debate and amendment of a particular piece of legislation. An open rule allows any member to offer an amendment that complies with the standing rules of the House. A modified open rule requires amendments be pre-printed in the Congressional Record. A ‘structured’ rule allows three or more amendments to be considered; a modified closed rule allows only one or two. Closed rules prohibit amendments other than those recommended by the committee that sent the bill to the floor. Any type of rule on a bill may be self-executing, meaning that specific amendments can be included as part of it without needing to be voted on separately. Any type of rule on a bill may be self-executing, meaning that specific amendments can be included as part of it without needing to be voted on separately.

Waivers of layover requirements: Layover requirements stipulate how long after a bill or conference agreement is reported the House must wait before beginning its deliberations. One waiver of these requirements is called an expedited procedure rule, and it allows legislation to be brought to the floor on the same day that the House Rules Committee approves the rule governing its debate and amendment



process instead of waiting until the next legislative day. The second waives the requirement that a conference report cannot be considered by the House until the third business day after the report and joint explanatory statement have appeared in the Congressional Record.

Motions to Recommit: Under House rules, this motion allows those in opposition to a measure one final chance to obtain a recorded vote on their preferred course of action. A motion to recommit without instructions effectively kills the bill under consideration by requiring that it repeat all the steps in the committee consideration process and is not debatable. A motion to recommit with instructions (a more common course of action) sends the bill back to the committee that sent it to the floor, usually with language calling for the measure to be reported back immediately and giving these motions the functional equivalency of substantive amendments or substitutes.

Party Unity Scores: For each session of Congress, Congressional Quarterly compiles party unity scores. Using roll call votes on which a majority of Democrats opposed a majority of Republicans, CQ calculates the percentage of time that a member votes in agreement with his or her party on these votes. The statistics reported here are the average unity score for House and Senate members of both parties.

Appropriations Earmarks: During the annual appropriations process, members seek funding for specific projects for their specific districts or states; these requests are known as earmarks. Though a wide range of definitions of the term exist, the statistics reported here draw on comprehensive reviews of the annual appropriations bills by Citizens Against Government Waste, a nonpartisan, nonprofit organization dedicated to eliminating waste, fraud, abuse, and mismanagement in government.



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