

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a light blue color with darker blue outlines for continents. The hourglass is centered on the page.

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Report RL33681

*FY2007 Regular Appropriations Acts: Procedures for  
End-of-Session Wrap-Up*

Robert Keith, Government and Finance Division

Updated December 21, 2006

**Abstract.** This report discusses some of the major procedural features and historical precedents associated with the consideration of annual appropriations acts at the end of a Congress, including the use of continuing resolutions, omnibus appropriations acts, the enforcement of discretionary spending levels (including the use of across-the-board spending cuts), and the consideration of annual appropriations acts in previous lame duck sessions.

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# CRS Report for Congress

## FY2007 Regular Appropriations Acts: Procedures for End-of-Session Wrap-Up

Updated December 21, 2006

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Prepared for Members and  
Committees of Congress

# FY2007 Regular Appropriations Acts: Procedures for End-of-Session Wrap-Up

## Summary

The House and Senate convened in a lame-duck session on November 9, 2006 to resume the consideration of the remaining regular appropriations acts for FY2007 (which began on October 1, 2006) and other legislation. The House and Senate considered legislation during the week of November 13-17, and again during the week of December 4-8, before adjourning sine die pursuant to H.Con.Res. 503. (The Senate completed its legislative business early in the morning of December 9.)

The two chambers were not able to complete action on any of the remaining regular appropriations acts, and congressional leaders decided to defer the matter to the 110<sup>th</sup> Congress. In order to accommodate this approach, the third continuing appropriations measure, P.L. 109-383, provides funding through February 15, 2007. The incoming chairmen of the House and Senate Appropriations Committees in the 110<sup>th</sup> Congress, Representative David Obey and Senator Robert C. Byrd, respectively, jointly announced their intention to conclude action on FY2007 appropriations with a “year-long joint resolution” that would include “limited adjustments” to current funding levels and “no congressional earmarks.”

Two of the 11 regular appropriations acts for FY2007 were enacted into law. The Defense Appropriations Act, H.R. 5631, was signed into law by President George W. Bush on September 29, as P.L. 109-289, and the Homeland Security Appropriations Act, H.R. 5441, was signed into law on October 4, as P.L. 109-295.

With regard to the nine remaining regular appropriations acts, the House passed all but one of them. The House did not consider the Labor-HHS-Education Appropriations Act, H.R. 5647, which was reported by the House Appropriations Committee on June 20 (H.Rept. 109-515). The Senate passed one of the nine remaining regular appropriations acts, the Military Construction and Veterans Affairs Appropriations Act (H.R. 5385), and all of the others were reported by the Senate Appropriations Committee. (The Senate initially considers a twelfth regular appropriations measure, the District of Columbia Appropriations Act, as a separate measure before it is merged into the Transportation-Treasury-HUD-Judiciary-D.C. Appropriations Act.)

Continuing appropriations for FY2007 have so far been provided by a series of three continuing resolutions. The most recent one (P.L. 109-383), as indicated above, extends through February 15, 2007.

During the period from 1994 to the present, five previous lame duck sessions were held (in 1994, 1998, 2000, 2002, and 2004). Regular or continuing appropriations acts, or both, were considered during the latter three sessions, but not the first two. Five regular appropriations acts were enacted into law during the lame duck session in 2000, and nine in 2004; in the case of the 2002 lame duck session, 11 regular appropriations acts were considered and enacted into law early in the next Congress, in 2003, many weeks after the lame duck session had ended. This report will be updated as developments warrant.

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# FY2007 Regular Appropriations Acts: Procedures for End-of-Session Wrap-Up

The House and Senate convened in a lame-duck session on November 9, 2006 to resume the consideration of the remaining regular appropriations acts for FY2007 (which began on October 1, 2006) and other legislation.<sup>1</sup> The House and Senate considered legislation during the week of November 13-17, and again during the week of December 4-8, before adjourning sine die pursuant to H.Con.Res. 503. (The Senate completed its legislative business early in the morning of December 9.)

The two chambers were not able to complete action on any of the remaining regular appropriations acts, and congressional leaders decided to defer the matter to the 110<sup>th</sup> Congress. In order to accommodate this approach, the third continuing appropriations measure, P.L. 109-383, provides funding through February 15, 2007.<sup>2</sup> The incoming chairmen of the House and Senate Appropriations Committees in the 110<sup>th</sup> Congress, Representative David Obey and Senator Robert C. Byrd, respectively, jointly announced their intention to conclude action on FY2007 appropriations with a “year-long joint resolution” that would include “limited adjustments” to current funding levels and “no congressional earmarks.”<sup>3</sup>

Spending controlled by the annual appropriations process, and provided in regular, continuing, and supplemental appropriations acts under the jurisdiction of the House and Senate Appropriations Committees, is referred to as *discretionary spending*. In contrast, spending controlled by substantive legislation (usually permanent law) under the jurisdiction of the other committees of the House and Senate is referred to as *mandatory spending* or *direct spending*. Of the total new budget authority of \$2,583 billion enacted for FY2005, \$985 billion (38%) was classified as discretionary spending.<sup>4</sup> Discretionary spending is used in large measure to fund the routine activities of federal agencies, while mandatory spending is used mainly to fund entitlement programs.

This report briefly discusses some of the major procedural features and historical precedents associated with the consideration of annual appropriations acts

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<sup>1</sup> The text of the adjournment resolution providing for the lame duck session, H.Con.Res. 483, is printed in the *Congressional Record* (daily ed.) of Sept. 29, 2006 at page S10635.

<sup>2</sup> CQ Today, “Lawmakers Kick 2007 Spending Bills into 110<sup>th</sup> Congress,” by Liriel Higa and Steven T. Dennis, Nov. 20, 2006.

<sup>3</sup> The joint statement is available at the Web site of the Senate Appropriations Committee at: [<http://appropriations.senate.gov/demoinfo/record.cfm?id=266863>]

<sup>4</sup> Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2007, Historical Tables*, February 2006, Table 5-1, p. 99, and Table 5-4, p. 113.

at the end of a Congress, including the use of continuing resolutions, omnibus appropriations acts, the enforcement of discretionary spending levels (including the use of across-the-board spending cuts), and the consideration of annual appropriations acts in previous lame-duck sessions. In addition, the report summarizes legislative actions in this regard during the 2006 lame-duck session.

## Status of FY2007 Regular Appropriations Acts

Two of the eleven regular appropriations acts for FY2007 were enacted into law prior to the beginning of the lame-duck session.<sup>5</sup> The House and Senate agreed to the conference report on the Defense Appropriations Act, H.R. 5631, on September 26 and September 29, 2006, respectively.<sup>6</sup> The measure was signed into law by President George W. Bush on September 29, as P.L. 109-289. On September 29, the House and Senate both agreed to the conference report on the Homeland Security Appropriations Act, H.R. 5441.<sup>7</sup> On October 4, President Bush signed the measure into law, as P.L. 109-295.

With regard to the nine remaining regular appropriations acts, the House passed all but one of them during the six-week period covering May 18 through June 29. The House did not consider the Labor-HHS-Education Appropriations Act, H.R. 5647, which was reported by the House Appropriations Committee on June 20 (H.Rept. 109-515).

The Senate considered one of the nine remaining regular appropriations acts, the Military Construction and Veterans' Affairs Appropriations Act (H.R. 5385), which passed on November 14; the two chambers did not take any conference action on the bill. All of the other regular appropriations acts for FY2007 were reported by the Senate Appropriations Committee during June and July. The Senate initially considers a twelfth regular appropriations measure, the District of Columbia Appropriations Act, as a separate measure before it is merged into the Transportation-Treasury-HUD-Judiciary-D.C. Appropriations Act. For FY2007, the Senate Appropriations Committee reported a separate District of Columbia Appropriations Act, S. 3660, but it was not considered by the Senate.

Information on the status of the FY2007 regular appropriations acts is presented in **Table 1**, at the end of the report.

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<sup>5</sup> From the late 1960s through the end of the 108<sup>th</sup> Congress (covering the FY2005 budget cycle), the number of regular appropriations acts was fixed at 13 each year. At the beginning of the 109<sup>th</sup> Congress, the House and Senate Appropriations subcommittees were restructured. As a consequence, the number of regular appropriations bills considered by both chambers was reduced from 13 bills to 11 bills, beginning with the FY2006 budget cycle.

<sup>6</sup> H.Rept. 109-676, Sept. 25, 2006. The vote on agreeing to the conference report was 394-22 in the House and 100-0 in the Senate.

<sup>7</sup> H.Rept. 109-699, Sept. 28, 2006. The vote on agreeing to the conference report was 412-6 in the House; the Senate agreed to the conference report by voice vote.

## Continuing Appropriations Acts for FY2007

When action on one or more of the regular appropriations acts is not completed by the beginning of the fiscal year, Congress turns to continuing appropriations acts to provide stop-gap funding.<sup>8</sup> Continuing appropriations acts commonly are referred to as *continuing resolutions* (CRs) because usually they provide continuing appropriations in the form of a joint resolution rather than a bill. Occasionally, however, continuing appropriations are provided in bill form.

Congressional reliance on continuing resolutions is demonstrated by the fact that during the 55-year period covering FY1952-FY2006, continuing resolutions were enacted for all but five fiscal years. In recent years, continuing resolutions were not needed for FY1989, FY1995, and FY1997, when all of the regular appropriations acts were enacted on time.

In the absence of regular appropriations, the failure to enact continuing appropriations in a timely manner results in a funding gap. Funding gaps usually require that affected federal agencies shut down and furlough many of their employees.<sup>9</sup>

In years in which the regular appropriations acts are not all enacted on time, the House and Senate usually resort to a series of continuing resolutions to “buy time” to complete legislative action.<sup>10</sup> During the first 30 years that the congressional budget process under the Congressional Budget Act of 1974 was fully in effect, covering FY1977-FY2006, an average of about five continuing resolutions was enacted yearly. The largest number of continuing resolutions enacted for a single fiscal year — 21 — occurred for FY2001.

Just before the beginning of the fiscal year on October 1, the House and Senate sent President Bush a bill that included continuing appropriations for FY2007. In order to expedite action, the continuing appropriations were included at the conference stage in the Defense Appropriations Act for FY2007, as Division B (entitled “Continuing Appropriations Resolution, 2007”).<sup>11</sup> As indicated previously, the measure was signed into law on September 29, as P.L. 109-289.

The continuing appropriations provided in Division B of P.L. 109-289, and in subsequent continuing appropriations acts, as is the case generally with continuing appropriations, are provided at restrictive levels. The funding formula contained in P.L. 109-289 sets continuing appropriations for programs and activities generally at

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<sup>8</sup> For general information, see CRS Report RL30343, *Continuing Appropriations Acts: Brief Overview of Recent Practices*, by Sandy Streeter.

<sup>9</sup> Exceptions are made under law so that activities for certain authorized purposes, such as protecting property and the safety of human life, may continue during a funding gap.

<sup>10</sup> For more information on this topic, see CRS Report RL32614, *Duration of Continuing Resolutions in Recent Years*, by Robert Keith.

<sup>11</sup> The text of Division B is provided in the *Congressional Record* (daily ed.) of Sept. 25, 2006 at pp. H7010-H7012.

the lowest level, whether it is the level in the pertinent House-passed bill, Senate-passed bill, or the current rate (for FY2006). As mentioned previously, the Senate passed one of the remaining regular appropriations acts. Section 110 of Division B emphasizes the restrictive nature of the continuing appropriations:

This division shall be implemented so that only the most limited funding action of that permitted in the division shall be taken in order to provide for continuation of projects and activities.

On September 29, the Office of Management and Budget issued a bulletin to federal agencies apprising them of the procedures for operating under continuing appropriations.<sup>12</sup>

In order to avoid any funding gaps before Congress had an opportunity to address the FY2007 regular appropriations acts during the lame duck session, the continuing appropriations did not expire until November 17 (the lame duck session was scheduled to convene on November 9). This marked the fourth consecutive election year in which continuing appropriations were provided for an interval extending into a lame duck session. In 2004, the first continuing resolution for FY2005, enacted on September 30, expired on November 20. In 2002, the fourth continuing resolution for FY2003, enacted on October 18, expired on November 22. Finally, in 2000, the 15<sup>th</sup> continuing resolution for FY2001, enacted on November 4, expired on November 14.

A second continuing appropriations measure for FY2007, H.J.Res. 100, was introduced on November 14, passed by the House and Senate on November 15, and signed into law on November 17, as P.L. 109-369. The measure provided continuing appropriations through December 8, 2006.

A third continuing appropriations measure, H.J.Res. 102, was signed into law on December 9 as P.L. 109-383. The measure extends continuing appropriations through February 15, 2007.

Information on the status of the FY2007 continuing appropriations acts is presented in **Table 2**, at the end of the report.

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<sup>12</sup> Office of Management and Budget, Bulletin 06-04, *Apportionment of the Continuing Resolution(s) for Fiscal Year 2007*, Sept. 29, 2006, available on the OMB website at [<http://www.whitehouse.gov/omb/bulletins/fy2006/b06-04.pdf>].

## Appropriations Measures Considered in Prior Lame Duck Sessions

A lame duck session occurs during the period following election day (the Tuesday after the first Monday in November of each even-numbered year) and before the convening of a new Congress about two months later in early January.<sup>13</sup>

During the first 30 years that the congressional budget process was fully in effect (covering FY1977-FY2006), the House, the Senate, or both chambers met in lame duck session seven times. Although such sessions were rare in the decades following World War II, they have become more frequent in recent years. Two lame duck sessions, in 1980 and 1982, occurred during the first half of the 30-year period (covering FY1977-FY1991); the remaining five lame duck sessions — in 1994, 1998, 2000, 2002, and 2004 — occurred during the second half of the period (covering FY1992-FY2006).

**Table 3**, at the end of the report, provides information on annual appropriations acts considered during the five lame duck sessions that occurred during the period covering 1994-2004 (as well as on the 2006 lame duck session). As the table shows, Congress acted on appropriations acts during (or after) three of the five sessions. All of the regular appropriations acts for FY1995 and FY1999 were enacted into law prior to the respective lame duck sessions in 1994 and 1998. Consequently, no action on appropriations measures was needed in those two years.

Five regular appropriations acts were enacted into law during the lame duck session in 2000, and nine in 2004; in the case of the 2002 lame duck session, 11 regular appropriations acts were considered and enacted into law early in the next Congress, in 2003, many weeks after the lame duck session had ended.

Most of the regular appropriations acts considered during (or after) lame duck sessions were incorporated into omnibus appropriations measures. Finally, between one and six further continuing resolutions were enacted into law during each of these three sessions.

Action on appropriations measures in connection with the 2000, 2002, and 2004 lame duck sessions is discussed in more detail below.

**2000 Lame Duck Session.** Five of the 13 regular appropriations acts for FY2001 were considered and enacted into law during the lame duck session at the end of the 106<sup>th</sup> Congress, three in an omnibus appropriations act and two separately.

The Consolidated Appropriations Act for FY2001, P.L. 106-554, covered the following three regular appropriations acts: (1) Labor-HHS-Education; (2) Legislative Branch; and (3) Treasury-Postal Service. The two regular appropriations acts enacted separately were the Commerce-Justice-State Appropriations Act for

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<sup>13</sup> For more information on lame duck sessions, see CRS Report RL33677, *Lame Duck Sessions of Congress, 1935-2004 (74<sup>th</sup>-108<sup>th</sup> Congresses)*, by Richard S. Beth.

FY2001, P.L. 106-553, and the District of Columbia Appropriations Act for FY2001, P.L. 106-522.

The other eight regular appropriations acts for FY2001 became law prior to the lame duck session (six separately and two as part of another omnibus measure).

Fifteen continuing appropriations acts were enacted into law before the lame duck session began. Six further continuing appropriations acts were considered and enacted into law during the lame duck session.

**2002 Lame Duck Session.** No regular appropriations acts were considered during the lame duck session at the end of the 107<sup>th</sup> Congress.

Two of the regular appropriations acts for FY2003 were enacted into law before the lame duck session began — the Defense Appropriations Act, P.L. 107-248, and the Military Construction Appropriations Act, P.L. 107-249; they both became law on October 23, 2002. All of the remaining 11 regular appropriations acts for FY2003 were considered and enacted into law early in the next Congress as a single measure, the Consolidated Appropriations Resolution for FY2003, P.L. 108-7 (February 20, 2003), many weeks after the lame duck session had ended.

One further continuing appropriations act for FY2003 was considered and enacted into law during the lame duck session (P.L. 107-294). Four such acts were enacted into law before the lame duck session began, and three more were enacted early in the next Congress.

**2004 Lame Duck Session.** Nine of the 13 regular appropriations acts for FY2005 were considered and enacted into law during the lame duck session at the end of the 108<sup>th</sup> Congress as part of an omnibus measure, the Consolidated Appropriations Act for FY2005, P.L. 108-447.

The other four regular appropriations acts were enacted into law before the lame duck session began (the Defense, District of Columbia, Homeland Security, and Military Construction Appropriations Acts).

Two further continuing appropriations acts for FY2005 were considered and enacted into law during the lame duck session (P.L. 108-416 and P.L. 108-434). One such measure was enacted into law before the lame duck session began.

## Omnibus Appropriations Acts

Omnibus appropriations acts, which provide funding for two or more of the regular appropriations acts, have become a significant feature of the legislative process in recent years as Congress and the President have used them more frequently to bring action on the regular appropriations cycle to a close.<sup>14</sup>

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<sup>14</sup> For more information on this topic, see CRS Report RL32473, *Omnibus Appropriations Acts: Overview of Recent Practices*, by Robert Keith.

During the period covering FY1986-FY2006, a total of 271 regular appropriations acts were considered. All but one of these acts were enacted into law either individually or as part of an omnibus measure. Of the 270 measures enacted into law, 181 (67%) were enacted as freestanding measures and 89 (33%) were enacted in omnibus legislation. On average, less than nine (8.6) regular appropriations acts were enacted into law as freestanding measures and more than four (4.2) were enacted into law in omnibus legislation each year.

During this period, 12 different omnibus measures were enacted into law for 11 different fiscal years (two separate omnibus appropriations acts were enacted for FY2001). Each of the measures funded between two and 13 of the regular appropriations acts, on average funding about seven of them. Eight of the omnibus measures were bills or joint resolutions carrying the designation “consolidated” appropriations or “omnibus consolidated” appropriations in the title; three were continuing appropriations acts; and one was the VA-HUD Appropriations Act for FY2001, which also included the Energy and Water Development Appropriations Act for FY2001.

As indicated in the preceding section, an omnibus appropriations act was considered during (or after) three of the last five lame duck sessions:

- In 2000, the Consolidated Appropriations Act for FY2001, P.L. 106-554, covered three of the 13 regular appropriations acts (Labor-HHS-Education, Legislative Branch, and Treasury-Postal Service);
- The Consolidated Appropriations Resolution for FY2003, P.L. 108-7, covered 11 of the 13 regular appropriations acts (all except the Defense and Homeland Security Appropriations Acts), but it was considered early in the next Congress and enacted into law on February 20, 2003, after the 2002 lame duck session had ended; and
- In 2004, the Consolidated Appropriations Act for FY2005, P.L. 108-447, covered nine of the 13 regular appropriations acts.

Although omnibus appropriations acts may offer a means of managing political conflict and promoting legislative efficiency, their use has been criticized for various reasons. In 2005, following a realignment of the appropriations subcommittees that reduced the number of regular appropriations acts considered by both chambers from 13 to 11, the House and Senate Appropriations Committee chairmen pledged to enact the FY2006 regular appropriations acts individually, thus avoiding an omnibus measure. The pledge was met successfully, and the final two regular appropriations acts for FY2006 (Defense and Labor-HHS-Education) became law on December 30, 2005.

With regard to the FY2007 appropriations acts, committee leaders again voiced a desire to avoid the use of an omnibus appropriations act. Before and during the 2006 lame duck session, there was speculation whether the House and Senate would be able to enact the remaining regular appropriations acts individually or would employ an omnibus appropriations act, two or more “mini” omnibus appropriations acts, a continuing resolution extending into 2007, or some combination thereof. As

previously indicated, congressional leaders decided to defer the matter to the 110<sup>th</sup> Congress and continuing appropriations were provided through February 15, 2007.

## Enforcement of Discretionary Spending Levels

The House and Senate are considering regular appropriations acts for FY2007 within the framework of a limit on new budget authority for that fiscal year of \$872.8 billion (see discussion below). With the enactment into law of the Defense and Homeland Security Appropriations Acts for FY2007, providing new budget authority of \$377.4 billion and \$31.9 billion, respectively, \$463.5 billion remains under the limit for the remaining annual appropriations acts.<sup>15</sup> The amount remaining under the limit (\$463.5 billion) is about \$7 billion above the funding level established by the current continuing resolution (\$456.5 billion).

**Limit on FY2007 Appropriations Under Deeming Resolutions.** The Congressional Budget Act of 1974 requires the annual adoption of a budget resolution establishing aggregate levels of revenues, spending, the debt limit, and the surplus or deficit, as well as allocations of spending. With regard to the enforcement of discretionary spending levels reflected in the budget resolution, the 1974 act relies mainly on points of order in Sections 302 and 311 of the act dealing with allocations of discretionary spending by appropriations subcommittee and aggregate spending (which includes both discretionary and mandatory spending), respectively.

When the House and Senate do not reach final agreement on a budget resolution in a timely manner (or fail to reach final agreement altogether) during a session, they may be faced with a difficult situation regarding the enforcement of discretionary spending levels for upcoming fiscal years. The House and Senate must adopt a new budget resolution each year in order for the enforcement of annually appropriated spending levels to be continuous. If a budget resolution is not adopted for a fiscal year, there are no allocations of spending made to the Appropriations Committees under Section 302(a), and no basis for them to make the required spending suballocations under Section 302(b).

Consequently, when the House and Senate have been presented with such situations, they have resorted to the use of deeming resolutions to provide a basis for updated enforcement.<sup>16</sup> The term “deeming resolution” is not officially defined, nor is there any specific statute or rule authorizing such legislation. Instead, the use of a deeming resolution simply represents the House and Senate employing regular legislative procedures to deal with the issue on an ad hoc basis.

Deeming resolutions were used in one or both chambers when the House and Senate did not reach agreement on a budget resolution in 1998 (for FY1999), in 2002

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<sup>15</sup> See the discussion in the Senate Budget Committee’s online *Budget Bulletin* of November 7, 2006, no. 12, at [<http://www.senate.gov/~budget/republican/analysis/2006/BB-Latest.pdf>], and tables prepared by the Congressional Budget Office, “Current Status of Discretionary Appropriations,” at [<http://www.cbo.gov/budget/approps/approps.pdf>].

<sup>16</sup> For additional information on this topic, see CRS Report RL31443, *The “Deeming Resolution”: A Budget Enforcement Tool*, by Robert Keith.

(for FY2003), and in 2004 (for FY2005). As indicated previously, lame duck sessions were held in each of these years.

In 2006, the House and Senate did not reach agreement on the FY2007 budget resolution (H.Con.Res. 376; S.Con.Res. 83) and again employed a deeming resolution to provide a basis for enforcement of discretionary spending levels.

On May 18, the House adopted a deeming resolution in the form of a provision (Section 2) in a special rule providing for consideration of the Interior-Environment Appropriations Act for FY2007, H.Res. 818. Section 2 provided that upon House adoption of the FY2007 budget resolution (which occurred on May 18), the provisions of the House-passed budget resolution and its accompanying report “shall have force and effect in the House for all purposes of the Congressional Budget Act of 1974 as though adopted by the Congress.” Thus, the deeming resolution effectively put into play enforcement procedures in the House at levels consistent with the President’s FY2007 request for \$873 billion in total discretionary new budget authority.<sup>17</sup>

The deeming resolution for FY2007 for the Senate was included in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery for FY2006, which was signed into law on June 15, 2006, as P.L. 109-234. Section 7035 of the act (120 Stat. 489-490) also put into effect enforcement procedures in the Senate at the level of \$873 billion for discretionary spending.

According to the House Budget Committee, the annualized rate of funding provided under the current continuing resolution (H.J.Res. 102, which became P.L. 109-383) is \$457.2 billion in new budget authority, which is \$6.1 billion (1.3%) below the \$464.3 billion that can be accommodated under the deeming resolutions.<sup>18</sup>

**Across-the-Board Spending Cuts.** In order to adhere to restraints imposed by congressional budget resolutions or deeming resolutions, the statutory limits on discretionary spending (in effect from FY1991-FY2002), or ad hoc budget agreements between congressional leaders and the President, or to meet other purposes, Congress and the President from time to time incorporate across-the-board cuts in discretionary budget authority into annual appropriations acts.<sup>19</sup> During the six fiscal years covering FY2000-FY2005, five government-wide, across-the-board spending cuts were included in omnibus appropriations acts. In addition, a government-wide across-the-board cut was included in the Defense Appropriations

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<sup>17</sup> See the discussion in the report of the House Budget Committee to accompany H.Con.Res. 376, *Concurrent Resolution on the Budget — Fiscal Year 2007*, H.Rept. 109-402 (Mar. 31, 2006), pp. 6-7.

<sup>18</sup> An “Appropriations Update” statement on H.J.Res. 102, issued on December 8, 2006, is available on the House Budget Committee’s Web site at: [http://budget.house.gov/approp/au0614-061208-cr3.pdf]

<sup>19</sup> This topic is discussed in more detail in CRS Report RL32153, *Across-the-Board Spending Cuts in Omnibus Appropriations Acts*, by Robert Keith.

Act for FY2006, a year in which all of the regular appropriations acts were enacted separately.<sup>20</sup>

The across-the-board spending cuts included in omnibus appropriations acts ranged in size from 0.22% to 0.80% of covered appropriations, and were estimated to yield between \$1.1 billion to \$3.5 billion in savings. In the Defense Appropriations Act for FY2006, the government-wide across-the-board spending cut was 1% and was estimated to reduce total budget authority by about \$8.5 billion. The percentage cuts and estimated savings for the three omnibus appropriations acts associated with the lame duck sessions in 2000, 2002, and 2004 were as follows:

- the 0.22% cut for FY2001 in P.L. 106-554 saved an estimated \$1.1 billion in budget authority;
- the 0.65% cut for FY2003 in P.L. 108-7 saved an estimated \$2.6 billion in budget authority; and
- the 0.80% cut for FY2005 in P.L. 108-447 saved an estimated \$3.5 billion in budget authority.

Omnibus appropriations acts sometimes include other across-the-board spending cuts (or reductions of fixed dollar amounts) that apply to individual appropriations acts, as set forth in separate divisions of the omnibus legislation. P.L. 108-447, for example, included three other provisions requiring across-the-board spending cuts focused on particular divisions of the act: (1) a 0.54% cut in the Commerce-Justice-State Appropriations division, estimated to save \$229 million; (2) a 0.594% cut in the Interior Appropriations division, estimated to save \$120 million; and (3) a cut of \$18 million in the Labor-HHS-Education Appropriations division, applicable to administrative and related expenses for departmental management (except for the Food and Drug Administration and the Indian Health Service).

The House and Senate Appropriations Committees initially proposed FY2007 spending allocations at levels \$4 billion (House) to \$9 billion (Senate) below the President's request for defense. During final action on the Defense Appropriations Act for FY2007 in September, in the face of a veto threat, about \$5 billion was restored to the bill in order to accommodate the President's request.<sup>21</sup>

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<sup>20</sup> The act, which became P.L. 109-148 on December 30, 2005, included in Division B, Section 3801(a), a government-wide spending cut of 1% (118 Stat. 2791-2792). Emergency requirements and spending for the Department of Veterans Affairs were exempted from the cut, which was expected to reduce total budget authority by about \$8.5 billion. For additional information, see OMB Bulletin 06-02, *Guidance on Implementing the Government-wide Across-the-Board Reduction in the Department of Defense Appropriations Act, FY 2006 (H.R. 2863)*, Jan. 5, 2006, available at [<http://www.whitehouse.gov/omb/bulletins/fy2006/b06-02.pdf>].

<sup>21</sup> The veto threat was conveyed in the *Statement of Administration Policy* on H.R. 5631 of August 2, 2006 (Senate), available on the Office of Management and Budget website at [<http://www.whitehouse.gov/omb/legislative/sap/109-2/hr5631sap-s.pdf>].

According to media reports, the action on the Defense Appropriations Act for FY2007 may have complicated the task of securing final passage of regular appropriations acts dealing with domestic spending:

Both House Appropriations Committee Chairman Jerry Lewis (R-Calif.) and his Senate counterpart, Thad Cochran (R-Miss.), attempted to reserve more funds for domestic programs, which fared poorly in Bush's February budget. First, Lewis proposed to cut \$4 billion from Bush's defense request in order to have those funds for other areas. Cochran and Senate Appropriations Defense Subcommittee Chairman Ted Stevens (R-Alaska) went further, shifting \$9 billion away from Defense in order to better fund bills such as that for the departments of Labor and Health and Human Services. However, in the end, the lawmakers agreed to restore \$5 billion of the funds to Defense in order to avoid a veto of the must-pass legislation.<sup>22</sup>

In the past, across-the-board spending cuts have been used to make room for spending increases in high-priority programs while maintaining total funding within an overall limit. While the House Budget Committee has indicated that current continuing appropriations place total non-emergency discretionary spending about \$6 billion below the \$873 billion cap on new budget authority, it is not clear whether an across-the-board spending cut would be needed to accommodate the "limited adjustments" envisioned by the incoming House and Senate Appropriations Committee chairmen in the "year-long joint resolution" expected to conclude action on the FY2007 appropriations.

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<sup>22</sup> See "Restoration of Defense Cuts Clouds Outlook For Post-Election Domestic Spending Efforts," by Nancy Ognanovich and Jonathan Nicholson, in BNA's *Daily Report for Executives*, no. 185, Monday, Sept. 25, 2006, p. A-16.

**Table 1. Status of FY2007 Regular Appropriations Acts**

Appropriations Act	Bill Number	House Action	Senate Action	Public Law	Date Signed
Agriculture	H.R. 5384	Passed	Reported	—	—
Defense	H.R. 5631	Agreed to Conference Report	Agreed to Conference Report	P.L. 109-289	09-29-2006
Energy and Water	H.R. 5427	Passed	Reported	—	—
Foreign Operations	H.R. 5522	Passed	Reported	—	—
Homeland Security	H.R. 5441	Agreed to Conference Report	Agreed to Conference Report	P.L. 109-295	10-04-2006
Interior-Environment	H.R. 5386	Passed	Reported	—	—
Labor-HHS-Education	H.R. 5647	Reported	Reported	—	—
Legislative Branch	H.R. 5521	Passed	Reported	—	—
Military Quality of Life-VA	H.R. 5385	Passed	Passed	—	—
Science-State-Justice-Commerce	H.R. 5672	Passed	Reported	—	—
Transportation-Treasury-HUD-Judiciary-D.C. <sup>a</sup>	H.R. 5576	Passed	Reported	—	—

**Source:** Prepared by the Congressional Research Service from information provided in the Legislative Information System and the *FY2007 Status Table of Appropriations* at the CRS website ([<http://www.crs.gov/products/appropriations/appover.shtml>]).

<sup>a</sup> At the beginning of the 109<sup>th</sup> Congress, the House and Senate Appropriations subcommittees were restructured. As a consequence, the number of regular appropriations bills considered by both chambers was reduced from 13 bills to 11 bills. (The number of regular appropriations acts had been fixed at 13 since FY1968.) The Senate initially considers a twelfth bill, the District of Columbia Appropriations Act, as a separate measure before it is merged into the Transportation-Treasury-HUD-Judiciary-D.C. Appropriations Act. For FY2007, the Senate Appropriations Committee reported a separate District of Columbia Appropriations Act, S. 3660, but it has not been considered by the Senate.

**Table 2. Status of FY2007 Continuing Appropriations Acts**

Measure	Measure Number	Public Law No.	<i>Statutes-at-Large</i> Citation	Enactment Date	Expiration Date	Duration in Days <sup>a</sup>	No. of Regular Appropriations Acts Initially Covered <sup>a</sup>
Defense Appropriations Act (Division B, Continuing Appropriations)	H.R. 5631	P.L. 109-289	120 Stat. 1311-1316	09-29-2006	11-17-2006	48	10
Further Continuing Appropriations	H.J.Res. 100	P.L. 109-369	120 Stat. 2642	11-17-2006	12-08-2006	21	9
Further Continuing Appropriations	H.J.Res. 102	P.L. 109-383	120 Stat. 2678-2679	12-09-2006	02-15-2007	69	9

**Source:** Prepared by the Congressional Research Service from information provided in the Legislative Information System and the *FY2007 Status Table of Appropriations* at the CRS website ([<http://www.crs.gov/products/appropriations/appover.shtml>]).

<sup>a</sup> Under P.L. 109-289, continuing appropriations were provided for several days for programs funded in the Homeland Security Appropriations Act, until that act became law on October 4 (P.L. 109-295). The separate regular appropriations act in the Senate for the District of Columbia (which is merged into a more comprehensive House-passed bill) is not counted in this table.

**Table 3. Appropriations Measures Considered in Lamé Duck Sessions: 1994-2006**

Year	Starting Date <sup>a</sup>	Ending Date <sup>a</sup>	Appropriations Act(s)	Comment
<b>103<sup>rd</sup> Congress</b>				
1994	November 29	December 1	[none]	All 13 of the regular appropriations acts for FY1995 were enacted prior to the start of the fiscal year on October 1, before the lame duck session.
<b>105<sup>th</sup> Congress</b>				
1998	December 17	December 19	[none]	Over three days, the House considered and passed a resolution of impeachment against President Bill Clinton; the Senate was not in session.  All 13 of the regular appropriations acts for FY1999 were enacted into law prior to the lame duck session, five separately and eight in an omnibus appropriations act. The final eight regular appropriations acts for FY1999 were included in the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY1999, P.L. 105-277, which became law on October 21.

Year	Starting Date <sup>a</sup>	Ending Date <sup>a</sup>	Appropriations Act(s)	Comment
<b>106<sup>th</sup> Congress</b>				
2000	November 13	December 15  <a href="http://wikileaks.org/wiki/CRS-RL33681">http://wikileaks.org/wiki/CRS-RL33681</a>	<p>P.L. 106-520, Further Continuing Appropriations Act for FY2001 (November 15, 2000)</p> <p>P.L. 106-522, District of Columbia Appropriations Act for FY2001 (November 22, 2000)</p> <p>P.L. 106-537, Further Continuing Appropriations Act for FY2001 (December 5, 2000)</p> <p>P.L. 106-539, Further Continuing Appropriations Act for FY2001 (December 7, 2000)</p> <p>P.L. 106-540, Further Continuing Appropriations Act for FY2001 (December 8, 2000)</p> <p>P.L. 106-542, Further Continuing Appropriations Act for FY2001 (December 11, 2000)</p>	<p>Five of the 13 regular appropriations acts for FY2001 were considered and enacted into law during the lame duck session, three in an omnibus appropriations act and two separately.</p> <p>The Consolidated Appropriations Act, P.L. 106-554, covered the following three regular appropriations acts: (1) Labor-HHS-Education, (2) Legislative Branch, and (3) Treasury-Postal Service.</p> <p>The Commerce-Justice-State Appropriations Act, P.L. 106-553, and the District of Columbia Appropriations Act, P.L. 106-522, were enacted separately.</p> <p>The remaining eight regular appropriations acts for FY2001 became law prior to the lame duck session (six separately and two as part of an omnibus measure).</p> <p>Six further continuing appropriations acts were considered and enacted into law during the lame duck session. Fifteen continuing appropriations acts were enacted into law before the lame duck session began.</p>

Year	Starting Date <sup>a</sup>	Ending Date <sup>a</sup>	Appropriations Act(s)	Comment
		<a href="http://www.congress.gov/legislation/recordings/recordings.cfm?recordings=106-543">http://www.congress.gov/legislation/recordings/recordings.cfm?recordings=106-543</a>	<p>P.L. 106-543, Further Continuing Appropriations Act for FY2001 (December 15, 2000)</p> <p>P.L. 106-553, Commerce-Justice-State Appropriations Act for FY2001 (December 21, 2000)</p> <p>P.L. 106-554, Consolidated Appropriations Act for FY2001 (December 21, 2000)</p>	
<b>107<sup>th</sup> Congress</b>				
2002	November 7	November 22	P.L. 107-294, Further Continuing Appropriations Act for FY2003 (November 23, 2002)	<p>Two of the regular appropriations acts for FY2003 were enacted into law before the lame duck session began — the Defense Appropriations Act, P.L. 107-248, and the Military Construction Appropriations Act, P.L. 107-249; they both became law on October 23, 2002.</p> <p>All of the remaining 11 regular appropriations acts for FY2003 were considered and enacted into law early in the next Congress as a single measure, the Consolidated Appropriations Resolution for FY2003, P.L. 108-7 (February 20, 2003).</p> <p>One further continuing appropriations act for FY2003 was considered and enacted into law during the lame duck session (P.L. 107-294). Four such acts</p>

Year	Starting Date <sup>a</sup>	Ending Date <sup>a</sup>	Appropriations Act(s)	Comment
				were enacted into law before the lame duck session began, and three more were enacted early in the next Congress.
<b>108<sup>th</sup> Congress</b>				
2004	November 16	December 8 <a href="http://wikileaks.org/wiki/CRS-RL33881">http://wikileaks.org/wiki/CRS-RL33881</a>	<p>P.L. 108-447, Consolidated Appropriations Act for FY2005 (December 8, 2004)</p> <p>P.L. 108-416, Further Continuing Appropriations Act for FY2005 (November 21, 2004)</p> <p>P.L. 108-434, Further Continuing Appropriations Act for FY2005 (December 3, 2004)</p>	<p>Nine of the 13 regular appropriations acts for FY2005 were considered and enacted into law during the lame duck session as part of an omnibus measure, the Consolidated Appropriations Act for FY2005, P.L. 108-447.</p> <p>The remaining four regular appropriations acts were enacted into law before the lame duck session began (the Defense, District of Columbia, Homeland Security, and Military Construction Appropriations Acts).</p> <p>Two further continuing appropriations act for FY2005 were considered and enacted into law during the lame duck session (P.L. 108-416 and 108-434). One continuing appropriations act was enacted into law before the lame duck session began.</p>

Year	Starting Date <sup>a</sup>	Ending Date <sup>a</sup>	Appropriations Act(s)	Comment
<b>109<sup>th</sup> Congress</b>				
2006	November 9	December 8  <a href="http://wikileaks.org/wiki/CRS-RL33681">http://wikileaks.org/wiki/CRS-RL33681</a>	P.L. 109-369, Further Continuing Appropriations Act for FY2007 (November 17, 2006)	Two of the regular appropriations acts for FY2007 were enacted into law before the lame duck session began — the Defense Appropriations Act, P.L. 109-289, which became law on September 29, 2006, and the Homeland Security Appropriations Act, P.L. 109-295, which became law on October 4, 2006.  None of the remaining nine regular appropriations acts for FY2007 were enacted into law during the lame duck session; they are funded through February 15, 2007 under a continuing resolution.
			P.L. 109-383, Further Continuing Appropriations Act for FY2007 (December 9, 2004)	During the lame duck session, the Senate considered and passed the Military Construction and Veterans Affairs Appropriations Act, but the two chambers did not take any conference action on the bill.  Two further continuing appropriations act for FY2007 were considered and enacted into law during the lame duck session, (P.L. 109-369 and P.L. 109-383). One continuing appropriations act was enacted into law before the lame duck session began.

**Source:** Prepared by the Congressional Research Service from information provided in the Legislative Information System.

<sup>a</sup> The starting and ending dates refer to the first date and the last date that the House, the Senate, or both were in session after election day (the Tuesday after the first Monday in November). In 2002, the House and Senate stayed in session, rather than adjourning prior to the election and then reconvening; November 7 was the first day of session after election day, which was November 5 that year. In 2006, the Senate adjourned sine die after the House, but not until after 4:00 in the morning on December 9.