

CRS Report for Congress

Consolidated Appropriations Act for FY2008: Brief Overview

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Consolidated Appropriations Act for FY2008: Brief Overview

Summary

The Consolidated Appropriations Act for FY2008 was the measure used by Congress and the President to wrap up action on the regular appropriations acts in late 2007. The measure, H.R. 2674, originated as the State-Foreign Operations Appropriations Act for FY2008, passing the House in June and the Senate in September 2007.

In December 2007, as the first session of the 110th Congress drew to a close, action on only one of the 12 regular appropriations acts for FY2008 had been completed. The Defense Appropriations Act for FY2008 was signed into law by President Bush on November 13, as P.L. 110-116. The act provided FY2008 funding for regular activities of the Defense Department, but largely left funding for activities pertaining to military operations in Afghanistan and Iraq for subsequent consideration in other legislation.

In deciding to use H.R. 2674 as the vehicle for omnibus appropriations for FY2008 covering the remaining 11 regular appropriations acts, as well as emergency funding for military operations in Iraq and Afghanistan, congressional leaders also decided to avoid conference procedures that typically are used to bring the House and Senate into final agreement on a measure. Instead, congressional leaders decided to reach final agreement by means of an exchange of amendments between the two chambers. On December 17, the House began final action on the measure by agreeing to two amendments to the Senate amendment to the House-passed bill. The Senate concurred the next day, December 18, in one House amendment (providing omnibus appropriations for the 11 regular appropriations bills), and amended the second House amendment with the McConnell Amendment (adding Iraq war funding). The following day, on December 19, the House concurred in the McConnell Amendment, thus clearing the measure for the President. President George W. Bush signed the bill into law on December 26.

The Consolidated Appropriations Act for FY2008 provides \$473.5 billion in funding for 11 of the 12 regular appropriations acts for the fiscal year, as well as \$70 billion in emergency spending for military operations in Iraq and Afghanistan, \$3.7 billion in emergency spending for veterans' health care, and \$7.5 billion for other emergency spending. In total, the act provides \$554.7 billion in discretionary budget authority for FY2008. Total discretionary budget authority, when combined with the spending provided in the Defense Appropriations Act for FY2008, amounts to \$932.847 billion, a level just at the limit requested by President Bush.

One of the features used to constrain total spending provided in the Consolidated Appropriations Act for FY2008 was across-the-board spending cuts. The cuts were not government wide, as had been the case with some omnibus appropriations acts in earlier years, but instead applied to six of the divisions of the act, ranging in size from 0.25% (Legislative Branch) to 1.747% (Labor-HHS-Education). This report will be updated as developments warrant.

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Consolidated Appropriations Act for FY2008: Brief Overview

The Consolidated Appropriations Act for FY2008 was the measure used by Congress and the President to wrap up action on the regular appropriations acts in late 2007, at the end of the first session of the 110th Congress. This report provides a brief overview of the measure, including a discussion of the context for legislative action, the legislative history of the bill, a summary of its structure and content, and information on the use of across-the-board spending cuts to offset part of its cost.

The Context for Legislative Action

Each year, Congress and the President enact discretionary spending in the form of regular appropriations acts, as well as continuing and supplemental appropriations acts.¹ Discretionary spending, which accounts for more than one-third of total federal spending, is spending that is under the control of the House and Senate Appropriations Committees. For the most part, discretionary spending funds the routine operations of the federal government. It is distinguished from direct spending, which is controlled by the legislative committees in substantive law and funds such mandatory programs as Social Security and Medicare. Discretionary spending and direct spending together make up total federal spending.

The number of regular appropriations acts had been fixed at 13 for several decades.² A realignment of the House and Senate Appropriations subcommittees at the beginning of the 109th Congress reduced the number of regular appropriations acts considered each year to 11, and further subcommittee realignment at the beginning of the 110th Congress increased the number to 12.³

In the late 1970s and continuing into the 1980s, continuing appropriations acts sometimes took the form of omnibus legislation, often incorporating the full text of multiple regular appropriations acts for full-year funding instead of providing short-

¹ For background on the appropriations process, see CRS Report 97-684, *The Congressional Appropriations Process: An Introduction*, by Sandy Streeter.

² For information on changes in the number of regular appropriations acts over the years, see CRS Report RL31572, *Appropriations Subcommittee Structure: History of Changes from 1920-2007*, by James V. Saturno.

³ In the 109th Congress, the Senate Appropriations Committee reported a twelfth regular appropriations act, for the District of Columbia, but in final legislative action it was incorporated into another bill.

term funding by formula.⁴ In recent years, the House and Senate on several occasions have combined multiple regular appropriations acts into omnibus or “consolidated” appropriations measures to bring action on appropriations measures to a close at the end of a session.⁵

The House and Senate consider annual appropriations acts, and other budgetary legislation, within constraints established in a yearly budget resolution required by the Congressional Budget Act of 1974, as amended. Budget resolution policies are enforced by points of order that may be raised during House and Senate consideration of spending, revenue, and debt-limit legislation.⁶ On occasion, budget policies may be modified by agreements reached between congressional leaders and the President; such modifications may be accommodated during legislative action through the use of waivers of points of order, emergency spending designations, and other budgetary or procedural devices.

In his budget submission for FY2008, President George W. Bush requested total discretionary budget authority for the fiscal year of \$929.8 billion (as well another \$145.2 billion in discretionary budget authority for emergency funding for the “Global War on Terror”).⁷ The President’s request, excluding emergency spending, was reestimated by the Congressional Budget Office at \$932.8 billion in budget authority.⁸

A conference report on the budget resolution for FY2008, S.Con.Res. 21, was filed on May 16, 2007 (H.Rept. 110-153). The two chambers reached agreement on the budget resolution the next day, by a vote of 214-209 in the House and 52-40 in the Senate. Under the plan, Congress proposed total discretionary budget authority for FY2008 of \$954.7 billion (excluding \$145.2 billion for Function 970, Overseas Deployments and Other Activities), an amount more than \$20 billion greater than the President’s request.⁹

⁴ For more information on practices relating to the use of continuing appropriations acts, see CRS Report RL32614, *Duration of Continuing Resolutions in Recent Years*, by Robert Keith.

⁵ For more information on this topic, see CRS Report RL32473, *Omnibus Appropriations Acts: Overview of Recent Practices*, by Robert Keith.

⁶ For a general discussion of budget enforcement procedures, see CRS Report 98-721, *Introduction to the Federal Budget Process*, by Robert Keith.

⁷ Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2008*, February 2007, Summary Table S-2, p. 152.

⁸ Congressional Budget Office, *An Analysis of the President’s Budgetary Proposals for Fiscal Year 2008*, March 2007, Table 1-6, pp. 20-21.

⁹ H.Rept. 110-153, Concurrent Resolution on the Budget for Fiscal Year 2008 (to accompany S.Con.Res. 21), May 16, 2007, table on pp. 51-52. In the table, total discretionary budget authority for FY2008 (\$1,099.862 billion), minus budget authority for Function 970 (\$145.162 billion), yields budget authority of \$954.700 billion.

From time to time during the 2007 session, the President reiterated his request to Congress that discretionary budget authority for FY2008 (excluding emergency spending) not exceed \$933 billion. To buttress his position on this issue, the President threatened, in several Statements of Administration Policy (SAP), to veto regular appropriations measures that would have provided spending above this level.¹⁰

In December 2007, as the first session of the 110th Congress drew to a close, action on only one of the 12 regular appropriations acts for FY2008 had been completed. The Defense Appropriations Act for FY2008, H.R. 3222, was signed into law by President Bush on November 13, as P.L. 110-116 (121 Stat. 1295-1344).¹¹ The act provided FY2008 funding for regular activities of the Defense Department, but largely left funding for activities pertaining to military operations in Afghanistan and Iraq for subsequent consideration in other legislation.¹²

Another regular appropriations act, the Labor-Health and Human Services-Education Appropriations Act for FY2008, H.R. 3043, had passed both chambers and been sent to President Bush, but he vetoed the measure on November 13. On November 15, the House narrowly failed to override the veto, by a vote of 277-141 (lacking the necessary two-thirds margin). In earlier action on the measure, an effort by the House to incorporate the Military Construction-Veterans Affairs Appropriations Act for FY2008 (H.R. 2642) into H.R. 3043, as a separate division, was rejected by the Senate.¹³

With regard to the remaining 10 regular appropriations acts, all of them had been passed by the House and five had been passed by the Senate (Commerce-Justice-Science; Homeland Security; Military Construction-Veterans Affairs; State-Foreign Operations; and Transportation-HUD), but by mid-October no further action occurred on them as separate, free-standing measures.

⁹ (...continued)

discretionary budget authority for FY2008 to the amount recommended in the FY2008 budget resolution, see “*Jeopardy-Style Budget Quiz: 2008 Appropriations*” in the *Budget Bulletin*, No. 7 (110th Cong., 1st Sess.), November 15, 2007, prepared by the Republican staff of the Senate Budget Committee and available at [<http://www.senate.gov/~budget/republican/analysis/2007/bb07-2007.pdf>].

¹⁰ See, for example, the SAP of June 25, 2007 on H.R. 2643, the Interior-Environment Appropriations Act for FY2008.

¹¹ Detailed information regarding congressional action on annual appropriations acts for FY2008 (and prior fiscal years) is provided in the “Appropriations Status Table,” available on the CRS website at [<http://www.crs.gov/products/appropriations/appover.shtml>].

¹² For additional information on defense funding for FY2008, see CRS Report RL33999, *Defense: FY2008 Authorizations and Appropriations*, by Pat Towell, Stephen Daggett, and Amy Belasco.

¹³ See Division B, pp. 59-82 (legislative text) and pp. 434-520 (joint explanatory statement), in the conference report on H.R. 3043 (H.Rept. 110-424, November 5, 2007).

Following the failure on November 15 to override the President's veto of the Labor-HHS-Education Appropriations Act for FY2008, Democratic leaders in Congress signaled their intent to consider an omnibus appropriations act in December that would "split the difference" with regard to \$22 billion in additional spending to which President Bush objected.¹⁴ On December 8, Office of Management and Budget Director Jim Nussle issued a statement indicating that the President would veto the omnibus appropriations act being developed, in part because "according to press reports it would include 18 billion in additional domestic and emergency spending above the President's budget."¹⁵ In response to the veto threat, the Democratic leaders abandoned their "split the difference" plan and developed an omnibus appropriations act that adhered to the President's limit of \$933 billion, with limited additional emergency funding.¹⁶

Legislative History

The Consolidated Appropriations Act for FY2008, H.R. 2674, originated as the State-Foreign Operations Appropriations Act for FY2008 (H.Rept. 110-197, June 12, 2007, and S.Rept. 110-128, June 28). It passed the House on June 22, 2007 by a vote of 241-178, and passed the Senate on September 6, by a vote of 81-12.

In deciding to use H.R. 2674 as the vehicle for omnibus appropriations for FY2008 covering the remaining 11 regular appropriations acts, as well as emergency funding for military operations in Iraq and Afghanistan, congressional leaders also decided to avoid conference procedures that typically are used to bring the House and Senate into final agreement on a measure. Instead, congressional leaders decided to reach final agreement by means of an exchange of amendments between the two chambers.

The resolution of differences between the chambers focused on H.R. 2674, as passed by the House, and a single Senate amendment to the bill in the form of a complete substitute thereto. Under the first step, the House on December 17 considered and adopted two different amendments to the Senate amendment under the terms of H.Res. 878, a special rule reported by the House Rules Committee.¹⁷ The first House amendment provided appropriations for each of the remaining 11 regular appropriations acts for FY2008, as Divisions A-K, with each division

¹⁴ See, for example, *BNA Daily Report for Executives*, "Reid Says Democrats to Bundle Bills, Offer to 'Split Difference' With President," by Nancy Ognanovich and Jonathan Nicholson, November 16, 2007, p. A-41.

¹⁵ Office of Management and Budget, *Statement By White House Office of Management and Budget Director Jim Nussle* (press release), December 8, 2007, available on the OMB website at [http://www.whitehouse.gov/omb/pubpress/2007/120807_spending.html].

¹⁶ *CQ Weekly Report*, "Democrats Relent on Spending," by David Clark and Liriel Higa, December 17, 2007, p. 3718.

¹⁷ The House Rules Committee reported H.Res. 878 on December 17, 2007 (H.Rept. 110-497). The legislative text of the two House amendments made in order under H.Res. 878 was set forth in the report (see Appendix A of this report). The House agreed to H.Res. 878 on December 17 by a vote of 214-189.

corresponding to a regular appropriations act. It was agreed to by a vote of 253-154.

The second House amendment provided \$31 billion in emergency funding for military operations in Afghanistan, but no emergency funding for military operations in Iraq. It was agreed to by a vote of 206-201. The legislative strategy anticipated that the Iraq funding would be added to the measure by amendment in the Senate.

The next day, on December 18, the Senate considered the two House amendments. In an initial step, the Senate attempted to invoke cloture on a motion to concur in the House amendments, but the motion failed by a vote of 44-51.

The Senate next considered the second House amendment and agreed to a Senate amendment thereto (3874), offered by Senate Republican Leader Mitch McConnell, by a vote of 70-25. The McConnell amendment added funding for military operations in Iraq to Division L of the act, increasing total spending for that division to \$70 billion. Two amendments to the McConnell amendment, offered by Senator Russell Feingold (3875) and Senator Carl Levin (3876) and dealing with military operations in Iraq, were rejected by votes of 24-71 and 50-45, respectively. The two amendments subsequently were withdrawn because they failed to achieve 60 votes in the affirmative, as required by a unanimous consent agreement entered into earlier that day.

Finally, the Senate considered a motion to concur in the first House amendment (providing omnibus appropriations for the 11 regular appropriations acts). Senate Majority Leader Harry Reid offered an amendment (3877) to the House amendment providing for a one-year “patch” in the Alternative Minimum Tax (AMT) with offsets, as required by the “pay-as-you-go” (PAYGO) rules in the House and Senate. The Reid amendment was rejected by a vote of 48-46 and was withdrawn, pursuant to the aforementioned unanimous consent agreement that required 60 votes in the affirmative.¹⁸ Following the disposition of the Reid amendment, the Senate agreed to the motion to concur in the first House amendment, by a vote of 76-17.

On December 19, the House completed action on H.R. 2764 by agreeing to the McConnell amendment (on Iraq war funding) to the second House amendment, by a vote of 272-142. The House action occurred pursuant to the terms of H.Res. 893, a special rule reported by the House Rules Committee (H.Rept. 110-498; December 19, 2007). Before taking its final action, the House returned H.R. 2764 to the Senate briefly so that a clerical error could be corrected.

The special rule, H.Res. 893, also provided for the consideration of H.J.Res. 72, the fourth continuing resolution for FY2008. The measure extended continuing appropriations from December 21 through December 31 and was intended to allow adequate time for the final processing of the Consolidated Appropriations Act for FY2008. The House and Senate passed H.J.Res. 72 on December 19, and President Bush signed it into law on December 21, as P.L. 110-149 (121 Stat. 1819).

¹⁸ The House and Senate passed a one-year AMT patch without offsets (H.R. 3996), the Tax Increase Prevention Act of 2007, which President Bush signed into law on December 26, 2007 (public law number not yet assigned).

President Bush signed the bill into law on December 26, 2007 (public law number not yet assigned). The President issued a statement upon signing the bill, indicating his concern with some of its features, including the inclusion of “nearly 9,800 earmarks that total more than \$10 billion,” according to his estimates, and unspecified provisions “similar to those found in prior appropriations bills passed by the Congress that might be construed to be inconsistent with my Constitutional responsibilities.”¹⁹

Structure and Content

The Consolidated Appropriations Act for FY2008 provides \$473.5 billion in funding for 11 of the 12 regular appropriations acts for the fiscal year, as well as \$70 billion in emergency spending for military operations in Iraq and Afghanistan, \$3.7 billion in emergency spending for veterans’ health care, and \$7.5 billion for other emergency spending. In total, the act provides \$554.7 billion in discretionary budget authority for FY2008.²⁰ Total discretionary budget authority, when combined with the spending provided in the Defense Appropriations Act for FY2008 (P.L. 110-116), amounts to \$932.847 billion, an amount just at the limit requested by President Bush (see **Table 1**).²¹

Representative David Obey, the chairman of the House Appropriations Committee, inserted explanatory materials into the *Congressional Record* of December 17 (see Books II and III) providing detailed tables on the discretionary spending provided in the measure.²²

The act is organized into 11 divisions, A through K, with each of the divisions corresponding to one of the unfinished regular appropriations acts, and a twelfth division, Division L, pertaining to funding for military activities in Iraq and Afghanistan. An abbreviated listing of the contents of H.R. 2764 is provided in

¹⁹ See White House press release, “President Bush Signs H.R. 2764 into Law” (December 26, 2007) at [<http://www.whitehouse.gov/news/releases/2007/12/20071226-1.html>].

²⁰ For summary statements on the measure provided by the chairmen of the House and Senate Appropriations Committee, see (1) House Appropriations Committee, press release, “FY2008 Appropriations Bill” (December 16, 2007), available at [<http://appropriations.house.gov/pdf/FY08OmnibusSummary.pdf>]; and (2) Senate Appropriations Committee, press release, “Byrd Opening Statement on the Consolidated Appropriations Act of 2008” (December 18, 2007), available at [<http://appropriations.senate.gov/>]. See also BNA *Daily Report for Executives*, “House Passes FY2008 Omnibus Bill, Bringing Lengthy Spending Battle to End,” by Jonathan Nicholson, December 20, 2007, p. A-46.

²¹ Congressional Budget Office, “Status of Discretionary Appropriations,” tables on pp. 3 and 4 (as of December 19, 2007), available at [<http://www.cbo.gov/budget/approps/approps.pdf>].

²² See the *Congressional Record* (daily ed.), December 17, 2007, Book II, pp. H15741-H16379, and Book III, pp. H16381-H16644. The materials in Book II cover Divisions A-H of the act, and the materials in Book III cover Divisions I-K of the act, as well as Division L as proposed by the House (which ultimately was superseded by the McConnell amendment).

Appendix A. Citations are given to the pages of the *Congressional Record* of December 17, 2007, where the legislative text of the House amendment and the explanatory statement are provided, and to the *Congressional Record* of December 19, where the legislative text of Division L (as modified by Senate amendment 3874, offered by Senator Minority Leader Mitch McConnell) is provided.

Table 1. Summary of Discretionary Budget Authority for FY2008
(amounts in \$ billions)

House/Senate Appropriations Subcommittees	Non-Emergency	Emergency	Total
Agriculture-Rural Development-FDA	18.093	1.490	19.583
Commerce-Justice-Science	51.803	0.286	52.089
Defense	459.332	86.830	546.162
Energy and Water Development	30.888	0	30.888
Financial Services-General Government	20.599	0.250	20.849
Homeland Security	34.852	5.610	40.462
Interior-Environment	26.555	0.800	27.335
Labor-HHS-Education	144.841	0.444	145.285
Legislative Branch	3.970	0	3.970
Military Construction-Veterans Affairs	60.213	3.692	63.905
State-Foreign Operations	32.800	2.385	35.185
Transportation-HUD	48.901	3.173	52.074
Total	932.847	104.960	1,037.807

Source: Congressional Budget Office, “Status of Discretionary Appropriations,” tables on pp. 3 and 4 (as of December 19, 2007), available at [<http://www.cbo.gov/budget/approps/approps.pdf>].

Note: The discretionary budget authority provided in the table stems from the Consolidated Appropriations Act for FY2008 (public law number not yet assigned) and the Defense Appropriations Act for FY2008 (P.L. 110-116). Both laws provided spending attributed to the Defense Subcommittee.

Across-the-Board Spending Cuts

One of the features used to constrain total spending provided in the Consolidated Appropriations Act for FY2008 was across-the-board spending cuts. Such devices, applied on a government-wide scale, had been used in omnibus appropriations acts in recent years, ranging in size from 0.22% to 1.00% spending

cuts.²³ Unlike their earlier use, across-the-board spending cuts in the Consolidated Appropriations Act for FY2008 were not government wide, but instead were included in some divisions but not others.

Table 2 shows that across-the-board spending cuts were included in six divisions of the act, ranging in size from 0.25% (Legislative Branch) to 1.747% (Labor-HHS-Education). The spending cuts generally are required to be made proportionately, as applied to accounts and programs, projects, and activities within accounts. Emergency spending generally and certain specified items are exempted from the spending cuts. Discretionary spending for the Federal Pell Grants program, for example, is exempted from the 1.747% cut applicable to programs funded in the Labor-HHS-Education division of the act. Finally, two different percentage cuts are provided in the Energy-Water Development division of the act — a 1.6% cut from discretionary accounts that contain congressionally directed projects, and a 0.91% cut from other discretionary accounts.

²³ CRS Report RL32153, *Across-the-Board Spending Cuts in End-of-Session Appropriations Acts*, by Robert Keith.

**Table 2. Consolidated Appropriations Act for FY2008:
Across-the-Board Cuts in Discretionary Budget Authority**

Division	Act	Section	Percentage Cut(s)	Coverage
A	Agriculture-Rural Development-FDA	752	0.7%	Cuts from discretionary accounts, except for \$6.020 billion for Women, Infants, and Children program; \$930.120 million for Food Safety and Inspection Service; and emergency spending.
B	Commerce-Justice-Science	—	—	—
C	Energy and Water Development	312	1.6% and 0.91%	Cuts from Department of Energy: (1) 1.6% from discretionary accounts that contain congressionally directed projects; and (2) 0.91% from other discretionary accounts.
D	Financial Services-General Government	—	—	—
E	Homeland Security	—	—	—
F	Interior-Environment	437	1.56%	Cuts from discretionary accounts, with special procedures for cuts to the Indian Land and Water Claims Settlement Account.
G	Labor-HHS-Education	528	1.747%	Cuts from discretionary accounts, and advance appropriations for FY2008 provided in prior appropriations acts, except for discretionary spending for the Federal Pell Grants program and emergency spending.
H	Legislative Branch	210	0.25%	Cuts from discretionary accounts, except for an appropriation for utility tunnel repairs and asbestos abatement activities.

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Division	Act	Section	Percentage Cut(s)	Coverage
I	Military Construction-Veterans Affairs	—	—	—
J	State-Foreign Operations	699P	0.81%	Cuts from discretionary accounts, except for emergency spending.
K	Transportation-HUD	—	—	—

Source: Prepared by the Congressional Research Service.

Note: See Appendix A of this report for page references to the various Divisions of the act.

Appendix A. Final Text of the Consolidated Appropriations Act for FY2008: Page References

Section/ Division	Content	Congressional Record (December 17, 2007) Page Number		H.Rept. 110-497 (to accompany H.Res. 878)
		Legislative Text	Explanatory Statement	Legislative Text
Sec. 1	Short Title	H15554	H15741	2
Sec. 2	Table of Contents	H15554	—	3
Sec. 3	References	H15554	H15741	4
Sec. 4	Explanatory Statement	H15554	H15741	4
Sec. 5	Emergency Designations	H15554	H15741	4
Sec. 6	Statement of Appropriations	H15554	—	4
Division A	Agriculture-Rural Development-Food and Drug Administration	H15554	H15741	5
Division B	Commerce-Justice-Science	H15564	H15787	44
Division C	Energy and Water Development	H15578	H15868	97
Division D	Financial Services-General Government	H15588	H16047	132
Division E	Homeland Security	H15607	H16077	203
Division F	Interior-Environment	H15621	H16121	259

Section/ Division	Content	Congressional Record (December 17, 2007) Page Number		H.Rept. 110-497 (to accompany H.Res. 878)
		Legislative Text	Explanatory Statement	Legislative Text
Division G	Labor-Health and Human Services-Education	H15637	H16177	317
Division H	Legislative Branch	H15654	H16370	380
Division I	Military Construction-Veterans Affairs	H15663	H16381	416
Division J	State-Foreign Operations	H15670	H16431	440
Division K	Transportation-HUD	H15696	H16457	540
Division L	Emergency Supplemental Appropriations for Operation Enduring Freedom and For Other Purposes	S15927- S15929 (December 19)	—	—

Source: Prepared by the Congressional Research Service.

Note: The final legislative text of the Consolidated Appropriations Act for FY2008, for Sections 1-6 and Divisions A-K (and accompanying explanatory statement), was inserted into the *Congressional Record* of December 17, 2007. The identical legislative text (in a more readable format) is provided in the report of the House Rules Committee accompanying the special rule, H.Res. 878 (H.Rept. 110-497; December 17, 2007). The legislative text for Division L initially proposed by the House was amended by the Senate (and the House agreed to the Senate amendment); the final legislative text for Division L was inserted into the *Congressional Record* of December 19.