



## **BACKGROUND BRIEF: SUPPLEMENTAL APPROPRIATIONS**

*March, 2007*

### **Introduction**

As early as mid-March, Congress is likely to begin formal consideration of the Bush administration's emergency supplemental appropriations funding request submitted in early February. This request consists of funding mostly for Iraq, Afghanistan, and global war on terror military operations, as well as hurricane relief efforts, for the fiscal year ending Sept. 30, 2007. At just under \$100 billion, it is the largest supplemental appropriations funding request ever submitted to Congress, not just for the Iraq war to date, but by any President, for any purpose.

The final size of the supplemental is still unknown, as several members of Congress have said they want to add items to it through floor amendments, some proposing spending that is wholly unrelated to military operations or Hurricane Katrina relief. In addition, many of the war provisions fund non-urgent items and long-term operations. The scale – and some of the contemplated uses – of this “emergency supplemental” appropriations bill are unprecedented.

Furthermore, spending under the bill, as with any supplemental, is entirely outside the regular order of the budget process and not included in formal deficit and debt projections, raising issues of fiscal transparency and accountability. This is an opportune moment to take stock of the evolving nature and policy implications of supplemental appropriations bills and to consider some specific reforms for further examination.

### **Definition and Mechanics of Supplemental Appropriations**

A “supplemental” appropriation is spending legislation, generally but not exclusively requested by the president, intended to address a need not known or foreseen when the annual budget for the given fiscal year was drawn up. Requests generally lack the level of detail used to justify the government's annual budget requests. In both houses of Congress, supplemental spending legislation is uniformly referred to the Appropriations Committee, where it is marked-up shortly thereafter, usually without a preliminary hearing. If reported favorably, it is sent to the floor for debate, amendment, and vote. As with other legislation, identical versions must be approved by both houses and signed by the president to be enacted. The result frequently is legislation that passes Congress with perfunctory review, often bearing items that would not survive the normal budgetary review process.

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## **Use of the Emergency Designation**

Under the now-expired Budget Enforcement Act (BEA) of 1990, the “emergency” designation allowed the discretionary spending caps to be raised for both the budget authority and outlays associated with urgent spending, in order to provide a "safety valve" in cases of emergency. Nevertheless, the term "emergency" was not specifically defined, let alone codified, for budget-process purposes. In 1991, in a report required by Congress, the Office of Management and Budget attempted to develop a neutral definition of "emergency" by stating that such a requirement must meet five criteria to qualify:

- necessary expenditure – an essential or vital expenditure;
- sudden – quickly coming into being, not building up over time;
- urgent – pressing and compelling need requiring immediate action;
- unforeseen – not predictable or seen beforehand as a coming need; and
- not permanent – the need is temporary in nature.

The Bush administration has echoed these criteria closely in the set of “Budget Process Reforms” it proposes in its annual budget submissions, but it has not pressed Congress for a codified definition.

## **Budgetary Impact**

Under the BEA, which operated from 1991-2002, supplemental appropriations designated as “emergency” spending did not cause a breach of established discretionary spending caps or trigger an across the board cut, and were not required to be offset with rescissions (although at times the President and Congress did offset some emergency supplementals). This practice has survived the 2002 expiration of the BEA, and, since then, supplemental spending – “emergency” spending – has, in effect become a way for the federal government to evade annual budget limits and fiscal responsibility controls while increasing spending.

The White House regularly transmits and the House and Senate Appropriations Committees report supplemental bills containing "emergency" spending that is above budget allocations and controls. Because emergency supplementals are introduced following submission of a fiscal year’s budget, they are not subject to OMB’s budget accounting rules, and therefore not included in deficit and debt projections (Under its own rules, however, CBO *does* project all discretionary appropriations into future years, regardless of the purpose of the appropriation).

## **History of the Supplemental Appropriation**

Supplemental appropriations have been used to finance federal spending since the second session of the first Congress in 1790 and were common by the early 1800s. They frequently included spending for items authorized after the regular appropriation was enacted as well as, in some cases, spending for programs that had already obligated more funds than had been appropriated. Before the Civil War, some efforts were made to give agencies the authority to transfer funds to cover their own deficiencies. Despite those efforts, "deficiency" appropriations became so routine that "urgent deficiency" and "general deficiency" bills were considered regular appropriation bills under the jurisdiction of the House Committee on Appropriations. The routine use of deficiency appropriations raised a number of management and control issues.

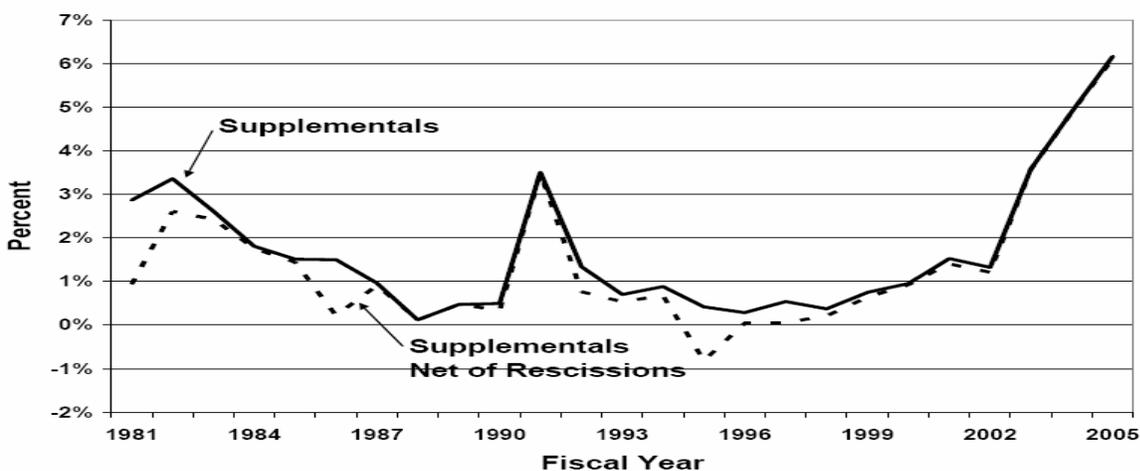
Those issues were addressed as early as the 1870s, when the Congress passed antideficiency laws prohibiting agencies from spending more in a fiscal year than their appropriations for that year. To further curtail the use of supplementals, an Antideficiency Act was enacted in 1950 to encourage agencies to set aside reserves for unanticipated expenses. The revised law sanctioned supplemental appropriations only for legislation enacted after the President's budget was submitted, as well as for emergencies related to the preservation of human life and property.

The focus on emergency-related as opposed to other supplemental spending emerged as the budget process was formalized in the 1970s. The Congressional Budget and Impoundment Control Act of 1974 provided the Congress with a comprehensive process for considering budgetary matters through the use of budget resolutions. The budget resolution is intended to set overall spending levels for the coming year – allocating mandatory spending among the various authorizing committees and discretionary spending to the House and Senate Appropriations Committees.

To neutralize the fiscal impact of supplementals, Congress passed the Balanced Budget and Emergency Deficit Control Act of 1985, which set fixed targets for the deficit, enforced with a regimen of automatic spending cuts known as sequestration and requiring rescissions to offset supplemental spending. If spending legislation in a given year caused the deficit target to be exceeded, the Deficit Control Act required the President to order a sequestration, or cut, of funds. Since FY 1981, 36 percent of all supplemental appropriations were offset by rescissions; however, since FY 2002, less than 0.5 percent have been offset. If all supplemental appropriations since 1981 had been fully offset, the federal debt would be \$830 billion lower than it currently is.

Supplemental appropriations remained roughly one percent of new discretionary spending during the 1980s – mostly for unemployment insurance spending. The double-digit inflation of 1980 and 1981 led to greater than expected outlays as price increases made programs more expensive to administer and the recession increased outlays for unemployment compensation and means-tested programs. Some of the unexpected spending was funded through supplemental appropriations. As the economy recovered after 1982, the need to meet unanticipated outlays was reduced, and supplemental appropriations fell. See table below:

**Supplemental Appropriations: Trends and Budgetary Impact Since 1981**



Source: Congressional Research Service, Supplemental Appropriations: Trends and Budgetary Impacts Since 1981. See [http://opencrs.cdt.org/rpts/RL33134\\_20051102.pdf](http://opencrs.cdt.org/rpts/RL33134_20051102.pdf)

During the 1987 budget summit between Congress and the President, it was agreed that supplemental appropriations bills would be reserved for dire emergencies. Except for a sharp spike in 1991 to fund the first Gulf war, supplemental appropriations remained at less than one percent of total budget authority throughout most of the 1990s.

Emergency spending and supplemental spending were closely aligned through most of the 1990s. Almost 92 percent of the discretionary supplemental spending enacted between 1991 – the year the BEA took effect – and 1999 was designated as “emergency” spending. Before 1999, emergency spending tended to represent modest supplemental appropriations in response to natural disasters or international crises. In the 1999 omnibus appropriation act – a regular appropriation measure – more than \$21 billion in appropriations were designated as emergencies, up from the single-digit levels in the several years immediately prior. That number rose to \$31 billion in 2000. Those amounts represent a significant change in the way the emergency designation had been used, possibly reflecting the appearance of the first federal budget surplus in decades.

### **Use of Supplemental Appropriations during the Bush Administration**

The use of supplemental appropriations has mushroomed during the Bush administration, and the “emergency” requirement has faded. Starting in 2002, Congress began to allow the budget discipline rules in place to expire. Thereafter, supplemental appropriations designated as emergency spending no longer counted against the annual budget limits set by Congress; they did not trigger automatic cuts if they pushed outlays above the caps.

By FY 2005, total supplemental appropriations reached about six percent of budget authority, represented 16.7 percent of new discretionary spending and, adjusted for inflation, reached an all-time high of \$143 billion. They had been just \$7 billion in 1998. Without rescission requirements to offset increased budget authority, supplemental appropriations could be used on a grander scale, and the definition of “emergency” was stretched to include all aspects of military operations.

A new pattern developed:

- In April of 2003, the President signed the first Iraq supplemental, providing \$62.6 billion for the Defense Department (after the President's budget director had predicted that the war would cost between \$50 and \$60 billion).
- In November of 2003, the President signed a second supplemental, providing \$64.9 billion for the Defense Department; the White House termed it a 'one-time, wartime supplemental' (House Report 109-504 - Department of Defense Appropriations Bill, 2007, Views of Rep. David Obey).
- In May of 2005, the President signed a third supplemental, providing \$75.7 billion for the Defense Department. Seven months later, Congress provided an additional \$50 billion of emergency funding.

Now, four years into them, the Iraq and Afghanistan wars have been almost entirely financed by emergency supplementals. This has been done even though it is clear that the funding to maintain

Iraq war operations cannot be called “emergencies.” In fact, one of the largest expenditures regularly requested in administration war funding emergency supplementals is for the salaries and benefits of Army National Guard personnel and reservists called to active duty. And Congress has begun regarding such requests by the administration as vehicles for non-emergency special spending projects. (Last year, for example, the Senate sought to add \$500,000 for the Mississippi Children’s Museum to an emergency war supplemental bill.)

For a full accounting of the administration’s requested and approved emergency appropriations for the Iraq war and the war on terrorism, see table below:

**Estimated Appropriations Provided and Requested for the War in Iraq  
and the War on Terrorism, 2001-2008**  
(amounts in billions of dollars)

|                                       | Appropriated to Date |           |           |            |           |            |           | Total<br>2001-2007 | President's Additional<br>Budget Request |            | Total<br>Appropriated<br>and<br>Requested<br>2001-2008 |
|---------------------------------------|----------------------|-----------|-----------|------------|-----------|------------|-----------|--------------------|--|------------|--|
|                                       | 2001                 | 2002      | 2003      | 2004       | 2005      | 2006       | 2007      |                    | 2007                                     | 2008       |  |
| <b>Operation Iraqi Freedom</b>        |                      |           |           |            |           |            |           |                    |  |            |  |
| Military Operations and Other Defense |                      |           |           |            |           |            |           |                    |  |            |  |
| Activities                            | 0                    | 0         | 46        | 68         | 53        | 89         | 57        | 313                | 61                                       | 108        | 482  |
| Indigenous Security Forces            | 0                    | 0         | 0         | 5          | 6         | 3          | 2         | 16                 | 4  | 2          | 21   |
| Diplomatic Operations and Foreign Aid | 0                    | 0         | 3         | 15         | 1         | 3          | 0         | 22                 | 3  | 3          | 29   |
| Subtotal                              | 0                    | 0         | 49        | 88         | 60        | 95         | 59        | 351                | 68                                       | 113        | 532  |
| <b>Other Operations</b>               |                      |           |           |            |           |            |           |                    |  |            |  |
| Military Operations and Other Defense |                      |           |           |            |           |            |           |                    |  |            |  |
| Activities                            | 14                   | 18        | 34        | 21         | 18        | 22         | 9         | 135                | 23                                       | 29         | 187  |
| Indigenous Security Forces            | 0                    | 0         | 0         | 0          | 1         | 2          | 2         | 5                  | 6  | 3          | 13   |
| Diplomatic Operations and Foreign Aid | *                    | 2         | 5         | 2          | 2         | 1          | 0         | 12                 | 1  | 0          | 13   |
| Subtotal                              | 14                   | 19        | 40        | 22         | 21        | 24         | 11        | 151                | 30                                       | 32         | 214  |
| <b>Total</b>                          | <b>14</b>            | <b>19</b> | <b>88</b> | <b>111</b> | <b>81</b> | <b>120</b> | <b>70</b> | <b>503</b>         | <b>98</b>                                | <b>145</b> | <b>746</b>   |

Source: *Estimated Funding for Operations in Iraq and the War on Terrorism* <<http://www.cbo.gov/showdoc.cfm?index=7793&sequence=0>>, February 7, 2007, Letter to the Honorable Kent Conrad from Congressional Budget Office Director, Peter Orszag. See: <http://www.cbo.gov/ftpdocs/77xx/doc7793/02-07->

By 2006, more in Congress began to see an opportunity for their own spending priorities in supplemental bills. The Senate’s supplemental bill in spring of 2006 sought to augment the president’s \$72 billion request for the Iraq war and \$20 billion for additional Katrina relief with \$14 billion in new, non-emergency spending of *its own* across all categories. See table below:

## New Spending in the Senate's 2006 War Supplemental Appropriations Bill

|   |                 |
|---|-----------------|
| Farm Subsidies  | \$3,944         |
| Avian Flu   | \$2,300         |
| FEMA (above the President's request)                                | \$1,200         |
| Fisheries   | \$1,114         |
| Community Development Block Grants (above the President's request ) | \$1,000         |
| Gulf Coast Education Grants   | \$880           |
| Mississippi's "Railroad to Nowhere"                                 | \$700           |
| Army Corps of Engineers (above the President's request)             | \$673           |
| Port Security   | \$648           |
| Highways  | \$594           |
| Coast Guard (above the President's request)                         | \$213           |
| Gulf Coast Transit  | \$200           |
| AmeriCorps  | \$20            |
| Drought Aid for Farmers   | \$13            |
| Other   | \$756           |
| <b>Total</b>  | <b>\$14,254</b> |

*Source: "Making Emergency Supplemental Appropriations for the Fiscal Year Ending September 30, 2006, and For Other Purposes," Senate Committee Report 109-230, April 5, 2006. See <http://www.heritage.org/Research/Budget/wm1038.cfm>*

The Senate bill included provisions for items unrelated to emergency military operations, ranging from \$1.5 million for training, protective services, and physical security costs for courts and judicial facilities, to \$176 million for construction for a major armed forces retirement home in Mississippi. Also included were such items as oyster restoration and additional foreign aid. (In the administration's original request, incidentally, was funding for the location of a library on a military base and ongoing regular Army procurement programs that the Pentagon moved to the "emergency" supplemental ledger where they would not have to compete with ships, aircraft and personnel costs.) In conference, however, almost all of the Senate-added provisions were dropped.

As the administration prepared its next emergency supplemental, an October 2006 directive from Deputy Defense Secretary Gordon England opened the floodgates by allowing the services to request emergency funds to replace equipment and upgrade to newer models for the "overall efforts related to the global war on terror," not just operations in Iraq and Afghanistan. "It's a feeding frenzy," an army official involved in budget planning told the [Wall Street Journal](#). "Using the supplemental budget, we're now buying the military we wish we had," he said.

Two months later, the Iraq Study Group issued its [report](#). Recommendation number 72 of the report asserted that the supplemental funding process had obscured the real cost of war in Iraq and resulted in limited oversight:

Funding requests are drawn up outside the normal budget process, are not offset by budgetary reductions elsewhere, and move quickly to the White House with minimal scrutiny. Bypassing the normal review erodes budget discipline and accountability. The war is in its fourth year, and the normal budget process should not be circumvented.

Prior to 2006, Congress had repeatedly requested inclusion of war costs in the president's budget proposals, requests routinely ignored by the administration. For the first time, pursuant to statutory requirements passed by Congress and signed by the president in 2006, the administration finally included Iraq and Afghanistan war funding proposals in its budget proposal for FY 2008. (By historical comparison, funding for the Vietnam War was supplied

through one initial supplemental appropriation, but in subsequent years, all Vietnam War funding proposals were submitted in annual presidential budget proposals.)

## **Status: the Current Supplemental Request before Congress**

The “feeding frenzy” in the drafting stage of this current supplemental described above led to galloping estimates of the size of the supplemental that President Bush eventually submitted to Congress, with some estimates this past fall climbing as high as \$160 billion. In the end, however, the administration, perhaps mindful of the 2006 midterm election results, decided to reduce its request to \$99.6 billion, including \$93.4 billion for the Pentagon and a \$3.4 billion request for additional hurricane aid.

In the weeks since Bush submitted this supplemental request, House and Senate Democratic leaders have been saying that they are weighing a host of changes – mostly additions – to the president's February emergency supplemental request for the wars in Iraq and Afghanistan. House and Senate Appropriations committees will mark up their versions of the FY 2007 supplemental later in March. Lawmakers have already said that they may add funding for items such as disaster farm assistance, the Base Realignment and Closure (BRAC) process, children's health insurance, and other issues not resolved in to their satisfaction in the Fiscal Year 2007 Continuing Resolution adopted in February.

Sen. Dianne Feinstein (D-CA) said she would seek \$1.2 billion in disaster relief for her state to deal with the recent frost damage to crops. Meanwhile, Oregon’s senators – Republican Gordon H. Smith and Democrat Ron Wyden – want \$400 million for a county-based forest payments program, of which their state is a primary beneficiary. House Appropriations Committee chair David Obey (D-WI) has announced that he will add about \$750 million in children’s health insurance program (SCHIP) funding to the House supplemental bill, enough to stave off immediate program cuts. Other members of Congress have floated numerous additional funding proposals they may seek to add to the supplemental via amendment.

## **Conclusion**

Current administration and congressional practice regarding emergency supplementals has a tendency to undermine efforts to maintain a culture of transparency, accountability, and discipline in federal budget-making and budget deficit and debt projections. The Senate’s treatment of the 2006 emergency supplemental was a tipping point. Without reform, emergency supplemental appropriations bills will most likely continue to be used as a way to add additional spending not contained in the budget, without the substantive scrutiny the regular order of the budget process provides. This practice, unfortunately, obscures or distorts important aspects of the fiscal impact of federal spending and, therefore, undermines the general fiscal responsibility of the federal government.

Among approaches to help restore fiscal integrity to the emergency supplemental appropriations legislative process – some more viable or controversial than others – OMB Watch is examining the following:

- codify and enforce a statutory definition of “emergency:”
- account for all ongoing military operations spending in annual budgets;
- include a JCT-scored deficit and debt impact statement in supplemental requests;
- establish points of order against non-emergency items in supplemental bills; and
- require a supermajority vote for emergency supplemental bills.

As the debate surrounding the current emergency supplemental bill before Congress continues and Appropriations Committee mark-ups and floor votes are held, some of these reforms, as well as others, may come up for discussion and get a wider hearing. The debate is occurring at a time when war strategy and funding issues are disputed as fiercely as ever, both inside and outside Washington, and discussion is centering on the specificity of and legitimate need for the funding requested. These circumstances create an opportunity to re-consider both the proper usage and role of emergency supplemental bills within the budget process and also reforms designed to improve fiscal transparency, accountability, and discipline.