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THE NEVER-ENDING EMERGENCY:  
Trends in Supplemental Spending

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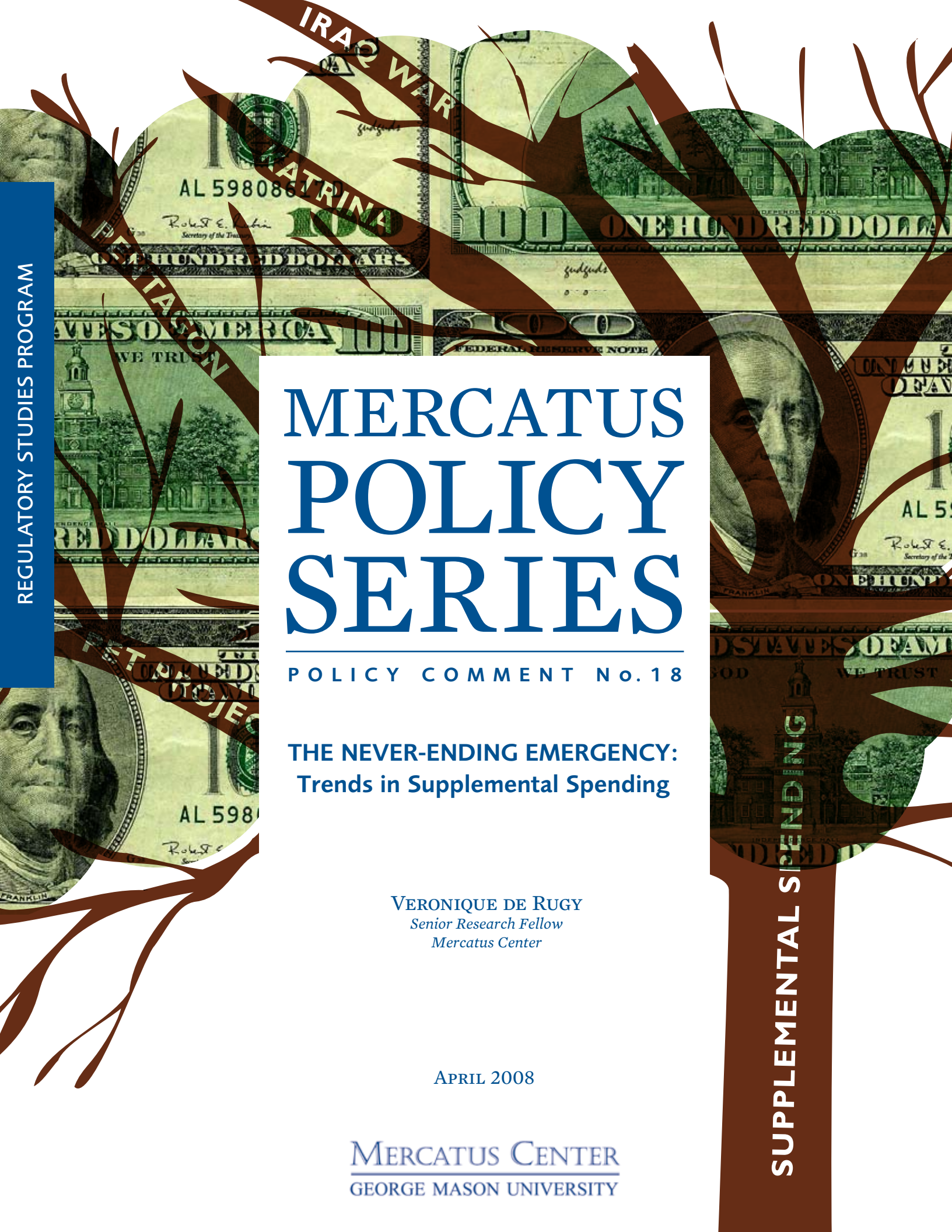
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## THE NEVER-ENDING EMERGENCY: Trends in Supplemental Spending

VERONIQUE DE RUGY

### EXECUTIVE SUMMARY

Rarely does a fiscal year pass without some type of emergency requiring a response from the federal government. When a disaster strikes, lawmakers need prompt access to federal funds, which is provided by the supplemental spending process.

This paper looks at the use of supplemental spending over the last 25 years. It reveals a considerable increase in supplemental spending since FY 1998, including a dramatic hike after FY 2002. It shows that at the heart of the problem is the concept of what constitutes an "emergency." Emergency bills are given special exceptions from the budgetary rules designed to restrain spending, such as budget caps and deficit accounting. Congress and the executive branch have used emergency-designated supplemental spending to dramatically increase government spending and avoid the caps set by annual budget resolutions.

The best way to stop the abuse of the supplemental process would be to stop exempting emergency spending from budget rules: supplemental spending—whether an emergency or not—should be offset with funding cuts in low-priority programs and should also be included in deficit accounting. If that option is not available, another option would be to retain the emergency exemption but establish specific criteria for designating spending as emergency. A third option would be to retain the emergency exemption, but require a supermajority vote of Congress to approve emergency spending. The last option would be to create a reserve fund for emergency spending.

These options are not mutually exclusive, of course, and combined they could also curtail emergency spending. For instance, lawmakers could stop exempting emergency spending from the budget rules and create a reserve fund for emergency spending. Or lawmakers could retain the exemption, establish some specific criteria for what constitutes an emergency, and also require a supermajority vote to approve emergency spending.

## The Budget Year

February	The president submits his budget to Congress.
February–March	Each agency submits justification material.
By April 15th	Congress adopts a budget resolution that sets out the spending caps for each appropriations bill.
May–July	Subcommittee markup. Each subcommittee marks up its bill and drafts a report explaining its decisions.
May–July	Full committee reports the bill.
May–July	House floor action: each bill is considered individually.
July–August	Senate floor action.
By the end of the summer	House and Senate pass appropriations bills for the upcoming fiscal year.
By October 1	The president signs appropriations bills into law.
After October 1	Passage and signature of continuing resolution if any of the regular appropriations bills have not been enacted into law.

At any moment following an emergency, the president and Congress can request and approve a supplemental bill.

Emergency spending can be attached to a regular bill.

# THE NEVER-ENDING EMERGENCY: Trends in Supplemental Spending

## INTRODUCTION\*

RARELY DOES A fiscal year pass without some type of emergency requiring a response from the federal government. When a disaster strikes, lawmakers need prompt access to federal funds, which is provided by the supplemental spending process.

In theory, supplemental bills fund programs that cannot wait until the next appropriations cycle or programs whose authorizations were just enacted or renewed. For instance, supplemental bills are often used to cover unexpected costs due to natural disaster or war. These bills are a normal part of the appropriations process and have been used in the federal spending process since the second session of the very first U.S. Congress in 1790.<sup>1</sup>

Recently, however, serious concerns have emerged about the nature and size of supplemental appropriations bills. In most cases, supplemental bills do not count against the budget caps the House and Senate set in place, maintaining the appearance that discretionary funding is under control when it is actually increasing greatly. As a result, supplemental bills have become the tool of choice for Congress and the presidential administration to avoid caps set by annual budget resolutions, resulting in dramatically increased government spending.

This paper looks at the use of supplemental spending over the last 25 years. Section 1 examines some of the

budget rules to which lawmakers are subject. It explains that, under the Budget Enforcement Act of 1990, emergency spending—most of which takes place through supplemental bills—is given special exceptions from budgetary rules.<sup>2</sup>

Section 2 looks at trends in supplemental spending, revealing a considerable increase in spending since FY 1998, including a dramatic hike after FY 2002. The spending explosion coincides with the expiration of certain budget rules that had constrained supplemental bills.

Section 3 demonstrates how the White House and Congress—particularly since FY 2002—have abused their powers to request and pass supplemental bills. It exposes many of the tactics used by lawmakers to increase spending, such as trimming defense spending in the regular appropriations process, while allowing the defense budget to be replenished later in the year through supplemental appropriations.

Section 4 offers four different and complementary ways to fix the supplemental spending process.

The paper concludes that in recent years, supplemental bills have been effectively used to hide the cost of programs that do not address emergencies or unexpected circumstances—such as the wars in Iraq and Afghanistan—and to expand spending beyond budget limits.<sup>3</sup> In addition, because of a serious lack of congressional

\* Because this paper contains considerable technical information, several appendices are provided for your aid. For a summary of major laws please see appendix 1. For a list of frequently used acronyms please see appendix 2. Federal budget terms can be found in appendix 3. All data come from the public record and are available to any interested parties, who may obtain them by contacting the author. I would like to thank Frederic Sautet, Kyle McKenzie, Winslow Wheeler, Amy Fontinelle, Lura Forcum, Jennifer Zambone and Joanna Andreasson for their help on this paper.

1. Congressional Budget Office, *Supplemental Appropriations in the 1990s* (Washington, DC, March 2001), <http://www.cbo.gov/ftpdocs/27xx/doc2768/EntireReport.pdf>.

2. U.S. Congress. House. *Budget Enforcement Act of 1990*, title XIII of PL 101-508; 2 USC 900, H.R. 5835, <http://www1.worldbank.org/public-sector/pe/BudgetLaws/BudgetEnforcementAct1990.doc>.

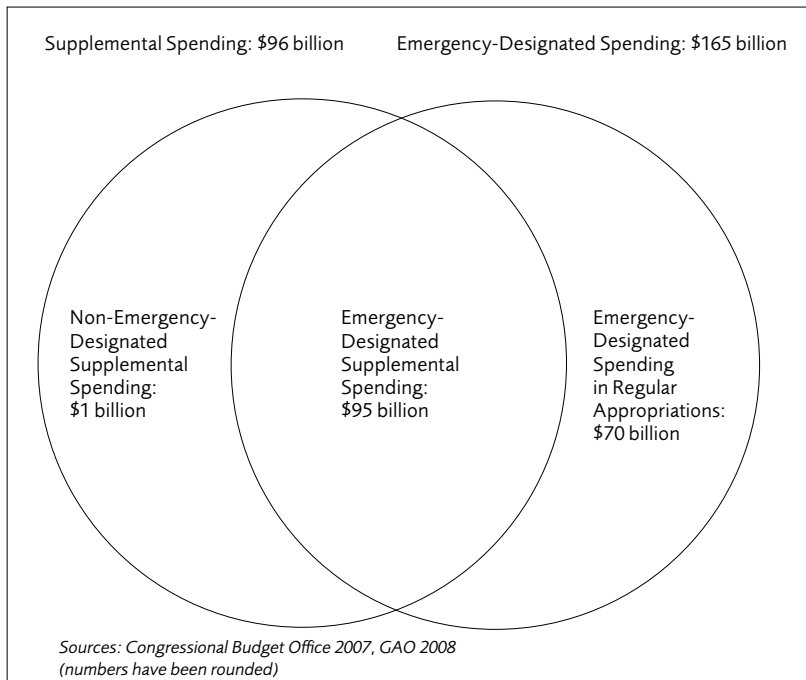
3. George Krumbhaar, "Supplementals are Climbing! Supplementals are Climbing!" U.S. Budget Daily News Service by gallerywatch.com, May 1, 2006.

oversight, supplemental bills have also become ridden with pork and other projects that would not be funded on their own merits.

## I Budget Rules and Supplemental Appropriations

SUPPLEMENTAL APPROPRIATIONS PROVIDE additional funding to an agency during the course of a fiscal year for programs and activities that are considered too urgent to wait until next year's budget. Within a single supplemental appropriations law, some funds may be designated as emergency and others may not. Although some emergency funding is included in the regular appropriations process, a recent study released by the Government Accountability Office (GAO) found that a large portion is not,<sup>4</sup> as illustrated by Figure 1.

**FIGURE 1: SUPPLEMENTAL SPENDING VERSUS EMERGENCY-DESIGNATED SPENDING: FY2006**



In FY 2006, the total amount of spending funded through the supplemental process was \$96 billion.<sup>5</sup> Of this total, \$95 billion received an emergency designation.<sup>6</sup> The remaining \$1 billion, even though spent through the supplemental process, did not receive the emergency designation.<sup>7</sup> Also in FY 2006, a total of \$165 billion in federal spending received an emergency designation. This means that \$70 billion was allocated for emergencies through the regular appropriations process.

The distinction between emergency and non-emergency funding is important because normal budget controls do not constrain emergency-designated funds. In fact, over the years, supplemental appropriations have been subjected to a variety of budgetary rules, mainly out of concerns that they would become magnets for earmarks and other wasteful spending.

The Congressional Budget and Impoundment Control Act of 1974 was the first law to establish a comprehensive process for considering budgetary matters, including mandating the use of a budget resolution.

The budget resolution sets out requirements for the fiscal year beginning on the following October 1 and for at least four subsequent fiscal years. These requirements include levels of total new budget authority and outlays; total federal revenues, including the amount, if any, by which the level of federal revenues should be increased or decreased by legislative action; the surplus or deficit in the budget; new budget authority and outlays for each major functional category; and the public debt.<sup>8</sup>

The Act requires that once the budget resolution sets aggregate spending levels, the Appropriations Committee in each chamber is given an allocation (known as a Section 302(a) allocation) for spending.<sup>9</sup> After the Appropriations Committees receive the aggregate allocation, they divide this into sub-allocations (known as Section 302(b) sub-allocations) corresponding to each of the thirteen Appropriations Subcom-

4. United States Government Accountability Office, *Supplemental Appropriations: Opportunities Exist to Increase Transparency and Provide Additional Controls*, GAO-08-314 (Washington, DC, January 2008), 3. <http://www.gao.gov/new.items/d08314.pdf>.  
 5. Congressional Budget Office, *Supplemental Appropriations from 2000 to 2006* (Washington, DC, 2007).  
 6. GAO, *Supplemental Appropriations*, 38.  
 7. *Ibid.*  
 8. For a comprehensive analysis of the 1974 Act, see Allen Schick and Felix Lostracco, *The Federal Budget: Politics, Policy, Process* (Washington, DC: Brookings Institution Press, 2007), 18.  
 9. Robert Keith, *The Deeming Resolution: A Budget Enforcement Tool* (Washington, DC: Congressional Research Service, RL31443, August 9, 2004), 2. [http://assets.opencrs.com/rpts/RL31443\\_20040809.pdf](http://assets.opencrs.com/rpts/RL31443_20040809.pdf).

mittees. The two chambers do not need to have the same 302(b) allocations for each subcommittee, but the grand total must meet the agreed-upon 302(a) allocation set by the budget resolution.<sup>10</sup>

The purpose of the 302(a) allocation is to serve as an internal Congressional control mechanism, enforceable through points of order and other procedural mechanisms in both the House and Senate. In theory, the Appropriations Committees in the House and Senate cannot exceed the aggregate total in the bills they develop in the annual appropriations process.

Another important aspect of the 1974 law is that for the first time, it required the president's annual budget request to include an allowance for expected supplemental spending. Congress also tried to mitigate the effects of supplemental spending with offsetting rescissions. Rescissions cancel funding that earlier appropriations laws authorized, but that Congress has not actually yet spent.

The Balanced Budget and Emergency Deficit Control Act of 1985, commonly referred to as the Gramm-Rudman-Hollings Act after the authors of the original bill, set maximum amounts for the federal deficit. The idea behind this 1985 act was that each year, deficit targets would decrease until the budget was balanced in FY 1991. If the deficit limits were exceeded, the president was required to cut spending by a uniform percentage across the board to bring the budget back into balance, a process called "sequestration." Depending on the year and the administration, some parts of the budget were exempted from such cuts.

Following the passage of this law, the Office of Management and Budget (OMB) instructed agencies that supplemental requests for discretionary appropriations would require offsetting budget cuts in the current year.<sup>11</sup> Exceptions would be granted only if the agency could provide a "fully justified explanation" for why the cuts were not possible.<sup>12</sup>

After the Bipartisan Budget Agreement of October 1987, the OMB issued tougher requirements. No supplement-

tal requests would be allowed in 1988 and 1989 "except in dire emergencies." However, such emergency appropriations would not require offsetting spending cuts.<sup>13</sup> The 1987 Balanced Budget and Emergency Deficit Control Reaffirmation Act also extended the deficit limits through FY 1992.

In 1990, participants in the budget process became aware that the Gramm-Rudman-Hollings deficit targets required extremely painful choices. Because the budget exceeded the deficit limit by nearly \$100 billion and Congress had exempted so much spending from sequestration, the Gramm-Rudman-Hollings framework would have required many spending programs to be cut by about a third. In response, Congress passed the Budgetary Enforcement Act (BEA) of 1990, which specified two new deficit reduction mechanisms: pay-as-you-go (PAYGO) rules and statutory discretionary spending caps.

PAYGO required across-the-board cuts in non-exempt, mandatory spending if the sum of proposed new spending and revenue measures would increase the deficit. Large categories of spending were exempt from PAYGO, including Social Security, and cuts in Medicare spending were limited to 4 percent. Importantly, the BEA also specified that emergency provisions, including supplemental bills designated as emergency bills, were exempt from PAYGO requirements.

BEA's spending caps limited budget authority and outlays for discretionary spending from FY 1991 to FY 1993 in three program categories: defense, domestic, and international. For FY 1994 and FY 1995, the caps applied to total discretionary spending. The caps were enforced by presidential sequestration.

In 1993, the PAYGO rules and discretionary caps were extended through FY 1998, and in 1997, reauthorization of the BEA of 1997 extended the budget procedures through FY 2002. These laws, along with other legislation, also added new categories of discretionary spending subject to caps.

Under BEA rules, supplemental spending had to comply with all budget limits. If supplemental spending

10. James V. Saturno, *Congress Point of Order* (Washington, DC: Congressional Research Service, June 15, 1999).

11. See the glossary for the distinction between mandatory and discretionary spending.

12. Thomas Hungerford, *Supplemental Appropriations: Trends and Budgetary Impacts Since 1981* (Washington, DC: Congressional Research Service, RL33134, November 2, 2005), 2, [http://assets.opencrs.com/rpts/RL33134\\_20051102.pdf](http://assets.opencrs.com/rpts/RL33134_20051102.pdf).

13. *Ibid.*, 3. See also William G. Dauster, "Budget Emergencies," *Journal of Legislation* 18, no. 2 (1992):253.

laws enacted before July 1 violated the caps, the president was required to sequester sufficient funds to offset this amount within 15 days. Supplemental laws enacted after the first of July that exceeded the caps reduced the relevant cap in the following fiscal year by the amount of the violation.

The BEA provided an explicit exception for emergency-designated spending, however. According to William Dauster, during the discussions leading to the adoption of the BEA, OMB negotiators offered the possibility of emergency exceptions as an inducement for Democratic negotiators to accept limits on discretionary spending enforced by sequestration.<sup>14</sup> The idea that providing an exception for emergency spending would give some flexibility to appropriators to accommodate unforeseen circumstances was also introduced at that time.<sup>15</sup>

This meant that from then on, supplemental appropriations designated as emergency spending were not counted toward budget caps, did not trigger sequestrations, and were not required to be offset with rescissions. However, there was a requirement that the emergency label only be applied to “dire emergencies.” In addition, the BEA mandated that all incremental costs associated with Operation Desert Shield be treated as emergency spending without requiring further action by Congress and the president.<sup>16</sup>

Under the BEA, the emergency spending designation could be initiated by either the president or Congress.<sup>17</sup> Yet, for funds to become available, the Act requires that both the president and Congress agree to the emergency designation. For instance, the president can designate spending as “emergency” in his budget request. Congress must then include the emergency designation in statutory language. Congress can initiate emergency spending as well, with the president’s agreement.

In FY 2002, the president and Congress allowed the BEA to expire.<sup>18</sup> Since then, supplemental appropriations that

exceed the budget caps no longer trigger sequestrations and the “dire emergency” rule has been relaxed.

In theory, supplemental bills are still subject to the 302(a) allocation limits unless Congress makes an exception. However, in the last four years, it seems that the exception has become the rule. For instance, in the FY 2005 budget resolution, Congress exempted from the limits “supplemental appropriations for fiscal year 2005 for contingency operations related to the global war on terrorism.” This means that any and all “global war on terrorism” related spending received the functional equivalent of an emergency designation. For FY 2006, Congress made the same exemption, but limited the exempted amount to \$50 billion. The FY 2007 budget resolution exempted “appropriations for fiscal year 2007 for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations.” As in FY 2005, no limits were placed on the amount Congress is allowed to spend above the budget caps in FY 2007.

It is important to note that the expiration of the BEA did not change the treatment of emergency spending. It is still true that if Congress and the president agree that a supplemental bill is necessary for an emergency, they do not have to make offsetting cuts. The only limit on emergency spending is that members of Congress can raise a point of order to protest the emergency designation.<sup>19</sup> If the point of order is made and sustained, it would prohibit the committee from considering the legislation.<sup>20</sup> However, according to the GAO, this has rarely happened, if ever.<sup>21</sup> In addition, even if a member raised a point of order turning the spending into “unauthorized appropriations,” this obstacle is easily overcome, as evidenced by the Congressional Budget Office’s (CBO) annual report itemizing unauthorized appropriations that survive year after year. Consequently, in recent years, the emergency designation and the use of the supplemental process has proven questionable. In particular, because supplemental and emergency spending

14. Dauster, “Budget Emergencies,” 255.

15. *Ibid.*

16. *Ibid.*, 257.

17. James V. Saturno, *Emergency Spending: Congressional and Statutory Rules* (Washington, DC: Congressional Research Service, CR21035, October 3, 2001), 3.

18. On a year-to-year basis, Congress will sometimes include discretionary caps and PAYGO rules enforceable by point of order. For instance, the FY 2004 budget resolution included these budget enforcement rules for the Senate.

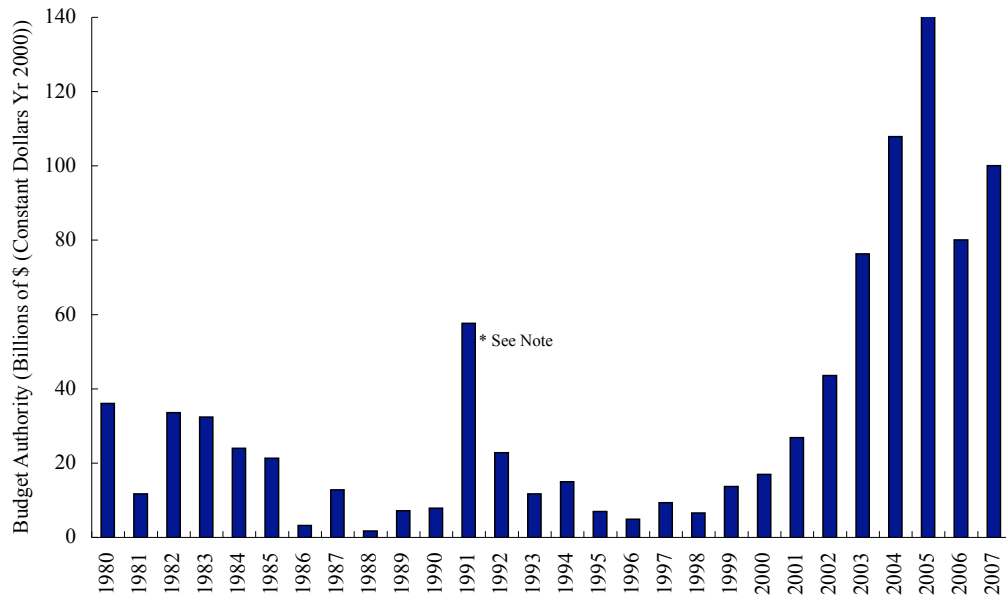
19. A point of order is a matter raised during consideration of a motion concerning the rules of parliamentary procedure. A point of order may be raised if the rules appear to have been broken. In this particular case, a member would be allowed to raise a point of order if a bill exceeded the 302(b) allocation. See appendix 3 for further discussion.

20. Saturno, *Congress Point of Order*.

21. GAO, *Supplemental Appropriations*, 9.



**FIGURE 2: REAL SUPPLEMENTAL APPROPRIATIONS (1980–2007)**



Sources: Author's compilations based on Congressional Budget Office, "Supplemental Appropriations in the 1970s" (1981), "Supplemental Appropriations in the 1980s" (1990), "Supplemental Appropriations in the 1990s" (2001), and "Supplemental Appropriations from 2000 to 2006" (2007). \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

is not included in deficit accounting, many scholars and lawmakers have become concerned that such spending is being used not to respond to unanticipated needs, but to evade constraints on spending, avoid budget caps, and reduce the apparent size of budget deficits.

## 2 The General Trend in Supplemental Spending Since the 1980s

### 2.1. The Increasing Use of Supplemental Spending

EACH YEAR OVER the past 25 years, Congress and the president have enacted one to eight supplemental spending bills. During that period, supplemental bills minus any rescissions have varied in size from a low of \$1.3

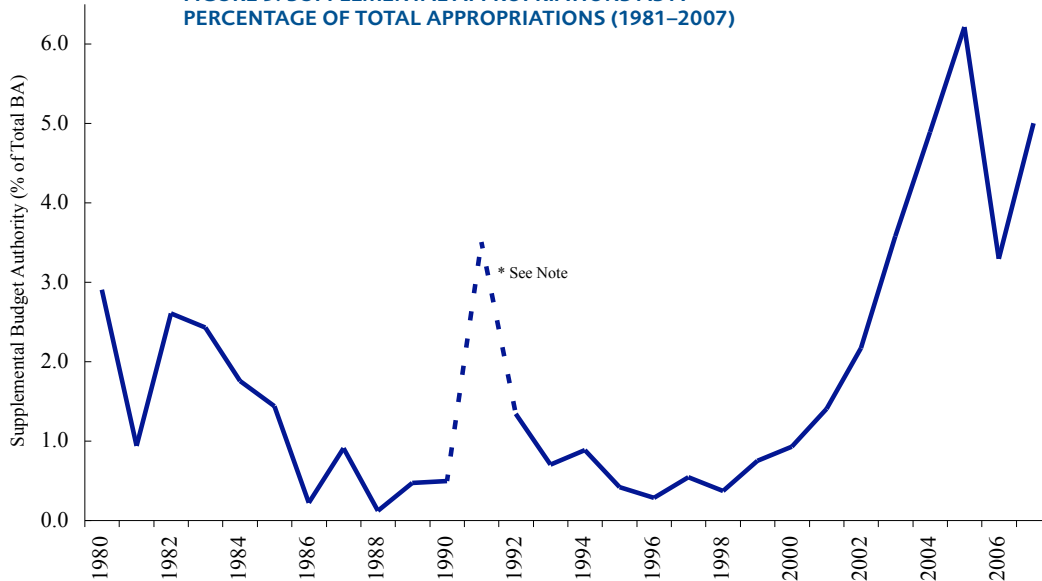
billion in FY 1988 to \$120 billion in FY 2007.<sup>22</sup> The general trend reflects a dramatic increase in the size of supplemental spending since 1998. Figure 2 shows the dollar amount, adjusted for inflation, of supplemental spending net of rescissions between 1980 and 2007. The data shows that supplemental spending increased from \$36 billion in FY 1980 to \$100 billion in FY 2007.

More significantly, the amount of money appropriated through supplemental bills as a share of total new budget authority has also increased drastically between 1980 and 2007. Figure 3 shows that the percentage of new spending appropriated through supplemental bills decreased throughout the 1980s. After 1981 it decreased from over 3 percent of total budget authority to 0.1 percent in 1988. The early 1980s were characterized by high inflation and then a severe recession. The recession of 1981 and 1982 increased outlays for unemployment compensation and means-tested transfers to the unemployed. Some of this

22. The dollar amounts are in nominal dollars. Also, since this study focuses on supplemental bills, it does not include any emergency-designated funding included in regular appropriations laws. For example, the FY 2006 and 2007 data does not include the \$50 billion and \$70 billion respectively in so-called bridge funding that was provided to the Department of Defense through a separate title in its regular appropriations. Unless otherwise specified, I will always give supplemental appropriations "net of rescissions." For supplemental spending, the supplemental total equals the amount Congress enacted in supplemental spending minus the amount it decided to rescind from the rest of the budget. The budget total is the budget requested and approved minus any cancelled appropriations, rescissions, etc. However, according to the GAO, "it can be argued that budget authority before rescissions is a more meaningful measure of the effect of supplemental bills on the obligational authority provided by agencies." See GAO, *Supplemental Appropriations*, 6, footnote 9.

unexpected spending was funded through supplemental appropriations.<sup>23</sup> As the economy recovered after 1982, the main reason for unanticipated outlays disappeared and supplemental appropriations fell.

**FIGURE 3: SUPPLEMENTAL APPROPRIATIONS AS A PERCENTAGE OF TOTAL APPROPRIATIONS (1981–2007)**



Sources: Author's calculations based on Office of Management and Budget, "President's Budget for Fiscal Year 2007," Historical Tables, Table 5.4.; Congressional Budget Office, "Supplemental Appropriations in the 1970s" (1981), "Supplemental Appropriations in the 1980s" (1990), "Supplemental Appropriations in the 1990s" (2001), and "Supplemental Appropriations from 2000 to 2007" (March 2007). \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

That being said, according to the Congressional Budget Office, there is no doubt that the provisions in the Congressional Budget Act of 1974 also contributed to the reduction in supplemental appropriations in the late 1970s and early 1980s.<sup>24</sup> This phenomenon was reinforced throughout the 1980s as Congress and President Ronald Reagan agreed that supplemental appropriations should not be considered except for dire emergencies. And during his eight years in the White House, President Reagan often made credible threats to use his veto powers if non-emergency spending was included in supplemental bills.

Except for a sharp spike in 1991 to fund the first Gulf War, supplemental appropriations remained below 1 percent of total budget authority throughout most of the 1990s. According to the Congressional Research Service,

most of the cost for the first Gulf War operations was eventually offset over the 1990s by burden-sharing contributions from allied nations.<sup>25</sup> Once adjusted for these payments, supplemental appropriations remained at less than 1 percent of total budget authority in the 1990s.

After 1998, supplemental appropriations began to rise, and after 2002, they started increasing at an even faster rate to meet the funding needs of the wars in Iraq and Afghanistan and the war on terrorism. By 2007, supplemental appropriations reached almost 5 percent of budget authority—a slight decline from the all time high of 6.2 percent in FY 2005.<sup>26</sup> It is important to note that during this Gulf War, the United States cannot offset any of its war spending with allies' contributions.

Another interesting trend in supplemental spending over the past 25 years is that the major purposes have changed

drastically. Figure 4 distinguishes between discretionary and mandatory supplemental spending. In the 1980s, almost half of supplemental appropriations were for mandatory programs such as unemployment compensation, and the rest were for discretionary spending. One large discretionary item in supplemental appropriations during this time was civilian pay raises.

With the end of the recession and high inflation in the 1980s, and once agencies were required to absorb the full amounts of pay raises, the major purpose of supplemental spending shifted to funding natural disaster relief.<sup>27</sup> After 1990, close to 100 percent of supplemental bills were for discretionary spending (Figure 4).

As a result, the true measure of the increase in supplemental spending is best observed by looking at

23. Hungerford, *Supplemental Appropriations*, 4.

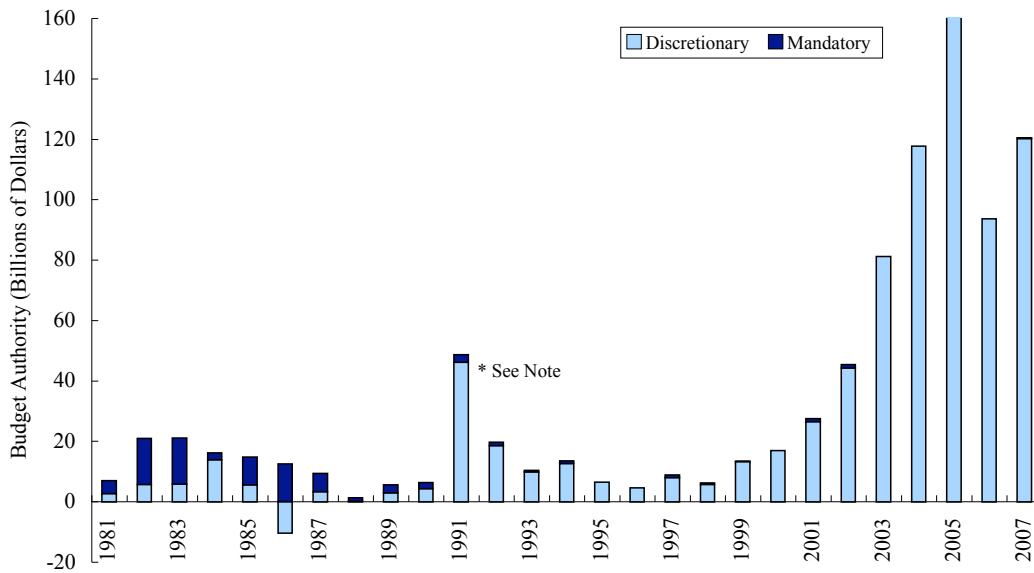
24. CBO, *Supplemental Appropriations in the 1990s*, 2.

25. Hungerford, *Supplemental Appropriations*, 5.

26. One reason for the decline is the increased use of the emergency designation in regular appropriations. During the FY 2006–FY 2007 period, over \$140 billion received the emergency designation.

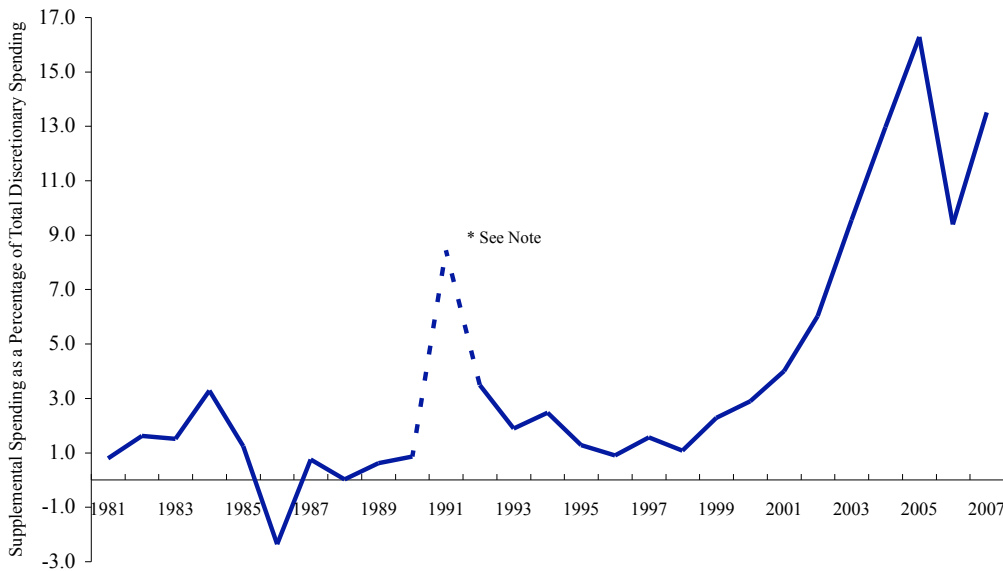
27. CBO, *Supplemental Appropriations in the 1990s*, 10.

**FIGURE 4: DISCRETIONARY VERSUS MANDATORY SUPPLEMENTAL APPROPRIATIONS (1981–2007)**



Sources: Author's calculations based on Congressional Budget Office, "Supplemental Appropriations in the 1980s" (1990), "Supplemental Appropriations in the 1990s" (2001), and "Supplemental Appropriations from 2000 to 2007" (2007). \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

**FIGURE 5: DISCRETIONARY SUPPLEMENTAL APPROPRIATIONS AS A PERCENTAGE OF TOTAL DISCRETIONARY APPROPRIATIONS (1981–2007)**

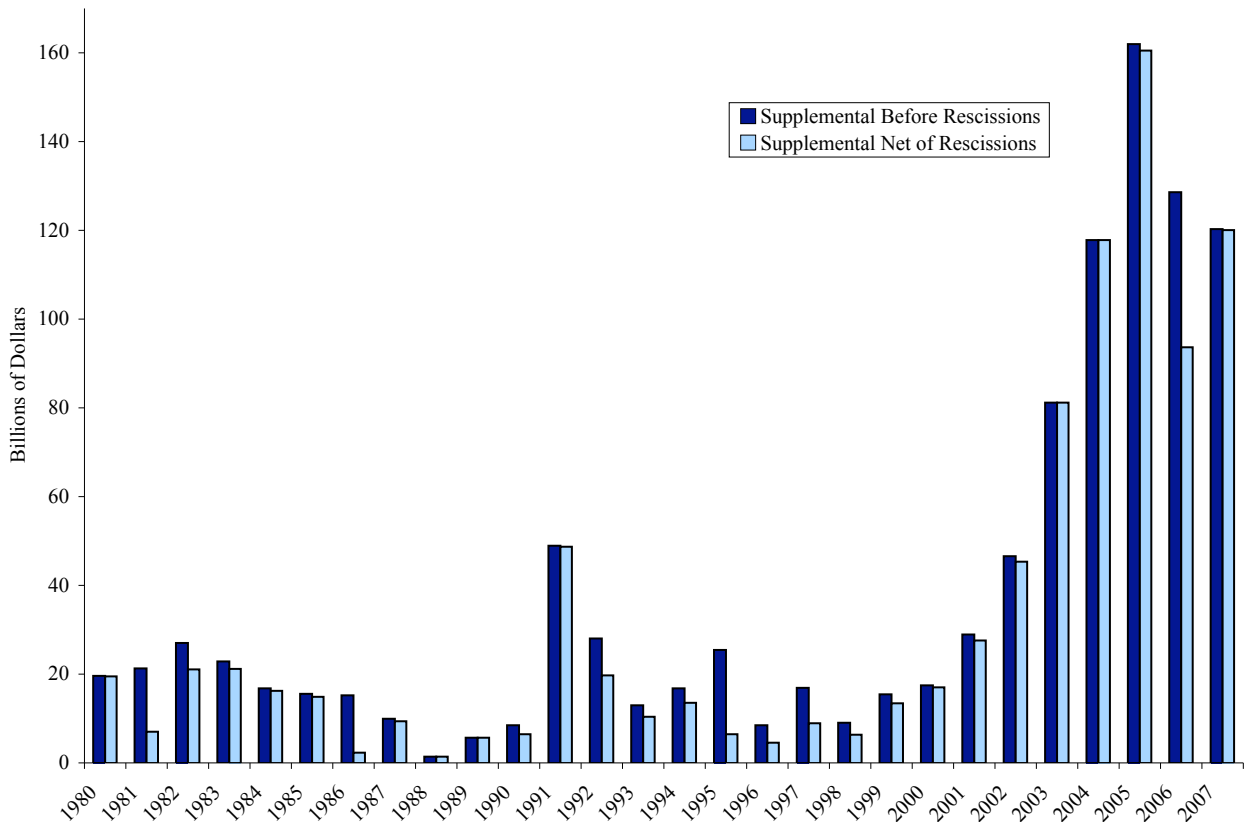


Sources: Author's calculations based on Office of Management and Budget, "President's Budget for Fiscal Year 2007," Historical Tables; Congressional Budget Office, "Supplemental Appropriations in the 1970s" (1981), "Supplemental Appropriations in the 1980s" (1990), "Supplemental Appropriations in the 1990s" (2001), and "Supplemental Appropriations from 2000 to 2007" (2007). \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

supplemental spending as a share of new discretionary spending. Figure 5 shows that as a share of discretionary spending, the use of supplemental bills exploded after 1998. In FY 2007, almost 14 percent of new discretionary spending was appropriated through the supplemental process, a drastic increase from the 0.9 percent level of FY 1990.

This increase should also be considered in the context of a lack of offsets of supplemental spending since the end of the 1990s. Figure 6 compares total supplemental spending with supplemental spending minus rescissions. The data show that the level of rescissions in supplemental appropriations has varied from year to year, with particularly large rescis-

**FIGURE 6: GROSS VERSUS NET OF RESCISSIONS SUPPLEMENTAL (1980–2007)**



Sources: Congressional Budget Office, “Supplemental Appropriations in the 1980s” (1990), “Supplemental Appropriations in the 1990s” (2001), and “Supplemental Appropriations from 2000 to 2007” (2007). \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

sions in FY 1981, FY 1986, and FY 1995. In FY 1995, enacted rescissions totaled \$18.9 billion, while supplemental bills amounted to \$6.4 billion. Since 2000, however, and with the exception of FY 2006, very little spending was rescinded to offset supplemental spending. In FY 2006, enacted rescissions totaled \$34.8 billion, but supplemental spending net of rescissions still totaled near \$94 billion.<sup>28</sup>

Table 1, confirms that after the expiration of the BEA of 1990, the amount of supplemental appropriations offset by rescissions dropped significantly.<sup>29</sup> In fact, after FY 2002, only 0.4 percent of supplemental appropriations were offset through rescissions.<sup>30</sup>

Some argue that a focus on rescissions is misguided considering that the offsetting rescissions are merely write-offs of budget authority that would likely never have been used and thus offsetting rescissions does not denote any great fiscal responsibility on the part of Congress, but the lack of offsets has had a significant budgetary impact. The Congressional Research Service notes that “had supplemental appropriations been fully offset since 1981, federal debt held by the public could have been reduced by 18 percent or \$830 billion.”<sup>31</sup> The report adds that if just 25 percent of the supplemental appropriations in FY 2003 through FY 2005 had been offset (the average offset for previous years), the federal debt held by the public would have been reduced by over 1 percent or almost \$65 billion.<sup>32</sup> This is no small change.

28. Congressional Budget Office, *Data on Supplemental Budget Authority for the 2000s* (Washington, DC: GPO, 2007), 4. <http://www.cbo.gov/ftpdocs/66xx/doc6630/3-16-SuppApprop.pdf>.

29. Hungerford, *Supplemental Appropriations*, 5.

30. Hungerford, *Supplemental Appropriations*, i.

31. *Ibid.*

32. *Ibid.*

**TABLE 1. TREND IN SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS SINCE 1981 (BILLIONS OF CONSTANT DOLLARS YR 2005)**

Fiscal Years	Total Supplemental Appropriations	Total Rescissions	% of Supplemental Appropriation Rescinded (nominal)	% of Supplemental Appropriation Rescinded (FY 2005 dollars)
1981–1985	\$103.3	\$23.2	22.4%	25.5%
1986–1990	\$38.6	\$15.7	40.7%	43.5%
1991–2002	\$206.6	\$55.2	26.7%	27.0%
2003–2005	\$360.8	\$1.6	0.4%	0.4%

Source: Congressional Research Service, "Supplemental Appropriations: Trends and Budgetary Impacts Since 1981," RL33134, 2 November 2005.

## 2.2. Responsibility for the Increase in the Use of Emergency Supplemental Appropriations

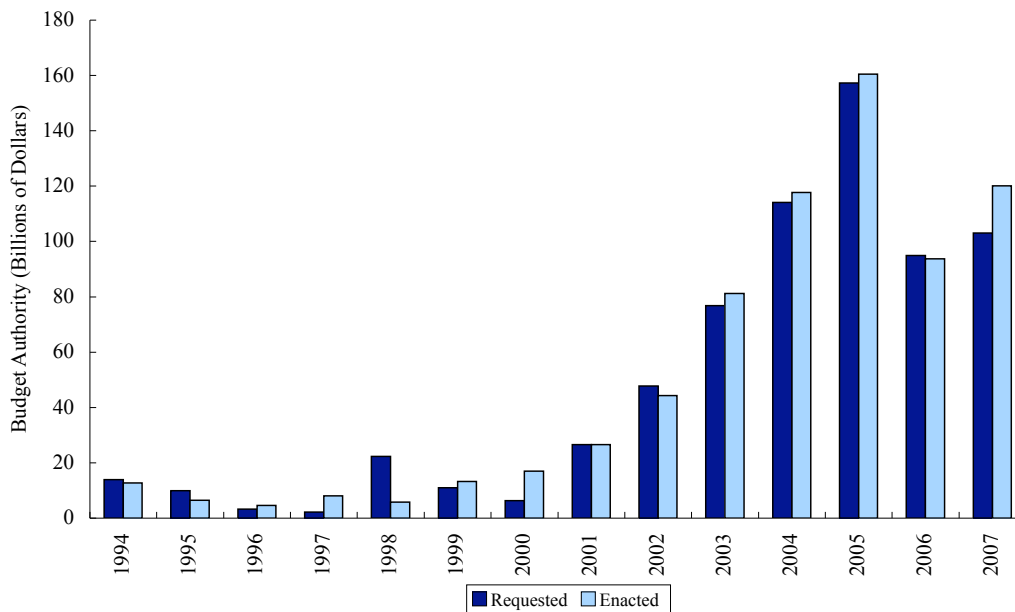
THE BUSH ADMINISTRATION is certainly profligate, but the increased use of supplemental bills began during the final Clinton years. An interesting question is whether it was Congress or the White House that was responsible for the increase in supplemental spending.

One way to assess responsibility for supplemental spending increases is to compare presidential requests for dis-

cretionary supplemental spending to spending actually approved by Congress (Figure 7). Note that between FY 1994 and FY 2001, President Bill Clinton was in the White House and the Republicans controlled Congress, while between FY 2002 and FY 2006, Republicans have controlled both Congress and the White House. Since October 2006, Congress has been controlled by the Democrats, splitting the parties between the branches once again.

Two-thirds of the time, Congress has enacted more supplemental spending than the president has requested. In particular, the supplemental bill signed into law by President George W. Bush in June 2007 was \$20 billion bigger than his original request. Much of that money qualified as earmarks and most of it was unrelated to either the wars in Iraq and Afghanistan or to hurricane relief. Between FY 1994 (President Clinton's first budget request) and FY 2001, supplemental spending remained relatively small even though it started increasing in size after 1998. Beginning in FY 2002 (President Bush's first budget request), a different pattern emerged. President Bush has proposed significantly larger supplemental bills, and with the exception of FY 2002 and FY 2006, the Republican Congress has enacted even larger ones. Between FY 1994 and FY 2001, actual spending approved by Congress was \$700 million less than the spending proposed by President Clinton. By contrast, between FY 2002 and FY 2007, enacted supplemental spending

**FIGURE 7: REQUESTED VERSUS ENACTED DISCRETIONARY SUPPLEMENTAL APPROPRIATIONS (1994–2007)**



Sources: Author's calculations based on Congressional Budget Office, "Supplemental Appropriations in the 1990s" (2001) and "Supplemental Appropriations from 2000 to 2007" (2007).

was \$23.6 billion higher than the spending requested by President Bush.

These trends suggest that both the president and Congress are responsible for the recent increases in supplemental spending. For example, in 2005, President Bush requested several supplemental bills totaling roughly \$157 billion—a 36 percent increase in supplemental requests over the previous year—and actual spending was about \$160.4 billion. In March 2007, President Bush requested the largest supplemental ever. He asked Congress for \$103 billion in a single supplemental bill and signed a final bill that was \$120 billion.<sup>33</sup>

### 3

## Supplemental Bills Are Enabling a Spending Explosion

THE INCREASE in the use of supplemental appropriations in recent years is part of a significant boost in the overall size of the U.S. government. Since FY 2002, the Bush administration, aided by a willing Congress, has been responsible for a massive expansion in the federal budget. As a result, total outlays have risen from 18.5 percent of gross domestic product in FY 2001 to 20.5 percent in FY 2008.<sup>34</sup> Recent annual increases in federal spending have been much higher than during the 1990s—sometimes as much as three times higher. In FY 2008, total outlays will be up a remarkable \$1.1 trillion from FY 2001, when President Bush first came into office.<sup>35</sup>

A close look at the data and the trends in supplemental spending reveals how it has enabled lawmakers to increase overall spending.

### 3.1. The Emergency Loophole

AT THE HEART of the problem is the concept of what constitutes an “emergency.” As explained earlier, under the BEA, emergency bills are given special exceptions from budgetary rules designed to restrain spending. Under the BEA, an emergency appropriation causes an increase in

the relevant discretionary spending limits to accommodate the additional spending. However, the term “emergency” has never been specifically defined, let alone codified, for budgetary purposes. In 1991, the OMB attempted to develop a neutral definition of “emergency” by stating that such expenditure must meet five criteria: necessary, sudden, urgent, unforeseen, and temporary.

So far, proposals to incorporate these criteria into law have not been successful. In practice, this general language is typically included in the annual budget resolutions and requires that committees explain how any proposed emergency legislation meets the criteria in order to become exempt. The Republican staff of the Senate Budget Committee notes, however, that “[t]o date, this requirement has been ignored.”<sup>36</sup>

Indeed, the emergency designation does not depend on this requirement being fulfilled, nor does it depend on any evaluation of whether the criteria are met.<sup>37</sup> The only enforcement is a point of order rule, which is rarely invoked. In addition, in the last four years, Congress has provided exemptions for all appropriations related to overseas contingency operations for the global war on terror,<sup>38</sup> thus introducing a gigantic loophole where budget rules are not applied.

As a result, in recent years, lawmakers have increasingly abused their power in funding emergency spending bills. According to the Congressional Research Service, “emergencies” have recently reached an all-time high, with emergency appropriations in FY 2004 and FY 2005—\$115.6 billion and \$164.2 billion, respectively—accounting for 62 percent of total emergency appropriations for the last 10 years.<sup>39</sup>

A point of clarification is important here. Many people treat “emergency” and “supplemental” appropriations as synonyms, but they are not (see Figure 1). Usually, a disaster leads to a request for emergency spending. That emergency spending will often lead to a supplemental appropriations bill. As a result, most supplemental appropriations are enacted as stand-alone legislation.

33. CBO, *Data on Supplemental Budget Authority for the 2000s*, 4.

34. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2009, Historical Tables* (Washington, DC: Government Printing Office, February 2008), 25, Table 1.2. <http://www.whitehouse.gov/omb/budget/fy2009/pdf/hist.pdf>.

35. Office of Management and Budget, *Budget of the United States Government, FY 2009, Historical Tables*, 22, Table 1.1.

36. U.S. Congress. Senate Budget Committee, Republican staff. *Budget Bulletin*. 109th Cong., 1st sess., No. 1 (May 10, 2005). <http://budget.senate.gov/republican/analysis/2005/bb01-2005.pdf>.

37. *Ibid.*

38. GAO, *Supplemental Appropriations*, 9.

39. Memorandum to Senator Tom Coburn, “Emergency Spending FY1991-FY2005,” June 5, 2006.

However, in some instances, emergency spending is enacted as part of regular appropriations measures.

For instance, on September 7, 2005, the administration requested \$51.8 billion for Hurricane Katrina relief. The entirety of that emergency spending was appropriated through a supplemental appropriations bill. Later that year, in December, an additional \$50 billion in emergency funds for Hurricane Katrina relief was attached to the regular defense appropriations bill. That is, the spending was designated as emergency but was appropriated through the regular process.

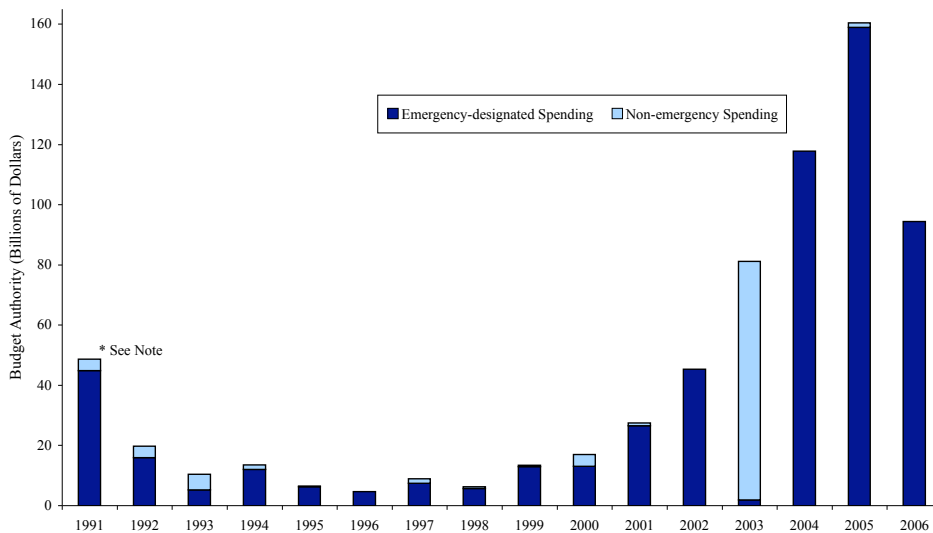
Following that trend, there has been an increase in the amount of emergency-designated spending attached to regular appropriations bills. For instance, in December 2006, \$70 billion in emergency war funding was attached to the FY 2007 defense authorization measure (PL 109-364).<sup>40</sup> And in December 2007, another \$70 billion in emergency war spending was attached to the FY 2008 omnibus spending bill signed by President Bush in January 2008.

Furthermore, not all supplemental appropriations consist of designated emergency spending—even though a large portion does. Figure 8 shows the trend in

emergency-designated spending in supplemental appropriations since 1991. We can see that each year a great majority of supplemental appropriations has received the emergency designation. FY 2003 in particular stands out, with a large proportion of funds in the supplemental bill that were not emergency designated. According to the GAO, the lack of emergency designation for these funds was likely the result of the close timing between the supplemental request and the introduction of the FY 2004 budget resolution.<sup>41</sup> The recent increased use of emergency supplemental spending has allowed lawmakers to exempt a growing amount of money from budget limits. Supplemental bills are the main vehicle for this growth in emergency spending.

Increasingly relying on supplemental funds for emergencies instead of on regular appropriations is problematic. Supplemental budget requests include much less detail about how the money will be spent than the regular presidential budget requests. While some flexibility is important to be able to respond to unpredictable emergency needs, there is, as analyst Christopher Hellman notes, “a fine line between flexibility and carte blanche.”<sup>42</sup> Too much flexibility effectively gives the departments and agencies of the Executive Branch a blank check.

**FIGURE 8. NON-EMERGENCY VERSUS EMERGENCY-DESIGNATED SPENDING IN SUPPLEMENTAL BILL**



Sources: Author's calculations based on Congressional Budget Office, "Supplemental Appropriations in the 1980's" (1990), "Supplemental Appropriations in the 1990's" (2001), "Supplemental Appropriations from 2000 to 2007" (2007); Congressional Research Service, "Emergency Spending," Memorandum to Sen. Tom Coburn (2006). GAO, (2008), "Supplemental Appropriations: Opportunities Exist to Increase Transparency and Provide Additional Controls," GAO-08-314, January, p. 12.  
 \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

40. David Clarke and Liriel Higa, "Omnibus Clears with War Funding," *CQ Weekly: Weekly Report Appropriations*, December 24, 2007, 2.  
 41. GAO, *Supplemental Appropriations*, 3.  
 42. Christopher Hellman, "Facts About Supplemental Spending for Non-Emergency Pentagon Programs," Center for Arms Control and Non-Proliferation, February 14, 2005.

Another difference between supplemental and regular appropriations is that supplemental bills tend to move through Congress more quickly. The argument is that the money needs to be made available as soon as possible, but on the other hand, the expedited process, combined with the lack of detail in supplemental budget requests, leaves little room for Congressional review. As Senator John McCain has complained, the emergency supplemental process “removes from [Congress’s] oversight responsibilities the scrutiny that these programs deserve.”<sup>43</sup>

The political effect of the word “emergency” is to increase public pressure for quick passage of the bill. In this charged atmosphere, effective oversight is even more important, yet the “emergency” label actually weakens Congressional oversight. No member wants to vote against emergency aid money aimed at supporting U.S. troops in Iraq or helping victims of the devastated Gulf region.

### 3.2. Using Supplemental Bills to Increase Spending Across the Board

SUPPLEMENTAL SPENDING IS more and more often used to circumvent budget caps to increase overall spending. For instance, by transferring some defense spending from the regular Department of Defense (DOD) budget into an emergency-designated supplemental bill, lawmakers free some space under the spending caps, which in turn allows them to increase defense and/or non-defense spending in the regular budget.

#### *Defense Spending*

IN THE LAST few years, many have criticized the use of emergency supplemental bills instead of the regular appropriations process to fund U.S. operations in Iraq

and Afghanistan.<sup>44</sup> For instance, the FY 2007 defense budget request submitted by the president in February 2006 did not include funding for military operations and covered only the DOD’s normal peacetime funding requirements (the budget request was \$439 billion).<sup>45</sup> Just a few weeks later, the administration submitted a \$68.7 billion supplemental FY 2006 budget request to Congress for Operation Iraqi Freedom and Operation Enduring Freedom.<sup>46</sup> In June, Congress agreed to provide \$68.2 billion in emergency supplemental appropriations for military operations in FY 2006.<sup>47</sup>

Figure 9 shows the percentage of defense spending appropriated via emergency supplemental bills since 1981. It shows that in spite of the Cold War in the 1980s, most defense spending went through the regular appropriations process, not the supplemental one. Once we account for the offsetting contributions from American allies during the first Gulf War, it is clear that very little defense spending came from supplemental bills.

According to Stephen Daggett at the Congressional Research Service, one explanation might be that in the 1990s, the decision to provide emergency funds for the DOD was always controversial.<sup>48</sup> As a result, Congress would impose cuts in other parts of the budget to offset some or all of the supplemental funding. This would create a strong incentive not to abuse the process.

In 1998, however, things started to change. The share of new defense spending appropriated through supplemental bills increased from 1 percent in FY 1998 to 17.5 percent in FY 2007.<sup>49</sup> In December 2006, Congress included \$70 billion in emergency war spending for Iraq and Afghanistan in the DOD’s regular FY 2007 appropriations act to cover the cost of the war for the months between the beginning of the fiscal year (October 2006) and the passage of a supplemental bill in May 2007. On May 25, 2007,

43. Ibid.

44. John Bennett, “Mullen Wants Supplemental Spending Rolled Into Annual Baseline Budgets,” *Defense News*, January 27, 2008.

45. Office of Management and Budget, *The Budget of the United States Government, Fiscal Year 2007, Summary Tables* (Washington, DC: Government Printing Office, February 2006), Table S-2.

46. Congressional Budget Office, *Data on Supplemental Budget Authority for the 2000s*, 4, <http://www.cbo.gov/ftpdocs/66xx/doc6630/3-16-SuppApprop.pdf>.

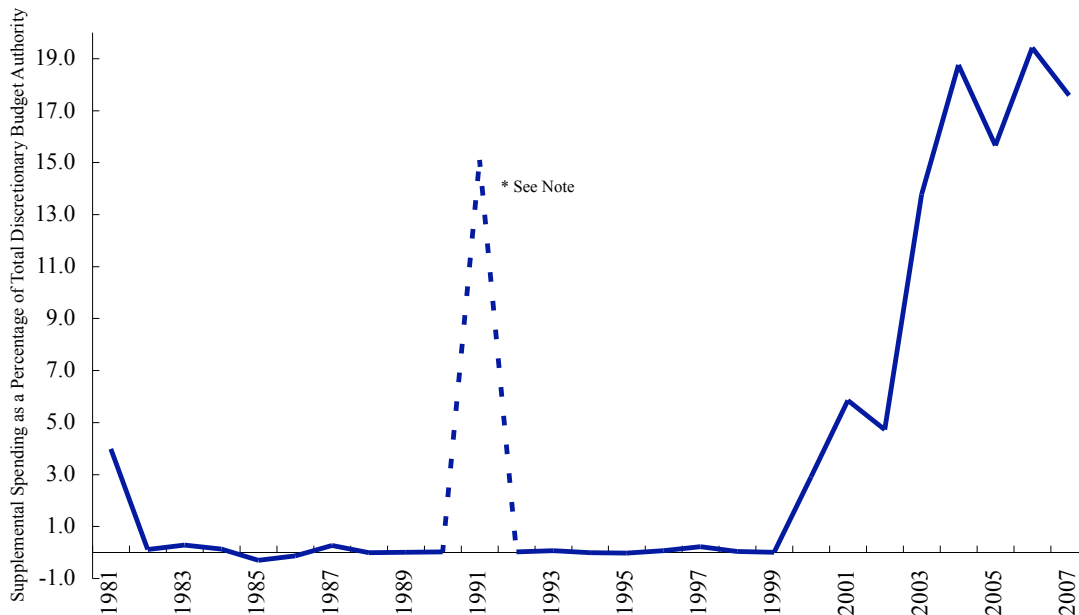
47. Ibid., 3.

48. Stephen Daggett, “Emergency Appropriations for the Department of Defense,” Memorandum, (Washington, DC: Congressional Research Service, August 18, 1998), 1.

49. Author’s calculations based on Congressional Budget Office, *Data on Supplemental Budget Authority for the 2000*, <http://www.cbo.gov/ftpdocs/66xx/doc6630/3-16-SuppApprop.pdf> and Amy Belasco, *The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11* (Washington, DC: Congressional Research Service, Report for Congress, RL33110, updated November 9, 2007), tables 1 and 2.



**FIGURE 9: SUPPLEMENTAL DEFENSE SPENDING AS A PERCENTAGE OF TOTAL DEFENSE APPROPRIATIONS (1981–2007)**



Sources: Author's calculations based on Office of Management and Budget, "President's Budget for Fiscal Year 2009," Historical Tables;" Congressional Budget Office, "Supplemental Appropriations in the 1980s" (1990), "Supplemental Appropriations in the 1990s" (2001), "Supplemental Appropriations from 2000 to 2007" (2007), and CRS Report to Congress, *the Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11-Tables 1 and 2*, (2007). \*Note: Uptrend reflects supplemental spending for Desert Storm. Contributions from allied nations repaid these costs.

Congress provided an additional \$99.8 billion through supplemental spending to the DOD to cover the cost of the war for the remaining months of the year.<sup>50</sup>

More interestingly, throughout 2007, the president requested up to \$196 billion in emergency supplemental bills to cover the cost of the wars in FY 2008.<sup>51</sup> The first request was made in February 2007 and the second one was made in October 2007. These requests were unusual since, in theory, supplemental spending bills provide additional budget authority during the current fiscal year—not for the following fiscal year.

The same pattern holds true for FY 2009. In February 2008, the president once again did not include the cost of war in the all-time-high \$515 billion defense budget for FY 2009.<sup>52</sup> Instead, the budget included a placeholder for yet another \$70 billion emergency war supplemental bill.

Pressed by Democrats during the annual defense budget hearings in February, Defense Secretary Robert M. Gates confirmed that the \$70 billion was only a fraction of the total expected war cost for the year. Pressed further, Gates estimated that military operations in Iraq and Afghanistan would cost at least \$170 billion in 2009. But, he immediately added, "I have no confidence in that figure."

A key issue is whether, six years into the Iraq war, Congress should continue to fund military operations in Iraq and Afghanistan primarily with supplemental spending. While the 2007 and 2008 costs of the war may have been necessary and not permanent, they are by no means sudden or unforeseen. The war in Afghanistan started in October 2001, and the war in Iraq commenced in March 2003.

The administration argues that supplemental bills have the advantage of being prepared closer to the time when

50. For additional information about the FY 2007 supplemental bills, see Stephen Daggett, et al., *FY 2007 Supplemental Appropriations for Defense, Foreign Affairs, and Other Purposes* (Washington, DC: Congressional Research Service, Report for Congress, RL33900, July 2, 2007), <http://www.fas.org/sgp/crs/natsec/RL33900.pdf>. See also Department of Defense Press Release, *President Bush's FY 2008 Defense Submission*, February 5, 2007.

51. Office of Management and Budget, *The Budget of the United States Government, Fiscal Year 2008, Summary Tables* (Washington, DC: Government Printing Office, February 2007) 162, table S-2; Belasco, *The Cost of Iraq, Afghanistan*, tables 1 and 2.

52. Office of Management and Budget, *Budget of the United States, FY 2009, Summary Tables*, p. 140 (Washington, DC: Government Printing Office, February 2008).

the funds will be used, allowing for a more accurate assessment of needs and quicker access to the funds. In addition, to ensure that the increased defense spending doesn't become a permanent feature of the budget, the cost of the wars needs to be kept out of the regular appropriations process.<sup>53</sup>

However, critics of the supplemental funding strategy argue that it is easy to predict and plan for the monthly costs of the wars. In particular, Thomas Donnelly, a resident fellow in defense and security policy studies at the American Enterprise Institute, points out that one of the largest expenditures in supplemental bills is the salaries and benefits of Army National Guard personnel and reservists called to active duty,<sup>54</sup> costs that are by no means unpredictable and sudden. Therefore, they belong in the regular defense budget—not in an emergency supplemental bill.

Today, the most likely explanation for funding the cost of the wars in Iraq and Afghanistan through supplemental bills rather than regular appropriations has little to do with military strategy.

A well-documented Congressional Research Service study by Stephen Daggett concluded that emergency supplemental bills have been the most frequent means of financing the initial stages of military operations during World War II, the Korean War, the Vietnam War, and the first Gulf War.<sup>55</sup> In general though, past administrations have requested, and Congress has provided, funding for ongoing military operations in regular appropriations bills as soon as even limited and partial projections of the cost could be made.

For instance, in 1951, 72 percent—or \$32.8 billion—of the kick-off cost for the Korean War was funded through supplemental bills, while \$13 billion went through regular appropriations.<sup>56</sup> But by the second year, Congress appropriated 98 percent—\$55.2 billion—of the war funding through the regular defense budget. Only \$1.4 billion went through the supplemental process. By 1953, the president did not request any funding for the Korean War outside of the regular defense budget.<sup>57</sup>

The 10-year-long Vietnam War followed a slightly different pattern. In the first year of the war, Congress provided all of the funding in supplemental spending bills. In the second year, the administration requested a little less than 50 percent of the war funding in regular defense appropriations.<sup>58</sup> By the fourth year, all of the war funding was going through the regular defense budget process. As Daggett explains, the Johnson Administration requested—and Congress provided—funding for the war in regular defense appropriations bills even though troop levels were in flux and the duration of the conflict could not be foreseen.<sup>59</sup>

More recently, the Republican Congress decided in FY 1996 to include all funding for operations in Southwest Asia in regular appropriations bills rather than supplemental ones. In addition, it directed the Clinton Administration to request funding for ongoing military operations in the regular defense budget.<sup>60</sup> In the FY 1997 defense budget and in later requests, President Clinton complied with Congress's directive, and military operations in Southwest Asia, Bosnia, and Kosovo received funding in the regular appropriations process without an emergency designation.<sup>61</sup>

Today, the most likely explanation for funding the cost of the wars in Iraq and Afghanistan through supplemental bills rather than regular appropriations has little to do with military strategy. Rather, it is because supplemental spending is not included in calculations of the federal

53. Stephen Daggett, *Defense: FY 2006 Authorization and Appropriations* (Washington, DC: Congressional Research Service, RL32924, January 20, 2006), 15–16.

54. Thomas Donnelly, *The Military We Need: The Defense Requirements of the Bush Doctrine* (Washington, DC: AEI Press, 2005), 81–86.

55. Stephen Daggett, *Military Operations: Precedents for Funding Contingency Operations in Regular or Supplemental Appropriations Bills* (Washington, DC: Congressional Research Service, RS22455, June 13, 2006).

56. *Ibid.*, 3.

57. *Ibid.*, 4.

58. *Ibid.*, 5.

59. *Ibid.*

60. Stephen Daggett, *Defense*, 15–16.

61. *Ibid.*, 16.

budget deficit. When President Bush made his FY 2008 budget request in February 2007, he indicated the deficit was going to be \$239 billion.<sup>62</sup> A year later, as we factor in supplemental requests for the war and hurricane relief that were requested and appropriated throughout the year, we find that the 2008 deficit is actually \$410 billion.<sup>63</sup> The deficit is only projected to get larger, since so far only \$104 billion in FY 2008 emergency supplemental spending has been appropriated and another \$108.1 billion request is likely to be appropriated and spent in the course of the fiscal year.<sup>64</sup>

The supplemental appropriations gimmick creates an accounting illusion that allows the administration and Congress to hide short-term massive increases in spending. In particular, the use of supplementals to fund the war must be placed within the context of the exponential growth in regular military appropriations since President Bush took office in 2001. In FY 2000 constant dollars, requested outlays for national defense for FY 2009 (not including war costs) are 70 percent greater than defense costs when President Clinton left office in FY 2001.<sup>65</sup> In addition, if we include the supplemental war spending for FY 2008 and FY 2009, which has been estimated to be at least \$278 billion (\$108 billion for FY 2008 and \$170 billion for FY 2009), the increase in defense spending since FY 2001 is 112 percent.

It is likely that the president would have had a hard time getting such large defense spending increases approved if he had included the cost of the wars in his regular defense budget requests. For instance, in FY 2008, he requested a budget for the DOD of \$481.4 billion.<sup>66</sup> This amount did not include any money for the wars, which ended up totaling at least \$198 billion (\$89.4 billion in emergency war spending requested and enacted in December 2007 and \$108.1 billion requested but not yet enacted).<sup>67</sup> In other words, without the supplemental gimmick, the president would have had to request \$679 billion instead

of \$481 billion for the DOD budget. In inflation-adjusted dollars, this budget is larger than any defense budget since the end World War II.

As a *Defense News* editorial speculates, “[T]he White House [is] using the supplemental as a thinly veiled political attempt to keep the public from lapsing into sticker shock, and so, losing support for the war.”<sup>68</sup> In other words, supplemental spending is a successful funding mechanism for long and painful wars.

Unfortunately, in recent years, war supplemental bills have also been increasingly used to fund non-emergency defense items that are not even related to ongoing conflicts. Winslow Wheeler, the director of the Strauss Military Reform Project of the Center for Defense Information, tracked down those items and concluded that the “transfer” is readily apparent in the DOD’s procurement accounts.<sup>69</sup> For example, in the account for “Aircraft Procurement, Army” on page 249 of the regular FY 2006 Pentagon budget, one can find the notation “Transfer to Title IX” for \$11.2 million deducted from the president’s regular annual request to purchase “aircraft survivability equipment.” The money is added back in on page 477 in Title IX, where the money becomes war “emergency” spending.

Some might argue that aircraft survivability is a legitimate requirement in Iraq and Afghanistan. That may be true, but the point is that Congress took spending the president requested for normal peacetime procurement costs and moved it to the emergency account. In this account alone, Wheeler counted 17 transfers from the peacetime procurement account to the emergency war spending account, for a total of \$654 million. He also counted in the small print an additional \$107 million in spending shifted to the war emergency part of the bill. That makes a total of \$761 million that Congress moved from spending accounts where funding requests are sub-

62. *Budget of the United States Government, FY 2008*, 152, table S-1.

63. *Budget of the United States Government, FY 2009*, 139, table S-1.

64. *Budget of the United States Government, FY 2009*, 140, table S-2.

65. Office of Management and Budget, *Budget of the United States, FY 2009, Historical Tables* (Washington, DC: Government Printing Office, February 2008), 125, table 6.1.

66. *Budget of the United States Government, FY 2008*, 153, table S-3.

67. *Budget of the United States Government, FY 2009*, 140, table S-2.

68. “Budget Tricks,” *Defense News*, February 14, 2005.

69. Winslow Wheeler, *Defense Budget Tutorial #2: The Smoke and Mirrors in Congress’ Defense Appropriations Bills: You’ll Need a Rosetta Stone* (Washington, DC: Center for Defense Information, Strauss Military Reform Project, January 2006), <http://www.cdi.org/program/issue/document.cfm?DocumentID=3270&IssueID=100&StartRow=21&ListRows=10&appendURL=&Orderby=DateLastUpdated&ProgramID=37&issueID=100>.

70. U.S. Congress. Senate Committee on the Budget, Republican staff. *Informed Budgeteer*, 110th Cong., 1st sess., No. 3 (March 9, 2007). <http://budget.senate.gov/repUBLICan/analysis/2007/bb03-2007.pdf>.

ject to budget caps to accounts where the requests are not counted and not capped.

Another advantage of the maneuver is that the transfer freed some space under the Pentagon's budget baseline to buy "one F-15E fighter-bomber (\$65 million), two 'Littoral Combat Ships' (\$440 million), and a host of other much smaller purchases, numbering in the hundreds," adds Wheeler. Because this gimmick is used in most of the accounts of the peacetime parts of the bill, experts say that the transfer to the war emergency bill adds up to tens of billions of dollars, allowing the Pentagon to boost other parts of its regular budget by billions of dollars.

But the Pentagon is not the only entity using the emergency gimmick. According to a document released by the Senate Committee on Budget, many items requested by the president in his latest war emergency request are not emergencies.<sup>70</sup> For instance, the committee writes, "an increase (\$1.7 billion) for anything called a permanent change in military force structure should be funded in the regular, annual defense budget, not in an 'emergency' supplemental." In addition, the bill requests up to \$4.2 billion for items that are not even for the wars in Iraq and Afghanistan, such as \$500 million for six electronic warfare planes—neither the insurgents in Iraq nor Al Qaeda have an air force or radars—and \$400 million for two developmental aircraft that will not see service until 2013.

The main benefit of this practice is that it allows the Pentagon a larger budget than it would otherwise be granted. According to Christopher Hellman, even the military admits that it is funding non-emergency programs through supplemental bills.<sup>71</sup> Army Chief of Staff General Peter Schoomaker testified before the Senate that the Army preferred to fund 30,000 additional troops through supplemental spending because if it included the necessary funds in the annual budget request, it "would have to displace other things that are too important to us as we transform, such as equipment and other readiness issues. So the department has elected to do it with emergency and supplemental funding since we have the options to do so."<sup>72</sup>

What's more, Congress has also used defense supplemental appropriations to boost non-defense spending in the regular appropriations process. For instance, by trimming the administration's defense spending request and instead relying on supplemental bills, Congress frees up those amounts for non-defense appropriations. Brian Riedl, a budget analyst at the Heritage Foundation, explains, "The common usage of defense supplemental bills has increased non-defense spending as well. Lawmakers now try to shift budget resolution funds from defense to domestic programs, knowing that these defense funds can be replenished by adding to the next supplemental bill."<sup>73</sup>

For instance, in early May 2006, House Appropriations Chairman Jerry Lewis asked that \$6 billion from proposed defense increases be shifted to boost domestic programs.<sup>74</sup> The money was used in part to erase almost \$4 billion in cuts proposed for programs funded in the FY 2007 Labor-Health and Human Services measure, which brought funding back to its FY 2006 level.<sup>75</sup> Many more examples like this one can be found.

Unfortunately, these appropriations practices do more than just add spending to an already bloated budget. Donnelly argues that "[r]elying so heavily on supplemental funding distorts the Defense Department's priorities and perverts proper planning." Shifting some of the annual emergency appropriations to the DOD's regular budget would "reduce much of the uncertainty that now plagues the Pentagon" and would facilitate modernization and transformation.<sup>76</sup>

### *Non-Defense Spending*

THE SAME SUPPLEMENTAL spending issues apply almost equally to non-defense spending. In recent years, an ever larger share of non-defense spending has been funded through the supplemental process. According to George Krumbhaar, "Although non-defense supplemental spending has been irregular, the numbers for FY 2005 plot out in a similar fashion as the defense sector: At \$81.2 billion in 2005, non-defense discretionary supplementals

71. Hellman, "Facts about Supplemental Spending."

72. Ibid.

73. Brian Reidl, interview with the author, May 1, 2006.

74. Peter Cohn, "Lewis Eyes \$6 Billion Shift to Boost Domestic Programs," *Congress Daily*, May 3, 2006.

75. Ibid.

76. Donnelly, *The Military We Need*, 81–86.

77. Krumbhaar, "Supplementals are Climbing!"

78. Chuck Conlon and David Clark, "Budget Tracker," *Congressional Quarterly*, June 12, 2006.

stood at 16.1 percent of total non-defense discretionary appropriations.”<sup>77</sup>

Because most supplemental bills do not count against House and Senate budget limits, Congress has used them to get around the Bush Administration’s recent request that the growth in non-defense, non-Homeland Security budget authority be seriously limited. Increasing numbers of non-emergency, non-defense programs find their ways into supplemental appropriations bills. This tendency leads to a higher overall spending level.

The best example of Congress’s propensity to stuff supplemental bills with non-defense, non-emergency items can be found in the emergency supplemental bill passed by the Senate to fund the war in Iraq and Hurricane Katrina relief in May 2006. This \$109 billion bill contained, among other things:

- \$4 billion for a farm subsidy bailout
- \$594 million for national highway projects
- \$1.1 billion for fishery assistance
- \$2.3 billion for combating avian flu

By June 2006, House and Senate negotiators had struck a deal and agreed to \$94.5 billion for a FY 2006 supplemental spending bill. The final version of the bill was in line with the amount requested by the president earlier that year in March, and \$65.8 billion of that amount went to the DOD. The rest accounted for a large share of FY 2006 non-defense supplemental spending. The bill contained \$19.8 billion for disaster relief efforts, including \$3.7 billion for the Army Corps of Engineers’ flood control and levee repair projects, \$6 billion for the Federal Emergency Management Agency’s Disaster Relief Fund, \$5.2 billion for the Community Development Block Grant program, \$550 million for a veterans’ medical facility in Louisiana, and \$500 million for agriculture assistance (a \$3.5 billion decrease from the Senate-passed supplemental bill).<sup>78</sup> It also included \$4 billion for the State Department and foreign aid and \$2.3 billion for pandemic flu preparations.<sup>79</sup> The bill also endorsed the president’s request of \$1.9 billion for border security initiatives, with \$1.2 billion going to Homeland Security and \$708 million going to the National Guard.<sup>80</sup>

79. *Ibid.*

80. Conlon and Clark, “Budget Tracker: Supplemental Deal Sealed,” *Congressional Quarterly*, June 9, 2006.

81. Senate Committee on the Budget, *Informed Budgeteer*.

Finally, the most recent supplemental bill signed by the president in June 2007 included \$24 billion in non-emergency spending.<sup>81</sup> These expenditures include \$120 million for the shrimp and menhaden fishing industries, \$283 million for the Milk Income Loss Contract Program, \$60.4 million for salmon fisheries, \$100 million for California citrus growers, \$50 million for asbestos mitigation at the U.S. Capitol Plant, \$1 billion for avian flu prevention, and \$1 billion for NASA.

Most of these earmarked items should not qualify as emergency spending and should have been funded through the regular appropriations process.

Most of these earmarked items should not qualify as emergency spending and should have been funded through the regular appropriations process. In fact, most hurricane relief efforts could be funded through the regular appropriations process. To be sure, a federal response through the supplemental appropriations process is appropriate for disasters of the largest magnitude—such as Hurricanes Katrina and Rita, which led to unexpected levels of devastation. However, as unpredictable as natural disasters are, hurricane season is a predictable event. It happens every year at the same time, and devastation costs can be at least partially anticipated.

### 3.3. No Earmarks Left Behind

SUPPLEMENTAL AND EMERGENCY appropriations are not subject to the same kind of budget discipline as other appropriations. Because of a serious lack of congressional oversight and the fact that supplemental bills will almost always be signed by the president, they attract earmarks and other projects that would not be funded on their own merits. With more oversight, most of these items would never receive an emergency designation.

For instance, in April 2003, Congress passed the \$78.5 billion War Supplemental Appropriations Act. It included 29 unrelated projects totaling \$348 million, such as \$110 million for the National Animal Disease Center in Ames, Iowa. Also, the \$82 billion Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (H.R. 1268) was supposedly passed to help the countries affected by the Asian tsunami and to help with the war on terror. According to Citizens Against Government Waste (a taxpayer watchdog group), Congress added \$1.13 billion for projects that had nothing to do with either objective, including \$55 million for wastewater treatment in De Soto County, Mississippi and \$25 million for the Fort Peck Fish Hatchery in Montana.<sup>82</sup>

The first two emergency supplemental bills passed by Congress and signed into law in the immediate aftermath of Katrina were free of earmarks. Unfortunately, they were the only two. Every supplemental bill thereafter included pet projects unrelated to Katrina or to the war. The June 8, 2005 agreement reached by lawmakers on supplemental spending for the war and for hurricane relief included numerous earmarks.<sup>83</sup> For instance, it provided \$30.4 million for Sacramento levee repairs and \$176 million for the construction of a new Armed Forces retirement home in Mississippi.<sup>84</sup> The bill's final figure was \$702 million, up from the \$594 million contained in the original Senate bill.<sup>85</sup>

Below is a short and non-exhaustive list of some of the most egregious pork items found in some of the supplemental bills from the last three years.

- \$61 million for claims resulting from the Cerro Grande, New Mexico fires in 2000
- \$9.7 million for a tree assistance program to compensate eligible orchardists for tree losses
- \$1 million for the Geisinger Health System to establish centers for excellence for the treatment of autism in Harrisburg, Pennsylvania

- \$500,000 for the Ohio Alliance Community Center for the Deaf in Worthington, Ohio
- \$5 million for the State and Tribal Wildlife Grants program
- \$19.3 million for education and human resources for the National Science Foundation
- \$22.7 million for a Capitol power plant
- \$15 million for the Equal Employment Opportunity Commission
- \$9 million for the operation of the National Park Service system
- Another \$2 million for the State and Tribal Wildlife Grants program
- \$40.1 million for Capitol police buildings and grounds
- \$3.3 million for a European Community music-listening dispute
- \$231,000 for DAIKON Lutheran Social Ministries of Allentown, Pennsylvania for abstinence education and related services
- \$35 million for grants to address drinking water and infrastructure needs in rural and native Alaskan communities
- \$104.5 million for the Emergency Watershed Protection Program
- \$35 million for wastewater infrastructure in De Soto County, Mississippi
- \$5 million for the Fort Peck Fish Hatchery in Montana
- \$27.6 million for the Architect of the Capitol to deal with recent problems related to steam tunnels and asbestos exposure
- \$140 million for infrastructure improvements for Gulf Coast shipyards

82. Brandon Gustafson, "The No Pork Pledge," *Citizens Against Government Waste*, September 30, 2005.

83. *Ibid.*

84. *Ibid.*

85. *Ibid.*

## How to Fix the Supplemental Spending Process

AS DEMONSTRATED, THE use of the supplemental process is susceptible to serious abuse that weakens overall budgetary discipline and leads to massive increases in overall spending. The abuse is directly linked to the use of the emergency designation as a large loophole that avoids constraining budget caps and various rules. According to the Congressional Budget Office, some critics also argue that the use of excessive emergency aid discourages the purchase of adequate insurance and weakens incentives to take actions that would mitigate the cost of natural disasters.<sup>86</sup>

There are several options to fix the current process and stop the abuse. The best option would be to stop exempting emergency spending from budget rules. That means that supplemental spending—whether an emergency or not—should be offset with funding cuts in low-priority programs and should also be included in deficit accounting. If that preferred option is not available, another option would retain the emergency exemption but establish specific criteria for designating spending as “emergency.” A third, would also retain the emergency exemption while requiring a supermajority vote of Congress to approve emergency spending. And finally, the last option would create a reserve fund for emergency spending. These options are not mutually exclusive, of course, and some of them could be combined to form a more exhaustive method to curtail emergency spending. For instance, lawmakers could stop exempting emergency spending from the budget rules and create a reserve fund for emergency spending. Or lawmakers could retain the exemption, establish some specific criteria for what constitutes an emergency, but also require a supermajority vote to approve emergency spending.

### 4.1. Eliminate the Exemption for Designated Emergencies

ONE APPROACH FOR controlling the use of supplemental spending would be to eliminate the exemption for designated emergencies under the BEA. There is no doubt that

supplemental spending can serve a very valuable role. In an emergency, it allows Congress to make funds available immediately without having to wait until the completion of the budget cycle, which could take up to ten months. Supplemental bills make money available when it is needed and serve as a safety valve. However, the emergency exemption also enables a dangerous budget gimmick. It allows Congress and the president to spend federal funds above budget caps and go around budget rules that safeguard fiscal discipline.

If the emergency exemption were eliminated, Congress would still be allowed to make funds available when needed after an emergency through a supplemental bill. However, the emergency funds would be counted under the discretionary limits or would be included in the PAYGO estimates calculations. Under these rules, emergency spending provided in supplemental spending acts during the fiscal year would have to be offset with spending cuts in other areas. It would also have to be accounted for in deficit projections, thus making the whole system more transparent.

Some critics claim that eliminating the emergency exemption could make the process less flexible.<sup>87</sup> Without the exemption, a major domestic disaster or a massive overseas troop deployment could require several billion dollars in additional spending that would force large offsets in other programs. Furthermore, if some parts of the budget or specific programs are sheltered from cuts, then the burden of the offset will rest on an even smaller share of the budget. In that case, it is unlikely that policy makers would agree to make the necessary cuts, which would result in the failure of the offsetting solution. That is what happened in the 1980s and what led to the emergency exemption.<sup>88</sup>

Eliminating the emergency exemption would force hard choices on Congress and the administration. However, this option would create the incentive for lawmakers to use the supplemental process only in the case of a true emergency while also enacting leaner and cleaner supplemental bills. As mentioned earlier, during the 1990s, Congress routinely included offsets for certain emergency supplemental spending, which triggered healthy

86. Congressional Budget Office, CBO Memorandum, *Emergency Spending Under the Budget Enforcement Act* (Washington, DC, December 1998).

87. *Ibid.*

88. Dauster, “Budget Emergencies,” 251.

policy debates about the qualitative and quantitative value of the emergency appropriations.<sup>89</sup>

According to Stephen Daggett, in the 1990s, the offset requirement raised a large number of congressional debates revolving around related policy issues such as the existence of alternative means of financing military contingency operations or where to make the offsets if Congress required them. For instance, should a defense emergency be offset with defense budget cuts, or could it be offset with non-defense cuts?

Daggett explained that the response to these questions varied based on who was in office at the time. For instance, the George H. W. Bush Administration frequently proposed rescissions of funds in the defense department, which would often be perceived as a challenge to congressional prerogatives and lead to conflicts. The Clinton Administration, on the other hand, generally tried to avoid conflict with Congress over specific cuts and left it up to Congress to find the needed cuts.

## 4.2. Establish Criteria for Emergency Spending

AS EXPLAINED EARLIER, while the BEA gives emergency bills special exemptions from budgetary rules designed to restrain spending, it does not set forth any criteria for policymakers to use in designating spending as “emergency.” Establishing specific standards that would have to be met before spending could be declared “emergency” would make decisions about emergencies less subjective, would guard against abuses of the emergency designation, and would strengthen budgetary discipline and control.

Last year, page 217 of the *Analytical Perspectives* volume of the president’s FY 2008 budget described the president’s proposal to enact into law a “definition of ‘emergency requirement’ that will ensure high standards are met before an event is deemed an ‘emergency’ and therefore exempt” from procedures that enforce statutory budget discipline, as follows:<sup>90</sup>

- **necessary expenditure:** an essential or vital expenditure, not one that is merely useful or beneficial
- **sudden:** quickly coming into being, not building up over time
- **urgent:** pressing and compelling, requiring immediate action
- **unforeseen:** not predictable or seen beforehand as a coming need (an emergency that is part of the average annual level of disaster assistance funding would not be “unforeseen”)
- **not permanent:** the need is temporary in nature

The budget document states that “the definition codifies the criteria . . . that have been the standard for a number of years” and that an item would have to meet all these criteria to be treated as an emergency.<sup>91</sup> This proposal lists the same resolutions that have created points of order to control the use of the emergency designation.<sup>92</sup> Even if it is unlikely that any set of criteria would completely remove the subjective element from policymakers’ decisions about emergency spending, it would help fight abuses.

## 4.3. Require a Supermajority Vote for Emergencies

ANOTHER APPROACH WOULD be to retain the emergency exemption, but require a supermajority vote to approve any emergency spending instead of today’s majority vote. According to the CBO, a three-fifths voting requirement would probably be effective.<sup>93</sup> Besides, the CBO adds, “it shouldn’t be too difficult to implement considering that the Senate already employs a series of three-fifths voting requirements to waive various enforcement provisions under the Congressional Budget Act.”<sup>94</sup> This approach is likely to be easy to implement since it would only require a change in Congressional procedure and would not need the president’s agreement. A true emergency would easily collect the necessary three-fifths majority.

89. Daggett, “Emergency Appropriations for the Defense Department.”

90. Office of Management and Budget, *Budget of the United States, FY 2008, Analytical Perspectives* (Washington, DC: Government Printing Office, February 2007), 217.

91. *Ibid.*

92. Senate Committee on the Budget, *Informed Budgeteer*.

93. Congressional Budget Office, *Memorandum, Emergency Spending Under the Budget Enforcement Act*, 15.

94. *Ibid.*, 15.



## 4.4. Establish a Reserve Fund for Emergencies

WHILE IT IS impossible to predict the catastrophic events or unexpected developments that lead to genuine emergency spending, experience informs us that emergencies will indeed occur and on a fairly regular basis. As such, according to James Blum, a former CBO deputy director, there are two options at the federal level for “prepaying” for disaster relief instead of systematically funding it after the fact through supplemental bills.<sup>95</sup> The first option would be to appropriate the average or expected need for each disaster program via the regular appropriations process. The second option would make annual payments to a reserve account, or “rainy-day fund.” For instance, Citizens Against Government Waste has suggested that Congress require federal agencies to set aside one percent of their annual budgets for emergencies.<sup>96</sup>

Almost all states have budget stabilization funds, also known as “rainy-day funds.” When times are good, states deposit tax revenues into these funds. When the economy takes a downturn, states can then withdraw funds for short-term fiscal relief. In some cases, states allow the rainy-day funds to be tapped for disaster relief.<sup>97</sup> In addition, most states maintain separate emergency accounts specifically for natural disasters. These accounts are funded by annual appropriations, and in an emergency, the money is directed to relief. The intent is simply to have some money to start recovery efforts immediately. Generally, if more money is necessary, state legislatures will pass supplemental appropriations or count on federal assistance.

At the federal level, a reserve fund would consolidate most or all emergency spending into a single fund or budget account.<sup>98</sup> One benefit of this approach would be increased transparency and oversight. The money appropriated would have to go through the general budget process and be subject to the usual checks and balances. Also, concentrating the funding in one single account

would allow better monitoring of that money and reduce some of the waste and abuse of the current system. However, considering the impact of the word “emergency,” it would be wise to require a supermajority vote to approve any emergency spending (as laid out in the previous subsection). Employing a clear definition of “emergency,” as laid out in Subsection 4.2, will also be key in preventing further abuses. Going back to Subsection 4.1, establishing a rainy day fund would not answer the question of whether emergency spending should be exempt from BEA requirements. If policymakers establish a rainy day fund and eliminate the emergency exemption, they will have to find ways to accommodate or pay for emergency needs under the discretionary spending limits and the PAYGO requirements.

An added benefit of using a separate account for emergencies is that it would highlight overall emergency needs more effectively and enable policymakers to draw a more direct connection between emergency spending and any offset needed to pay for this spending. A better understanding of emergency-spending needs and historical evidence of disaster costs would, in theory, help policymakers better allocate emergency funds in the long run.

Finally, according to the CBO, an emergency reserve fund could encourage efforts to avoid or mitigate disasters as well as highlight potential alternatives to federal actions, such as state or local initiatives or private insurance.<sup>99</sup>

## 5 Conclusion

SUPPLEMENTAL BILLS ARE funding somewhat predictable hurricane and war costs. Non-emergency spending is being channeled through supplemental spending. These techniques are enabling Congress to avoid complying with budget limits and have increased spending significantly.

95. U.S. Congress. Senate. James Blum, *Budgeting for Federal Disaster Assistance*, Testimony Before the Subcommittee on VA-HUD and Independent Agencies Committee on Appropriations (Washington, DC: Congressional Budget Office, March 16, 1995), <http://www.cbo.gov/ftpdocs/47xx/doc4786/1995doc26.pdf>.

96. Gustafson, “The No Pork Pledge.”

97. See Theresa A. Gullo, “How States Budget and Plan for Emergencies,” CBO Testimony before the Budget Committee of the U.S. House of Representatives (1998), <http://www.cbo.gov/showdoc.cfm?index=590&sequence=0>; National Association of State Budget Officers, *Budget Process in the States* (Washington, DC: NASBO, 2002) <http://www.nasbo.org/Publications/PDFs/budpro2002.pdf>; and National Conference of State Legislatures, *States and FEMA Deal with Disasters* (Washington, DC: NCSL, 2001).

98. Congressional Budget Office, *Emergency Spending Under the Budget Enforcement Act* (Washington, DC: GPO, 1998), 1.

99. Congressional Budget Office, *Emergency Spending Under the Budget Enforcement Act*, 16.

A close look at the data and trends in supplemental spending reveals how these budget-cap exempt bills have enabled lawmakers to explode overall spending especially since FY 2002. The data shows that while supplemental appropriations remained at less than 1 percent of discretionary appropriations in 1990, they began to rise after 1998, reaching an all-time high of 13.5 percent in FY 2007. Since then, even bigger supplemental bills have been requested. There seems to be no end in sight to the abuse of a process that was meant as a safety valve, not as a way to avoid budget caps and fiscal responsibility.

Supplemental bills have become the tool of choice for Congress and the administration to avoid caps set by annual budget resolutions and to increase spending across the board. In addition, because these funds are not subject to the same kind of budget discipline as other appropriations and because of a serious lack of congressional oversight, they have become more than just a loophole, they have become a budget gimmick that enables the president and Congress to spend dramatically more than they would otherwise be allowed to spend. As it is currently practiced, supplemental spending is a shell game, with the Executive as the operator, Congress as the shells, and the taxpayers as the marks. Like all shell games, the game is rigged in favor of the operators and the shells: the marks will always lose.

Taxpayers cannot afford to play the game any longer. The supplemental spending shell game that Capitol Hill and the White House have been playing for years must end. The American people should demand Congress carry out reforms that would achieve this goal. The reforms should set firm, clear criteria for what constitutes an emergency or require a supermajority vote for emergencies. Also the reforms should create a federal rainy-day fund for true emergencies, following the example of several states that have successfully adopted such a system. If such reforms are passed, the never-ending emergency may finally come to an end.





## APPENDIX 1

### Major Laws and Years Influencing the Treatment of Supplemental Appropriations Bills

#### **1974: Congressional Budget and Impoundment Control Act of 1974 (July 12, 1974)**

This measure establishes the congressional budget process, House and Senate Budget Committees, the Congressional Budget Office, and procedures for legislative review of impoundments. It also provides for Congress to adopt an annual budget resolution that sets revenue, spending, the surplus or deficit, and debts totals. It also allocates spending among twenty functional categories.

#### **1985, 1987: Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 also known as the Gramm-Rudman-Hollings Acts:**

These Acts set a target for the deficit and provide for sequesters if the deficit exceeds the targets. They also seek to limit supplemental appropriations bills to dire emergencies.

#### **1990: Budget Enforcement Act of 1990**

The Budget Enforcement Act creates spending caps on discretionary spending. It also establishes PAYGO rules for revenues and direct spending. The rules trigger an automatic, across the board, offset within each category (defense, domestic discretionary, and international discretionary) if any appropriations bill violates either the budget authority or outlays caps for that category. However, it introduces an emergency exception. An emergency request in supplemental or regular appropriations bills would not count against the spending caps and the across-the-board offset would not apply as long as it is initiated by the president or Congress and then agreed upon by both the president and Congress. The same exemption is applied to all costs due to operation Desert Shield.

#### **2002 to 2008: Expiration of BEA Rules and Return to Deficit:**

The BEA rules expired in 2002. After four years of surplus from 1998 to 2001, deficit spending made a return. For more than a decade, the Senate has had internal rules to enforce PAYGO and discretionary spending caps, and stated exemptions for emergency spending. In 2007, the House adopted its own PAYGO rule and the Senate revised its existing rule in a manner consistent with the House version. Every year, emergency spending has been exempted from these rules and has not triggered any off-sets or spending cuts.

## APPENDIX 2

### Frequently Used Acronyms and Abbreviations

**BEA:** Budgetary Enforcement Act of 1990

**CBO:** Congressional Budget Office

**DOD:** Department of Defense

**FY:** Fiscal Year

**GAO:** Government Accountability Office

**OMB:** Office of Management and Budget

**PAYGO:** pay-as-you-go rules

## APPENDIX 3

### The Federal Budget Glossary<sup>1</sup>

**Appropriations**—A provision of law providing budget authority that enables an agency to incur obligations and to make payments out of the Treasury for specified purposes. Appropriations are the most common means of providing budget authority.

**Appropriation Limitation**—A provision in an appropriations act that limits the amount that may be obligated or spent for specified purposes. The limitation may be applied to direct loan obligations, guaranteed loan commitments, administrative expenses financed out of trust funds, or other purposes.

**Appropriations Act**—A statute, under the jurisdiction of the House and Senate Committees on Appropriations, that generally provides legal authority for federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation act fulfills the requirement of Article I, Section 9, of the U.S. Constitution, which provides that “no money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” Under the rules of both houses, an appropriation act should follow enactment of authorizing legislation.

Major types of appropriation acts are regular, supplemental, deficiency, and continuing. Regular appropriation acts are all appropriation acts that are not supplemental, deficiency, or continuing. Currently, regular annual appropriation acts that provide funding for the continued operation of federal departments, agencies, and various government activities are considered by Congress annually. From time to time, supplemental appropriation acts are also enacted. When action on regular appropriation bills is not completed before the beginning of the fiscal year, a continuing resolution (often referred to simply as “CR”) may be enacted in a bill or joint resolution to provide funding for the affected agencies for the full year, up to a specified date, or until their regular appropriations are enacted. A deficiency appropriation act provides budget authority to cover obligations incurred in excess of available budget authority. (See also Supplemental Appropriation.)

**Balanced Budget**—A budget in which receipts equal or exceed outlays.

**Baseline**—a projection of revenues, expenditures, and other budget amounts under assumed economic condition and participation rates, and assuming no change in current policy.

**Budget Authority**—Authority provided by law to enter into obligations that normally result in outlays—spending. The main forms of budget authority are appropriations, borrowing authority, and contract authority. Budget authority may be classified by the period of availability (one year, multiyear, or no year), by the timing of the congressional action (current or permanent), or by the specificity of the amount available (definite or indefinite).

**Borrowing Authority**—Budget authority enacted to permit an agency to borrow money and then to obligate against amounts borrowed. It may be definite or indefinite in nature. Usually the funds are borrowed from the Treasury, but in a few cases agencies borrow directly from the public.

**Budget Enforcement Act of 1990**—First enacted as Title XIII of the Omnibus Budget Reconciliation Act of 1990. BEA amended the Balanced Budget and Emergency Deficit Control Act of 1985 and related amendments (Gramm-Rudman-Hollings) and the Congressional Budget and Impoundment Control Act of 1974. BEA modified procedures and definitions for sequestration and deficit reduction and introduced discretionary spending limits, pay-as-you-go (PAYGO) rules, and sequestration procedures. The sequestration and enforcement mechanisms of the Balanced Budget and Emergency Deficit Control Act, as amended by BEA, expired or became ineffective, at the end of fiscal year 2002.

**Budget Resolution**—A concurrent resolution passed by both houses of Congress that presents the congressional budget for each of the succeeding ten (or fewer) fiscal years. The budget resolution sets forth budget totals and functional allocations and may include reconciliation institutions to designated House or Senate committees

1. Government Accountability Office, “A Glossary of Terms Used in the Federal Budget Process,” GAO-05-734SP, September 2005.

**Budget Surplus or Deficit**—The arithmetic difference between budget receipts and outlays. The deficit is the excess of outlays over receipts; the surplus is the excess of receipts over outlays.

**Committee Allocation**—The distribution of total proposed new budget authority and outlays, as set forth in the concurrent resolution on the budget, among the congressional committees according to their jurisdictions. The allocations are set forth in the joint explanatory statement of managers included in the conference report on the congressional budget resolution. House and Senate committees receive allocations of total new budget authority and total outlays. House committees also receive allocations of total entitlement authority, and Senate committees also receive allocations of Social Security outlays. Allocations are committee specific, but not program specific. Under section 302(a) of the Congressional Budget and Impoundment Control Act of 1974, committee allocations are limits, not simply recommendations.

**Concurrent Resolution on the Budget**—A concurrent resolution adopted by both houses of Congress as part of the annual budget and appropriations process, setting forth an overall budget plan for Congress against which individual appropriations bills, other appropriations, and revenue measures are to be evaluated. As a plan for Congress, the resolution is not presented to the president for signature and does not have the force of law. The resolution is expected to establish, for at least 5 fiscal years beginning on October 1 of the year of the resolution, appropriate levels for the following: totals of new budget authority and outlays, total federal revenues, the surplus or deficit in the budget, new budget authority and outlays for each major functional category, the public debt, and outlays and revenues for Social Security insurance programs. The concurrent resolution generally contains budget levels for the 5 fiscal years and may contain reconciliation instructions to specified committees. The concurrent resolution most recently adopted may be revised or affirmed before the end of the year to which it applies. (See also Congressional Budget and Impoundment Control Act of 1974.)

**Congressional Budget and Impoundment Control Act of 1974**—Established a process through which Congress could systematically consider the total spending policy of the United States and determine priorities for allocating

budgetary resources. The process calls for procedures for coordinating congressional revenue and spending decisions made in separate tax, appropriations, and legislative measures. It established the House and Senate Budget Committees, the Congressional Budget Office, and the procedures for congressional review of impoundments in the form of rescissions and deferrals proposed by the president. (See also Budget Enforcement Act; Deferral of Budget Authority; Gramm-Rudman-Hollings; Impoundment; Rescission.)

**Constant Dollars**—The dollar value of goods and services, adjusted for changes in prices. Constant dollar series are used to compute the inflation-adjusted level of budget receipts and outlays.

**Contract Authority**—Budget authority that permits an agency to incur obligations in advance of appropriations, including collections sufficient to liquidate the obligation or receipts. Contract authority is unfunded, and a subsequent appropriation or offsetting collection is needed to liquidate the obligations.

**Current Dollars**—The dollar value of a good or service in terms of the price paid at the time the good or service is sold.

**Current Year**—A term used in the budget formulation process to refer to the fiscal year immediately preceding the budget year under consideration.

**Direct Spending**—Budget authority and ensuing outlays provided in laws other than appropriations acts, including annually appropriated entitlements. Direct spending is distinguished by the Budget Enforcement Act from discretionary spending and is subject to pay-as-you-go rules.

**Discretionary spending**—Budget authority, other than appropriated entitlements, and ensuing outlays provided in the annual appropriations acts. The Budget Enforcement Act limits discretionary budget authority and outlays.



**Emergency spending**—An appropriation that the president and Congress have designated as an emergency. Under the Budget Enforcement Act of 1990, an emergency appropriation causes an increase in the relevant discretionary spending limits to accommodate the additional spending.

**Fiscal Year**—Any yearly accounting period, regardless of its relationship to a calendar year. The fiscal year for the federal government begins on October 1 of each year and ends on September 30 of the following year; it is designated by the calendar year in which it ends. For example, fiscal year 1990 began October 1, 1989, and ended September 30, 1990. (Prior to fiscal year 1977, the federal fiscal year began on July 1 and ended on June 30. The 3-month period, July 1, 1976, to September 30, 1976, between fiscal years 1976 and 1977 is called the transition quarter (“TQ”).)

**Gramm-Rudman-Hollings (GRH)**—The popular name of the Balanced Budget and Emergency Deficit Control Act of 1985, so named for the Senate sponsors: Senators Phil Gramm, Warren Rudman, and Ernest F. Hollings. The act, a mechanism for reducing the federal deficit, set declining deficit targets for the federal government and established an automatic enforcement mechanism called sequestration. GRH has been amended several times, most significantly by the Budget Enforcement Act of 1990 and the Balanced Budget Act of 1997. (See also Budget Enforcement Act; Discretionary; Limitation; Mandatory; Sequestration.)

**Mandatory Spending**—Mandatory spending refers to spending enacted by law, but not dependent on an annual or periodic appropriation bill. Most “mandatory” spending consists of entitlement programs such as Social Security benefits, Medicare, and Medicaid. These programs are called “entitlements” because individuals satisfying given eligibility requirements set by past legislation are entitled to federal government benefits or services.

**Obligation**—A definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States. Payment may be made immediately or in the future. An agency incurs an obli-

gation, for example, when it places an order, signs a contract, awards a grant, purchases a service, or takes other actions that require the government to make payments to the public or from one government account to another.

**Outlays**—The issuance of checks, disbursement of cash, or electronic transfer of funds made to liquidate a federal obligation. Outlays also occur when interest on the Treasury debt held by the public accrues and when the government issues bonds, notes, debentures, monetary credits, or other cash-equivalent instruments in order to liquidate obligations. Also, under credit reform, the credit subsidy cost is recorded as an outlay when a direct or guaranteed loan is disbursed. An outlay is not recorded for repayment of debt principal, disbursements to the public by federal credit programs for direct loan obligations and loan guarantee commitments made in fiscal year 1992 or later, disbursements from deposit funds, and refunds of receipts that result from overpayments. Outlays during a fiscal year may be for payment of obligations incurred in prior years (prior-year obligations) or in the same year. Outlays, therefore, flow in part from unexpended balances of prior-year budgetary resources and in part from budgetary resources provided for the year in which the money is spent. Outlays are stated both gross and net of offsetting collections.

**Pay-As-You-Go (PAYGO)**—A budgetary enforcement mechanism originally set forth in the Budget Enforcement Act, which effectively expired at the end of fiscal year 2002. Under this mechanism, proposed changes in, or new permanent, law were expected to be deficit neutral in the aggregate in the fiscal year of enactment or in a period of years. PAYGO was intended to control growth in direct spending and tax legislation. The Senate, in the concurrent resolution on the budget, has established an internal rule enforcing a requirement that direct spending or receipts legislation under consideration in the Senate be deficit neutral over certain periods of time. This Senate PAYGO rule is enforced by points of order. (See also Point of Order; Sequestration.)

**Point of Order**—An objection raised on the House or Senate floor or in committees to an action being taken as contrary to that body’s rules. In the House, for example, a point of order may be raised under Rule XXI objecting to an appropriation in an appropriation bill that was not previously authorized by law. Many of the rules established in the Congressional Budget Act of 1974 and related rules

preclude the consideration of legislation that would violate totals in the budget resolutions, spending limits, or committee allocations. These rules are typically enforced through points of order. Points of order may be waived by a majority vote in the House. In the Senate, only points of order under the Budget Act may be waived (not points of order against actions that violate the Senate's standing rules), but the waiver generally requires a three-fifths vote. (See also Congressional Budget Act.)

**President's Budget**—The document sent to Congress by the president in January or February of each year, as required by law requesting new budget authority for federal programs and estimating federal revenues and outlays for the upcoming fiscal year and 4 subsequent outyears. Although the title of the document is *Budget of the U.S. Government*, it represents proposals for congressional consideration.

**Reconciliation**—A process Congress uses to reconcile amounts determined by tax, spending, credit, and debt legislation for a given fiscal year with levels set in the concurrent resolution on the budget for the year. Section 310 of the Congressional Budget and Impoundment Control Act of 1974 provides that the resolution may direct committees to determine and recommend changes to laws and pending legislation as required to conform to the resolution's totals for budget authority, revenues, and the public debt. Such changes are incorporated into either a reconciliation resolution or a reconciliation bill. (See also Congressional Budget Act.)

**Reconciliation Bill**—A bill reported pursuant to reconciliation instructions in a congressional budget resolution proposing changes in laws that if enacted, would achieve the budgetary goals set forth in the budget resolution. (See also Congressional Budget Act.)

**Rescission**—Legislation enacted by Congress that cancels the availability of budget authority previously enacted before the authority would otherwise expire. The Impoundment Control Act of 1974 provides for the president to propose rescissions whenever the president determines that all or part of any budget authority will not be needed to carry out the full objectives or scope of programs for which the authority was provided. Rescissions of budget authority may be proposed for fiscal policy or other reasons. All funds proposed for rescis-

sion must be reported to Congress in a special message. Amounts proposed for rescission may be withheld for up to 45 calendar days of continuous session while Congress considers the proposals. If both houses have not completed action on a rescission bill rescinding all or part of the amount proposed by the president for rescission in his special message within 45 calendar days of continuous session, any funds being withheld must be made available for obligation. Congress may also initiate rescissions.

**Spending Caps**—Overall limits on discretionary spending, which were originally set in the Budget Enforcement Act and the enforcement of which expired at the end of fiscal year 2002. Congress, however, continues to set limits on discretionary spending, typically in concurrent budget resolutions, which are enforceable during the congressional budget process. (See also Discretionary; Concurrent Resolution on the Budget.)

**Statutory Discretionary Budget Caps**—The maximum amounts of discretionary spending, as established by law.

**Sequestration**—Under Budget Enforcement Act provisions, which expired in 2002, the cancellation of budgetary resources provided by discretionary appropriations or direct spending laws. New budget authority, unobligated balances, direct spending authority, and obligation limitations were "sequestrable" resources; that is, they were subject to reduction or cancellation under a presidential sequester order. (See also Budgetary Gramm-Rudman-Hollings; Rescission.)

**Supplemental Appropriation**—An act appropriating funds in addition to those already enacted in an annual appropriation act. Supplemental appropriations provide additional budget authority usually in cases where the need for funds is too urgent to be postponed until enactment of the regular appropriation bill. Supplementals may sometimes include items not appropriated in the regular bills for lack of timely authorizations.



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## About the Mercatus Center

The Mercatus Center at George Mason University is a research, education, and outreach organization that works with scholars, policy experts, and government officials to connect academic learning and real world practice.

The mission of Mercatus is to promote sound interdisciplinary research and application in the humane sciences that integrates theory and practice to produce solutions that advance in a sustainable way a free, prosperous, and civil society. Mercatus's research and outreach programs, Capitol Hill Campus, Government Accountability Project, Regulatory Studies Program, Social Change Project, and Global Prosperity Initiative, support this mission.

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## ABOUT THE MERCATUS POLICY SERIES

The objective of the Mercatus Policy Series is to help policy makers, scholars, and others involved in the policy process make more effective decisions by incorporating insights from sound interdisciplinary research. The series aims to bridge the gap between advances in scholarship and the practical requirements of policy through four types of studies:

**POLICY PRIMERS** present an accessible explanation of fundamental economic ideas necessary to the practice of sound policy.

**POLICY RESOURCES** present a more in depth, yet still accessible introduction to the basic elements of government processes or specific policy areas.

**POLICY COMMENTS** present an analysis of a specific policy situation that Mercatus scholars have explored and provide advice on potential policy changes.

**COUNTRY BRIEFS** present an institutional perspective of critical issues facing countries in which Mercatus scholars have worked and provide direction for policy improvements.



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