



THE CONCORD
COALITION

1011 Arlington
Blvd
Suite 300
Arlington, VA
22209

(Tel) 703-894-6222
(Fax)
703-894-6231
concordcoalition.org

Issue Brief

May 10, 2010

Growing Misuse of "Emergency" Designation Weakens Budget Discipline and Increases Deficit Spending

WASHINGTON - Over the next few weeks, we will be hearing a lot about supplemental appropriations and emergency spending as Congress turns to a major supplemental spending bill that will likely include funding for the war effort and other priorities. As discussed in the [Washington Budget Report](#) last month and in The Concord Coalition's [guide to the FY 2011 budget process](#), Congress routinely considers supplemental appropriations bills each spring.

Such bills provide funding that is in addition to what was previously enacted through the regular appropriations process. If Congress designates supplemental spending as "emergency spending," it is exempt from budget allocations and a number of other budget enforcement provisions. The vast majority of supplemental spending has been designated as emergency spending, and the two terms are often used interchangeably.

Emergency spending is a routine but often controversial part of the budget process. Over the last ten years, supplemental appropriations have increased significantly and added to deficits as Congress has used the bills to provide emergency spending for costly priorities such as the Hurricane Katrina relief effort, military operations in Iraq and Afghanistan, and the 2009 stimulus bill. Supplemental appropriations have also increased because the bills have routinely attracted extraneous items, and the budget enforcement mechanisms designed to keep them out have been weak and largely ineffective.

While the Appropriations Committees have not finalized the bills yet, there has been no shortage of suggestions for emergency spending that could be considered:

- The oil spill in the Gulf of Mexico has prompted discussions on Capitol Hill about providing emergency appropriations to assist the recovery effort in the Gulf.
- Last week Senate Agriculture Committee Chair Blanche Lincoln [wrote to Senate Majority Leader Harry Reid](#) to request emergency funding to compensate farmers who have sued the Department of Agriculture for alleged discrimination in several farm programs.
- The President has requested supplemental funding for ongoing activities in Afghanistan, war-related activities, disaster relief, aid to Haiti after the earthquake, and other purposes.

- The House passed a supplemental bill earlier this year to provide emergency funding to replenish the Federal Emergency Management Administration's (FEMA) disaster relief fund and provide money for summer jobs and small business lending.

These are just a few of the items that have been mentioned, and the list will almost certainly grow longer.

The Definition of Emergency Spending

The laws governing the budget process generally consider “emergency spending” to be exempt from some budget allocations and rules. For example, the Budget Enforcement Act of 1990 exempted emergency spending from the statutory discretionary spending caps and PAYGO rules that expired in 2002. In addition, the Congressional Budget Act of 1974 allows the Budget Committee chairs to make adjustments to allocations for emergency spending. The PAYGO law signed by President Obama this year also included an exemption for emergency spending.

Debates about emergency spending often begin when someone questions whether a specific priority is a legitimate emergency. While emergency spending is included in several statutes, the laws have not included a definition of “emergency.” In 1991 the Office of Management and Budget (OMB) proposed a definition that included the following elements:

- ***Necessary Expenditure*** (an essential or vital expenditure, not one that is merely useful or beneficial);
- ***Sudden*** (coming into being quickly, not building up over time);
- ***Urgent*** (pressing and compelling need requiring immediate action);
- ***Unforeseen*** (not predictable or seen beforehand as a coming need, although an emergency that is part of an overall level of anticipated emergencies would not be “unforeseen”); and
- ***Not permanent*** (the need is temporary).

Variations of this definition have been frequently included in congressional budget resolutions and it has been generally accepted by Congress. Most recently, the definition was included in the conference agreement for the FY 2010 budget resolution and in the FY 2011 budget resolution reported last month by the Senate Budget Committee.

Increasing Supplemental Appropriations Have Added to Deficits

Over the past ten years, the use of supplemental appropriations has increased dramatically. According to the Congressional Budget Office, net supplemental spending totaled \$99 billion in the 1980s and \$86 billion in the 1990s. In contrast, from 2000 to 2009, supplemental appropriations often exceeded \$100 billion in a single year, and the total was over \$907 billion. In FY 2009 alone, supplemental appropriations were \$106 billion. (CBO's estimate does not include emergency spending from the [American Recovery and Reinvestment Act of 2009](#). If the discretionary spending from the stimulus were included, the totals for FY 2009 and Fiscal Years 2000-09 would increase by \$289 billion.)

A Congressional Budget Office analysis concluded that, of the discretionary supplemental appropriations provided between 1991 and 1999, 92 percent were designated as emergency spending. Similarly, a 2008 GAO analysis of gross supplemental budget authority between 1997 and 2006 concluded that 83 percent were designated as emergency spending.

As supplemental appropriations have increased, they have had a significant effect on budget deficits. In a 2009 report, the Congressional Research Service (CRS) concluded that from 1981 to 1985, supplemental appropriations increased the deficit or decreased the surplus by an average of 7.6 percent a year. From 1986 to 1990, the average deficit increase or surplus reduction was only 3.5 percent. As supplemental appropriations have grown over the past ten years, the effect on the deficits/surpluses has also increased considerably. From 2003 to 2008, the estimated average annual deficit increase was 36.8 percent. In comparison, the average annual rate between 1981 and 2008 was only 12.1 percent.

Potential Causes For The Increases in Emergency Spending

Legitimate Emergencies and Natural Disasters

In many cases, the increases were justified by natural disasters, terrorist attacks, or other events that required Congress to use emergency spending to quickly appropriate funds. For example, after Hurricanes Katrina, Rita, and Wilma caused widespread damage and loss of life on the Gulf coast in 2005, Congress quickly passed supplemental appropriations bills that provided needed funding. Hurricane Katrina made landfall at the end of August and within two weeks, Congress passed two supplemental appropriations bills that provided a total of \$62 billion in funding. According to a CRS analysis, from FY 2005 through FY 2008, Congress provided a total of \$134.1 billion in supplemental funding to support emergency relief efforts related to the Gulf coast hurricanes.

Similarly, in 2009 the final version of the American Recovery and Reinvestment Act included approximately \$311 billion in emergency appropriations over ten years (in addition to \$267 billion in direct spending and \$212 billion in tax cuts) to respond to an economic downturn.

Emergency Designations Have Been Used as Budget Gimmicks

In other cases, supplemental appropriations increased because emergency designations have been abused. The practice of exempting emergency spending from budget allocations has created a tempting budget gimmick, which has not been lost on policymakers from either party.

For example, until the President's FY 2010 budget request, much of the funding for ongoing military operations in Iraq and Afghanistan was funded entirely through emergency appropriations. Funding the war using emergency spending was a gimmick that had the effect of removing billions of dollars of likely military expenditures from the spending totals in the President's budget. At the time, [The Concord Coalition raised concerns](#) that the deficit

totals projected in the President's budget were unrealistic because they omitted costs of major initiatives such as the war. Analysis by both CRS and the Government Accountability Office (GAO) has also raised concerns about the practice. [In a 2006 report](#), CRS concluded that the practice of funding the entire war effort using emergency appropriations departed from the prior practice of funding only the initial stages of military conflicts with emergency appropriations and then using regular appropriations to fund ongoing conflicts. In [a 2008 study of supplemental appropriations](#), GAO encouraged the Administration to include known or likely projected costs of military operations in Afghanistan and Iraq with the Department of Defense's base budget request. GAO concluded that "continuing to fund GWOT [Global War on Terrorism] through supplementals reduces transparency and avoids the necessary reexamination and discussion of defense commitments and funding tradeoffs."

An additional factor that has contributed to the increase in emergency appropriations is the fact that supplemental appropriations bills have routinely included extraneous items which do not meet any reasonable definition of an "emergency." In [a review of emergency-designation provisions enacted from fiscal years 1997 through 2006](#), GAO identified \$31 billion in emergency spending that was either not consistent with the criteria for emergency spending or did not include enough detail to make a determination. GAO cited examples such as funding that was provided for emergencies that had not yet occurred, and research and development activities.

Funding for the census has also been provided using emergency spending. For example, an [FY 2008 supplemental spending bill](#) included \$210 million in emergency funding for the census. While few would question the need to adequately fund the census, some have argued that funding a census required by the Constitution for over two hundred years does not meet criteria that require emergency spending to be unforeseen or sudden.

Ineffective Budget Enforcement Mechanisms

A final factor that has driven the increase in supplemental appropriations is the fact that budget enforcement tools that could be used to eliminate questionable emergency spending are relatively weak and have been largely ineffective.

In the Senate, emergency spending designations are currently subject to budget points of order, though the points of order are routinely waived by the required vote of 60 senators. In recent years, the Appropriations Committees have made the point of order even less effective by using global emergency designations which apply to every provision in an appropriations bill. When a single emergency designation is used to cover an entire bill, senators are unable to raise targeted points of order against questionable emergency designations for specific provisions. Instead, they are left with the often politically unattractive option of raising a point of order against the entire bill—including funding for legitimate emergencies.

In the House, there are no specific budget points of order against emergency designations in appropriations bills. Even if there were, it is unlikely that they would be raised because all budget points of order are typically waived by the [Rules Committee in the rules that govern consideration of bills on the House floor](#). As a result, decisions to designate emergency

spending in the House are largely left to the Appropriations Committee and the House leadership.

Improvements in the President's Budget and the Senate Budget Resolution

While recent trends in emergency spending have not been encouraging, it is worth noting that the budgets President Obama has proposed over the last two years have included requests that more accurately reflect anticipated emergency spending. The budgets for FY 2010 and FY 2011 included funding for military efforts in Iraq and Afghanistan in the base defense request. They also included estimates for emergency spending that could be needed due to natural disasters. While these steps will not eliminate the need for supplemental spending for these purposes, the practice of budgeting for emergency spending rather than pretending it doesn't exist is a fiscally responsible approach that should be continued.

It is also encouraging that the Senate Budget Committee recently reported a [budget resolution](#) that includes a committee amendment strengthening the emergency designation point of order. Sec. 303 of the resolution included a new requirement that an emergency designation be accompanied by a document with signatures of 16 senators affirming that the emergency designation meets the proper criteria (necessary, sudden, urgent, unforeseen, and not permanent). While more comprehensive reforms will still be needed to prevent the abuse of emergency spending, this requirement is a positive development that could add transparency and accountability. Making such additional improvements could also help restore public trust in government and the appropriations process.

The Concord Coalition's Position on Emergency Spending

As Congress prepares to consider emergency spending for FY 2010, The Concord Coalition urges policymakers to remember that annual deficits are currently over a trillion dollars. Policymakers should resist the temptation to use emergency spending as a budget gimmick to increase deficit spending that is already unsustainable. The Concord Coalition also urges policymakers to abide by the following principles:

- *Emergency spending should be used only for legitimate emergencies, not as a means for evading budget allocations. Extraneous items that are not emergencies should be considered through the regular appropriations process.*
- *Policymakers requesting emergency spending should rely on clear and transparent criteria for emergency spending. They should explain in detail and in public what the criteria are and how their request meets these criteria.*
- *To the extent possible given the specific circumstances, policymakers should try to use rescissions or other offsets to pay for emergency spending.*
- *When there are efforts to designate non-emergency items as emergencies, policymakers should fully utilize budget enforcement mechanisms such as points*

of order. When points of order are raised for this purpose, policymakers should refrain from waiving the Budget Act.

- *Policymakers should consider imposing stricter budget enforcement mechanisms that will more effectively prevent emergency designations from being used as a gimmick to increase deficit spending.*
- *Whenever it is feasible, emergency appropriations should be provided only after credible estimates of potential funding needs can be made. Policymakers should avoid proposing large emergency funding increases that are not based on such estimates.*