

No. 40

May 31, 2002

S. 2551 – FY 2002 Emergency Supplemental Appropriations

Calendar No. 384

Reported by the Senate Appropriations Committee on May 22, 2002, 29-0; S. Rept. 107-156.

NOTEWORTHY

- By unanimous consent, the Senate will take up H.R. 4775, the House-passed supplemental bill on June 3 at 2 p.m. if the bill has been received in the Senate. (If not, the Senate would turn to S. 625 until H.R. 4775 is received.) The Senate bill, S. 2551, would then be substituted and considered as original text.
- On March 21, 2002, President Bush conveyed to the Congress a request for supplemental appropriations in the amount of \$27.1 billion, including \$14 billion for defense, \$5.3 billion for Homeland Security, and nearly \$5.5 billion for assistance to New York.
- The House on May 24 passed H.R. 4775, by a vote of 280-138, providing a total of \$28.8 billion, including \$15.8 billion for the Department of Defense (\$1.8 billion of which is contingent), \$5.8 billion for Homeland Security, and the requested \$5.5 billion for New York.
- The Senate-reported bill would provide \$32.1 billion in mandatory and discretionary funding, including \$14 billion for defense (no contingency funds), \$8.3 billion for Homeland Security, and \$5.5 billion for New York aid.
- The Senate bill, as reported, contains no debt-ceiling language or discretionary spending limitations; however, the House agreed to language that effectively would cap discretionary spending for FY 2003 at \$759 billion for the House-passed appropriations bills. The House also agreed to nonbinding language that sets the stage for an increase in the debt ceiling to be inserted into the supplemental during the House-Senate conference.
- The Senate bill contains language (section 1102) requiring Senate confirmation for the director of homeland security. (Note: the Governmental Affairs Committee on May 22 passed, 7-3, S. 2452, creating a Cabinet-level Department of National Homeland Security.)
- The President supported passage of the House bill, but has not released an official position on the Senate bill.

HIGHLIGHTS

S. 2551 provides a total of \$32.1 billion in supplemental FY 2002 funds, of which \$1.1 billion is in mandatory spending. In all, the bill exceeds the Administration's request by \$3.68 billion.

NATIONAL DEFENSE

- The Committee recommends \$14.02 billion for the Department of Defense, providing all of the funding at the requested levels. Note: recommendations for specific classified programs are addressed in the classified annex to the Committee's report.
- Funds are recommended for:
 - the conduct of military operations related to Operation Enduring Freedom and Operation Noble Eagle (\$7.2 billion);
 - pay and allowances for reserve and national guard personnel called to active duty and unforeseen military personnel costs (\$4.3 billion);
 - the procurement of munitions and weapons (\$500 million);
 - critical command, control, communications, and intelligence support (\$1.6 billion);
 - and,
 - coalition support (\$420 million).

HOMELAND SECURITY

[NOTE: The committee report does not specifically itemize "homeland security" funding. Most of the information in this section comes from a press release from the Committee on Appropriations (majority side) dated May 21, 2002.]

The bill provides \$8.3 billion for homeland security initiatives, including:

- \$4.7 billion (\$302.5 million above the request) for the Transportation Security Administration to respond to the increased security efforts underway at airports and for other purposes, including \$200 million for port security grants and \$20 million for over-the-road bus security assistance;

- \$1 billion for first responder efforts, including grants for firefighters, state and local law enforcement agencies, and emergency medical personnel. The funding also would be used to increase the number of Federal Emergency Management Agency search-and-rescue teams trained to respond to biological, chemical, or nuclear attacks;
- \$970 million for port security efforts (including the amount cited above) for increased Coast Guard surveillance, Customs Service security inspections of cargo containers entering the country, and other efforts;
- \$387 million for strengthening bioterrorism response efforts at the Centers for Disease Control and the National Institutes of Health.
- \$200 million for improved security at nuclear laboratories and facilities;
- \$154 million for cybersecurity, with a special emphasis on assisting the private sector to combat computer attacks;
- \$265 million for airports to help meet rigorous security standards and for security improvements at air traffic control stations;
- \$125 million for border security initiatives, including resources for the Immigration and Naturalization Service to improve its border checkpoints and to include expanded rapid response systems on criminal background checks for those people seeking to enter the country;
- \$100 million for nuclear nonproliferation efforts;
- \$200 million for efforts to protect against agroterrorism by hiring additional inspectors and by updating food safety laboratories;
- \$100 million for vulnerability assessments on the security of water systems;
- \$340 million for enhanced domestic security efforts including Secret Service initiatives to combat electronic crimes, FBI counterterrorism efforts, courthouse security, and security at federal buildings, national monuments, and memorials; and
- \$87 million for the U.S. Postal Service to combat anthrax and other biological and chemical weapons delivered through the mail system.

ASSISTANCE TO NEW YORK

- The bill provides \$5.5 billion for New York to continue recovery efforts from the September 11 terrorist attacks.

OTHER PROVISIONS

- Both the Senate and House bills provide \$1 billion to make up for a shortfall in Pell Grant money.
- The bill also contains \$200 million in assistance for Israel and \$50 million for disaster assistance for the Palestinians.
- For the Veterans Administration, an amount of \$1.1 billion in requested funds is provided for benefit payments to eligible veterans, and an additional \$417 million requested is provided for medical care.
- The bill directs \$100 million to the Global AIDS Trust Fund.
- The Senate bill contains some \$945 million in spending offsets.
- Legislative language included in the bill is intended to restore a \$4.3 billion reduction in highway program obligations required by a formula mechanism in the Transportation Equity Act for the 21st Century (TEA-21). [See S. Rept. 107-156, p. 93]. Section 1002 of S. 2551 authorizes an obligation ceiling for the highway program of at least \$27.746 billion for FY 2003.
- The bill requires the release of \$34 million in family planning aid to the United Nations by July 10, 2002, if a White House commission finds that U. N. workers do not aid or abet forced abortion or sterilization in China. (This language is not in the House-passed bill.)

Budget Issues: Debt Ceiling and Spending Caps Likely to Enter Debate

Two budget-related issues are expected to be part of the floor debate over the supplemental – raising the debt ceiling above its current levels, and imposing some limitation on discretionary spending for fiscal year 2003.

Debt Ceiling

For the second time this year, the federal government has reached its statutory ceiling on issuing debt. Previously, this limit was reached prior to April 15th. The influx of tax revenues due to the tax deadline allowed the Treasury Department to redeem enough debt to put us back under the ceiling. That influx is over, however, and the debt ceiling has been reached once again.

The Treasury Department is currently engaged in accounting shifts designed to keep the federal government from exceeding its borrowing authority. The Treasury Department claims these shifts are about to reach their own limits, however, and unless Congress acts to raise the debt ceiling in June, the federal government will begin to default on its obligations, including the inability to make payments to Social Security beneficiaries. In a statement dated May 1, 2002, Treasury described the situation:

This morning the Treasury issued its quarterly refunding statement, reflecting revised projections of the government's borrowing needs for the remainder of the 2002 fiscal year. Under these projections, debt subject to limit is expected to reach the statutory ceiling of \$5,950 billion in mid-May and will remain above the current debt ceiling thereafter.

If the statutory debt ceiling has not been raised by mid-May, the Treasury will have to begin to use a number of stopgap devices to manage debt subject to limit which have been previously utilized under established legal authority.

On current projections, this additional limited borrowing capacity would only be adequate to meet the government's needs until the latter half of June, when regularly scheduled payments to the Social Security and other government trust funds will require the Treasury to borrow beyond this additional, limited capacity.

While the supplemental appropriations bill reported by the Senate Appropriations Committee does not include an increase in the debt ceiling, the House-passed bill includes language that would allow such an increase to be included in a conference report to the bill. The Administration has requested an increase of \$750 billion. Majority Leader Daschle has indicated a willingness to pass an increase of about half that amount.

Spending Caps

Regarding spending caps, the Senate-reported bill did not include any restriction on the amount of discretionary spending Congress may appropriate for next year. This absence is significant since the existing spending caps expire in the current fiscal year (2002). This expiration, coupled with the failure of Senate Democrats to produce a budget resolution, means there is no statutory limit nor is there a Senate rule restricting how much money Congress can spend. This situation has not arisen since Congress adopted the Budget Act of 1974. It is expected that an effort will be made on the floor to include some sort of restriction on spending for next year. The House, during consideration of its supplemental spending bill, H.R. 4775, did agree to language that effectively places a cap on discretionary spending for FY 2003 of \$759 billion, the amount provided in its budget resolution.

BILL PROVISIONS

Defense:

The Committee recommends \$14.02 billion for the Department of Defense, as requested.

Military Personnel

- The Committee recommends \$206 million for Military Personnel for the Air Force, identical to the request. These funds are to meet higher than anticipated personnel costs.

Operation and Maintenance

- Under the Operation and Maintenance account, the Committee recommends \$11.3 billion for the Defense Emergency Response Fund (DERF) to support the global war on terrorism, but recommends strengthening the financial accountability of these funds due to concerns over the lack of details about what is needed and the rules governing the use of the request.
- While the Committee expects the Defense Department to allocate the funding provided in the DERF to specific appropriations based on the information provided by the military services on how they intend to use the funding requested. However, the committee understands that it may be necessary for the Defense Department to reallocate amounts from this spending plan to meet emergent requirements for the global war on terrorism.
- The Committee recommends the following: \$107 million for the Army; \$36.5 million for the Navy; \$41 million for the Air Force; and \$739 million for Defense-Wide, consistent with the request.

Procurement

- The Committee recommends \$79.2 million for Army procurement; \$22.8 million for Navy procurement; and \$262 million for procurement of ammunition for the Navy and Marine Corps, all at the requested level.
- An appropriation of \$262 million for Navy ammunition is recommended for the procurement of the Joint Direct Attack Munition (JDAM), which was being used faster than it could be replaced in Operation Enduring Freedom. In addition, the Air Force is appropriated \$115 million for procurement of JDAMs. In total, these funds will increase production to 2,800 JDAMs per month by August 2003.
- The Committee recommends \$93 million for Air Force aircraft procurement, the requested amount.
- Under the Other Procurement, Air Force account, the Committee recommends \$752.3 million only for command, control, communications and intelligence capabilities and classified programs in support of Operation Enduring Freedom.

- The Committee recommends \$99.5 million for Defense-Wide procurement, an amount identical to the request.

Research, Development, Test and Evaluation

- For Research, Development, Test and Evaluation (RDT&E), the Committee recommends: \$8.2 million for the Army; \$19 million for the Navy; \$60.8 million for the Air Force; and \$74.7 million for Defense-Wide, all identical to the President's request.

Homeland Security:

The Senate bill provides \$8.3 billion for homeland security initiatives. The Administration requested \$5.3 billion. The provided amounts in some cases meet the Administration's request, in other cases provide funding now (in FY 2002) for items the Administration requested in its FY 2003 request, or in other cases are unrequested items.

Transportation Security Administration: The bill includes \$4.7 billion for the Transportation Security Administration. Adjustments to the Administration's \$4.4 billion request include an addition of \$200 million to enhance resources for port security grants; \$15.4 million less than requested for criminal investigators; \$35 million more to enhance perimeter and terminal security; \$20 million more to initiate funding for over-the-road bus security; \$15 million more to expedite non-passenger aviation security technology development; \$27.9 million more to expedite deployment of Operation "Safe Commerce"; and \$20 million more to initiate incident training for ports.

Coast Guard: The bill provides \$318 million for operating expenses of the U.S. Coast Guard, \$129 million above the request, and \$347.7 million for the Coast Guard's Acquisition, Construction and Improvements account to purchase extra coastal patrol boats, \$281 million more than the request.

Federal Aviation Administration (FAA): The bill provides \$100 million for operating expenses to go toward emergency expenses incurred since September 11th and \$100 million for grants-in-aid for airports to better meet the overall needs of the airports with the greatest financial need.

Federal Highway Administration (FHA): The bill provides \$167 million to fully fund the restoration and reconstruction of those State and local roads damaged by the events of September 11th that are eligible for Federal-aid Highway funding. The bill includes the base text of H.R. 3900, which restores a \$4.3 billion reduction in highway program obligations required under a formula mechanism in the Transportation Equity Act for the 21st Century (TEA-21) which requires downward adjustments in highway funds to reflect the lower receipts in the Highway Trust Fund. Current law would require the reduction because highway funding is based on revenues to the Highway Trust Account.

Federal Railroad Administration (FRA): The Senate Committee provides \$55 million for grants to the National Railroad Passenger Corporation (AMTRAK), of which \$20 million is to repair damaged

passenger equipment, \$12 million is for emergency security needs, and \$23 million is for the heavy overhaul of the rail passenger fleet.

Corps of Engineers and Department of Energy (DOE): The bill provides \$181.7 million (\$162.3 million above the request) for additional security requirements at the Nation's nuclear facilities and security improvements for Army Corps of Engineers facilities. Also, an unrequested \$100 million is provided for defense nuclear nonproliferation activities, of which \$65 million will be used to protect and safeguard nuclear material in the Former Soviet Union and elsewhere, and \$35 million will be used to prevent nuclear materials from entering this country. An additional unrequested \$40 million is provided for the Defense Environmental Restoration and Waste Management to improve security at several DOE environmental management cleanup sites.

Department of Justice: For homeland security activities under the Department of Justice, the bill provides \$104.4 million to combat cyber terrorism, of which \$55.7 million is for the Justice Department and \$48.7 million is for the Commerce Department. It also recommends \$186.6 million for salaries and expenses for general administration. Included is:

- \$75 million for the Federal Bureau of Investigation to investigate and thwart further terrorist attacks;
- \$129 million for the Immigration and Naturalization Service, of which \$35 million is for salaries and expenses, and \$84 million (not requested) for facility construction and renovation;
- \$450 million (not requested) for the Office of Justice Programs to establish an election reform grant program as authorized by H.R. 3295, the Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2002, passed by the Senate on April 11, 2002; and
- \$85 million (not requested) for the Office of Community Oriented Policing Services (COPS).

Assistance to New York:

The bill provides nearly \$5.5 billion for assistance to New York, meeting the President's request, to aid in recovery from the terrorist attacks on September 11th. The amount requested fulfills the President's March 10, 2002 pledge to the new Mayor of New York to provide New York City with a total of \$21.5 billion to help it recover from the terrorist attacks. The bill includes funds for the following: \$750 million through the Community Development Block Grant for assistance to properties and businesses, including restoration of damaged infrastructure, and economic revitalization activities; \$1.8 billion in capital investment grants through the Federal Transit Administration to replace, rebuild, or enhance mass transportation impacted by the terrorist attacks; \$167 million to fully fund the restoration and reconstruction of roads; and \$2.66 billion in disaster relief through the Federal Emergency Management Agency.

Foreign Assistance:

The bill provides:

- \$100 million to the Global Fund to Combat HIV/AIDS, Tuberculosis and Malaria (not in President's request);
- \$150 million for International Disaster Assistance (\$110 million above the request) for humanitarian and reconstruction activities in Afghanistan;
- \$700 million in Economic Support Fund assistance, of which \$200 million is for assistance to Israel;
- \$110 million for Assistance for the Independent States of the Former Soviet Union (same as the request);
- \$104 million for International Narcotics Control and Law Enforcement (not in President's request);
- \$93 million for the Nonproliferation, Anti-Terrorism, Demining and Related Programs; and
- \$50 million for migration and refugee assistance (not in President's request).

Other Items:

Veterans Health Administration: The bill provides \$1.1 billion for compensation and pension benefit payments to eligible veterans (requested by the President on May 21, 2002); \$417 million for veterans medical care, an increase of \$275 million over the request provided by the Committee for VA's increase in medical care workload and to maintain current staffing levels. Recently, VA re-estimated the patient workload and available resources and determined that they would need additional funds over the \$142 million requested due to greater than expected enrollment in the health care system.

Pell Grant Program: \$1 billion to avert an estimated shortfall in the Pell Grant program caused by increased program costs due to the economic downturn and the rise in individuals seeking postsecondary education. This amount ensures that all eligible students will receive the necessary assistance and will not require any decrease in the maximum allowable grant of \$4000. Note that the Administration requested \$1.28 billion for Pell grants in an amendment to the FY 2003 budget, and proposed that the full amount be offset by cutting all funding for the Department of Education that was added by Congress last year; however, this request was not part of the FY2002 emergency supplemental request of March 21, 2002.

Embassy Security, Construction and Maintenance: The bill provides \$201 million for the State Department for embassy construction and renovations, the same as the President's request, in Kabul, Afghanistan, and Dushanbe, Tajikistan. An amount of \$7.4 million is provided for Radio Free Afghanistan.

Department of Agriculture: A total of \$352 million in funding and \$53 million in rescissions is provided for USDA. The requested amount was \$66 million and \$9 million in rescissions (for the WIC program, described below). Other items provided include \$18 million in unrequested funds for the Secretary of Agriculture for enhanced security for USDA facilities, especially laboratory security; \$16 million in unrequested funds for salaries and expenses for the Agricultural Research Service and \$50 million for construction funds for the National Animal Disease Laboratory at Ames, Iowa; \$16 million in unrequested funds for the Cooperative State Research, Education, and Extension Service for the Extension Disaster

Education Network; \$60 million for salaries and expenses of the Animal and Plant Health Inspection Service; and \$73 million for watershed and flood prevention operations. In addition, the bill provides the requested amount of \$75 million for the Women, Infant and Children (WIC) nutrition program to finance rising participation in the program and higher costs of WIC food.

TITLE II – GENERAL PROVISIONS

Sec. 2001: Limits the availability of funds in the bill to the current fiscal year unless otherwise expressly provided.

Sec. 2002: Includes language designed to force the White House to accept all nondefense emergency spending in the bill or receive none of the funds.

ADMINISTRATION POSITION

At press time, the Administration had not released its policy statement on the Senate-reported bill. However, the Administration was reported to be unhappy with the total provided. The *Associated Press* on May 22 reported a White House budget office spokesman as saying: “Sen. Byrd is veering down a path of more spending and bigger deficits that will make it harder for us to get back to a balanced budget.”

On May 21, 2002, the Office of Management and Budget released a Statement of Administration Policy on the House bill as it was reported by the House Appropriations Committee. Below is a portion of that SAP:

This Statement of Administration Policy provides the Administration's views on the FY 2002 Emergency Supplemental Bill as reported by the House Appropriations Committee.

The Administration applauds the Committee's efforts to provide most of the funding requested by the Administration and to stay within the discretionary spending caps agreed to by Congress and the Administration. Consistent with the intent of the President's request, this bill provides \$27 billion and additional spending offset by \$1.8 billion in reductions and an additional \$1.9 billion in contingent emergency defense funds. All of the requests in the Administration's transmittal were necessary to fulfill known and urgent FY 2002 requirements, requirements that could not reasonably be met through the use of existing agency funds. The Administration strongly supports the bill as reported by the House Appropriations Committee and will strongly oppose efforts to add resources above this net spending level.

The proposals for emergency funding included in this bill will provide critical resources to support the war on terrorism, secure the homeland, and help dislocated workers as the Nation continues to recover and rebuild following the September 11, 2001, terrorist attacks. We look forward to working with the Congress to ensure this bill is enacted as expeditiously as possible.

**POSSIBLE
AMENDMENTS**

Gregg/Feingold.

Discretionary spending caps. (See pp. 4-5 of this Notice for background.)

Staff contacts: Dr. Yvonne Bartoli (defense) and Judy Myers, 224-2946