

114TH CONGRESS
2D SESSION

H. R. 5044

Making supplemental appropriations for fiscal year 2016 to respond to Zika virus.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2016

Mrs. LOWEY (for herself, Ms. DELAURO, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

Making supplemental appropriations for fiscal year 2016 to respond to Zika virus.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2016, and for other pur-
6 poses, namely:

1 TITLE I
2 DEPARTMENT OF HEALTH AND HUMAN
3 SERVICES
4 FOOD AND DRUG ADMINISTRATION
5 SALARIES AND EXPENSES

6 For an additional amount for “Salaries and Ex-
7 penses”, \$10,000,000, to remain available until expended,
8 to prevent, prepare for, and respond to Zika virus, other
9 vector-borne diseases, or other infectious diseases and re-
10 lated health outcomes, domestically and internationally,
11 and to develop necessary medical countermeasures and
12 vaccines, including the review, regulation, and post market
13 surveillance of vaccines and therapies, and administrative
14 activities: *Provided*, That such amount is designated by
15 the Congress as an emergency requirement pursuant to
16 section 251(b)(2)(A) of the Balanced Budget and Emer-
17 gency Deficit Control Act of 1985, as amended: *Provided*
18 *further*, That such amount shall be available only if the
19 President designates such amount as an emergency re-
20 quirement pursuant to section 251(b)(2)(A).

21 CENTERS FOR DISEASE CONTROL AND PREVENTION
22 CDC-WIDE ACTIVITIES AND PROGRAM SUPPORT
23 (INCLUDING TRANSFER OF FUNDS)

24 For an additional amount for “CDC-Wide Activities
25 and Program Support”, \$743,000,000, to remain avail-

1 able until expended, to prevent, prepare for, and respond
2 to Zika virus, other vector-borne diseases, or other infec-
3 tious diseases and related health outcomes, domestically
4 and internationally; and to carry out titles II, III, and
5 XVII of the Public Health Service (“PHS”) Act with re-
6 spect to domestic preparedness and global health: *Pro-*
7 *vided*, That products purchased with these funds may, at
8 the discretion of the Secretary of Health and Human
9 Services, be deposited in the Strategic National Stockpile
10 under section 319F–2 of the PHS Act: *Provided further*,
11 That funds may be used for purchase and insurance of
12 official motor vehicles in foreign countries: *Provided fur-*
13 *ther*, That the provisions in section 317S of the PHS Act
14 shall apply to the use of funds appropriated in this para-
15 graph as determined by the Director of the Centers for
16 Disease Control and Prevention (“CDC”) to be appro-
17 priate: *Provided further*, That funds appropriated in this
18 paragraph may be used for grants for the construction,
19 alteration, or renovation of nonfederally owned facilities
20 to improve preparedness and response capability at the
21 State and local level: *Provided further*, That funds appro-
22 priated in this paragraph may be used for acquisition of
23 real property (including long-term ground leases) and
24 equipment, and construction, demolition, or renovation of
25 facilities, including construction on leased land: *Provided*

1 *further*, That funds appropriated in this paragraph may
2 be transferred by the Director of CDC to other accounts
3 of the CDC for the purposes provided in this paragraph:
4 *Provided further*, That such transfer authority is in addi-
5 tion to any other transfer authority provided by law: *Pro-*
6 *vided further*, That, upon a determination that all or part
7 of the funds transferred from this appropriation are not
8 necessary for the purposes provided herein, such amounts
9 may be transferred back to this appropriation: *Provided*
10 *further*, That the amount appropriated in this paragraph
11 is designated by the Congress as an emergency require-
12 ment pursuant to section 251(b)(2)(A) of the Balanced
13 Budget and Emergency Deficit Control Act of 1985, as
14 amended: *Provided further*, That such amount shall be
15 available only if the President designates such amount as
16 an emergency requirement pursuant to section
17 251(b)(2)(A).

18 NATIONAL INSTITUTES OF HEALTH

19 NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS

20 DISEASES

21 For an additional amount for “National Institute of
22 Allergy and Infectious Diseases”, \$277,000,000, to re-
23 main available until expended, to prevent, prepare for, and
24 respond to Zika virus, other vector-borne diseases, or
25 other infectious diseases and related health outcomes, do-

1 mestically and internationally, including expenses related
2 to carrying out section 301 and title IV of the PHS Act:
3 *Provided*, That such funds may be transferred by the Di-
4 rector of the National Institutes of Health (“NIH”) to
5 other accounts of the NIH for the purposes provided in
6 this paragraph: *Provided further*, That such transfer au-
7 thority is in addition to any other transfer authority pro-
8 vided by law: *Provided further*, That, upon a determination
9 that all or part of the funds transferred from this appro-
10 priation are not necessary for the purposes provided here-
11 in, such amounts may be transferred back to this appro-
12 priation: *Provided further*, That the amount appropriated
13 in this paragraph is designated by the Congress as an
14 emergency requirement pursuant to section 251(b)(2)(A)
15 of the Balanced Budget and Emergency Deficit Control
16 Act of 1985, as amended: *Provided further*, That such
17 amount shall be available only if the President designates
18 such amount as an emergency requirement pursuant to
19 section 251(b)(2)(A).

20 OFFICE OF THE SECRETARY

21 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY

22 FUND

23 (INCLUDING TRANSFER OF FUNDS)

24 For an additional amount for “Public Health and So-
25 cial Services Emergency Fund”, \$233,000,000, to remain

1 available until expended, to prevent, prepare for, and re-
2 spond to Zika virus, other vector-borne diseases, or other
3 infectious diseases and related health outcomes, domesti-
4 cally and internationally; to develop necessary counter-
5 measures and vaccines, including the development and
6 purchase of vaccines, therapeutics, diagnostics, necessary
7 medical supplies, and administrative activities; for car-
8 rying out titles II, III, and XVII of the PHS Act with
9 respect to domestic preparedness and global health; and
10 for carrying out title III of the PHS Act and title V of
11 the Social Security Act to provide health care and related
12 services in areas affected by Zika virus: *Provided*, That
13 funds appropriated in this paragraph may be used to pro-
14 cure security countermeasures (as defined in section
15 319F–2(c)(1)(B) of the PHS Act, as amended by this
16 Act): *Provided further*, That paragraphs (1) and (7)(C)
17 of subsection (c) of section 319F–2 of the PHS Act, but
18 no other provisions of such section, shall apply to such
19 security countermeasures procured with funds appro-
20 priated in this paragraph: *Provided further*, That products
21 purchased with funds appropriated in this paragraph may,
22 at the discretion of the Secretary of Health and Human
23 Services, be deposited in the Strategic National Stockpile
24 under section 319F–2 of the PHS Act: *Provided further*,
25 That funds appropriated in this paragraph may be trans-

1 ferred to the fund authorized by section 319F–4 of the
2 PHS Act: *Provided further*, That funds appropriated in
3 this paragraph may, for purposes of providing primary
4 health services in areas affected by Zika virus, other vec-
5 tor-borne diseases, or other infectious diseases, be used to
6 assign National Health Service Corps (“NHSC”) mem-
7 bers to Puerto Rico and other Territories, notwithstanding
8 the assignment priorities and limitations in or under sec-
9 tions 333(a)(1)(D), 333(b), or 333A(a) of the PHS Act,
10 and to make NHSC Loan Repayment Program awards
11 under section 338B of such Act: *Provided further*, That
12 funds may be awarded for projects of regional and na-
13 tional significance in Puerto Rico and other Territories
14 authorized under section 501 of the Social Security Act,
15 notwithstanding section 502 of such Act: *Provided further*,
16 That funds may be used for the alteration or renovation
17 of nonfederally owned facilities to improve preparedness
18 and response capability at the State and local level: *Pro-*
19 *vided further*, That funds appropriated in this paragraph
20 may be transferred to other appropriations of the Depart-
21 ment of Health and Human Services, as determined by
22 the Secretary to be appropriate, to be used for the pur-
23 poses specified in this paragraph: *Provided further*, That
24 any transfers of these funds shall be made in consultation
25 with the Office of Management and Budget: *Provided fur-*

1 *ther*, That the transfer authority provided in this para-
2 graph is in addition to any other transfer authority pro-
3 vided by law: *Provided further*, That, upon a determination
4 that all or part of the funds transferred from this appro-
5 priation are not necessary for the purposes provided here-
6 in, such amounts may be transferred back to this appro-
7 priation: *Provided further*, That the amount appropriated
8 in this paragraph is designated by the Congress as an
9 emergency requirement pursuant to section 251(b)(2)(A)
10 of the Balanced Budget and Emergency Deficit Control
11 Act of 1985, as amended: *Provided further*, That such
12 amount shall be available only if the President designates
13 such amount as an emergency requirement pursuant to
14 section 251(b)(2)(A).

15 GENERAL PROVISIONS

16 (INCLUDING TRANSFER OF FUNDS)

17 SEC. 101. For purposes of preventing, preparing for,
18 and responding to Zika virus, other vector-borne diseases,
19 or other infectious diseases and related health outcomes
20 domestically and internationally, the Secretary of Health
21 and Human Services may use funds provided in this Act—
22 (1) to acquire, lease, construct, alter, renovate,
23 equip, furnish, or manage facilities outside of the
24 United States, as necessary to conduct such pro-
25 grams, in consultation with the Secretary of State,

1 either directly for the use of the United States Gov-
2 ernment or for the use, pursuant to grants, direct
3 assistance, or cooperative agreements, of public or
4 nonprofit private institutions or agencies in partici-
5 pating foreign countries; and

6 (2) to enter into contracts with individuals for
7 the provision of personal services (as described in
8 section 104 of part 37 of title 48, Code of Federal
9 Regulations (48 C.F.R. 37.104)), within the United
10 States and abroad: *Provided*, That such individuals
11 may not be deemed employees of the United States
12 for the purpose of any law administered by the Of-
13 fice of Personnel Management.

14 SEC. 102. Section 3304 of title 5, United States
15 Code, is amended by adding at the end the following new
16 subsection:

17 “(g) The heads of the Department of Health and
18 Human Services, Department of State, and the Agency
19 for International Development may appoint, without re-
20 gard to the provisions of sections 3309 through 3319, can-
21 didates needed for positions to perform critical work in
22 direct response to a public health threat requiring an im-
23 mediate response for which—

24 “(1) public notice has been given; and

1 “(2) the Secretary of Health and Human Serv-
2 ices has determined that such a public health threat
3 exists.”.

4 SEC. 103. Funds appropriated by this Act may be
5 used to reimburse accounts administered by the Depart-
6 ment of Health and Human Services for obligations in-
7 curred for Zika virus response prior to the date of the
8 enactment of this Act.

9 SEC. 104. Funds appropriated to the Department of
10 Health and Human Services in this Act may be trans-
11 ferred to and merged with other Federal accounts for pur-
12 poses specified in this Act following consultation with the
13 Office of Management and Budget: *Provided*, That such
14 transfer authority shall be in addition to any other trans-
15 fer authority provided by law: *Provided further*, That,
16 upon a determination that all or part of the funds trans-
17 ferred from an appropriation are not necessary, such
18 amounts may be transferred back to that appropriation.

19 SEC. 105. Section 319F–2(c)(1)(B) of the Public
20 Health Service Act (42 U.S.C. 247d–6b(c)(1)(B)) is
21 amended—

22 (1) in clause (i)(III)(bb), by striking “; or” and
23 inserting a semicolon;

24 (2) in clause (ii), by striking the period and in-
25 serting “; or”; and

1 (3) by adding at the end the following new
2 clause:

3 “(iii)(I) the Secretary determines to
4 be a necessary countermeasure to diag-
5 nose, mitigate, prevent, or treat harm from
6 any infectious disease that may pose a
7 threat to the public health; and

8 “(II)(aa) is approved or cleared under
9 chapter V of the Federal Food, Drug, and
10 Cosmetic Act, or licensed under section
11 351 of this Act; or

12 “(bb) is a countermeasure for which
13 the Secretary determines that sufficient
14 and satisfactory clinical experience or re-
15 search data (including data, if available,
16 from pre-clinical and clinical trials) sup-
17 port a reasonable conclusion that the coun-
18 termeasure will qualify for approval or li-
19 censing within 10 years after the date of a
20 determination under subclause (I).”.

21 SEC. 106. (a)(1) For purposes of title XIX of the So-
22 cial Security Act, for the one-year period beginning with
23 the first day of the first full fiscal quarter following the
24 date of the enactment of this section, the Federal medical
25 assistance percentage (“FMAP”) under section 1905(b)

1 of such Act for the Territories specified in paragraph (2)
2 shall be increased from 55 percent to 65 percent. Any net
3 increase in payment to such a territory under section
4 1903(a) of such Act, which is attributable to such in-
5 creased FMAP, shall be disregarded in applying sections
6 1108(f) and 1108(g) of such Act to the territory.

7 (2) The Territories specified in this paragraph are
8 the Commonwealth of Puerto Rico, the United States Vir-
9 gin Islands, Guam, American Samoa, and the Northern
10 Mariana Islands.

11 (b) With respect to the amount needed for purposes
12 of implementing the raised FMAP under subsection (a)
13 for each of fiscal years 2016 and 2017, such amount is
14 designated by the Congress as an emergency requirement
15 pursuant to section 251(b)(2)(A) of the Balanced Budget
16 and Emergency Deficit Control Act of 1985, as amended,
17 and such amount shall be available only if the President
18 designates such amount as an emergency requirement pur-
19 suant to section 251(b)(2)(A).

20 TITLE II

21 DEPARTMENT OF STATE

22 ADMINISTRATION OF FOREIGN AFFAIRS

23 DIPLOMATIC AND CONSULAR PROGRAMS

24 For an additional amount for “Diplomatic and Con-
25 sular Programs”, \$14,594,000, to remain available until

1 September 30, 2017, for necessary expenses to support re-
2 sponse efforts related to the Zika virus and related health
3 outcomes, other vector-borne diseases, or other infectious
4 diseases: *Provided*, That up to \$2,419,000 may be made
5 available for medical evacuation costs of any other Depart-
6 ment or agency of the United States under the Chief of
7 Mission authority, and may be transferred to any other
8 appropriation of such Department or agency for such
9 costs: *Provided further*, That such amount is designated
10 by the Congress as an emergency requirement pursuant
11 to section 251(b)(2)(A)(i) of the Balanced Budget and
12 Emergency Deficit Control Act of 1985, except that such
13 amounts shall be available only if the President subse-
14 quently so designates such amounts and transmits such
15 designation to the Congress.

16 EMERGENCIES IN THE DIPLOMATIC AND CONSULAR
17 SERVICE

18 For an additional amount for “Emergencies in the
19 Diplomatic and Consular Services”, \$4,000,000 for nec-
20 essary expenses to support response efforts related to the
21 Zika virus and related health outcomes, other vector-borne
22 diseases, or other infectious diseases, to remain available
23 until expended: *Provided*, That such amount is designated
24 by the Congress as an emergency requirement pursuant
25 to section 251(b)(2)(A)(i) of the Balanced Budget and

1 Emergency Deficit Control Act of 1985, except that such
2 amounts shall be available only if the President subse-
3 quently so designates such amounts and transmits such
4 designation to the Congress.

5 REPATRIATION LOANS PROGRAM ACCOUNT

6 For an additional amount for “Repatriation Loans
7 Program Account” for the cost of direct loans,
8 \$1,000,000, to support the response efforts related to the
9 Zika virus and related health outcomes, other vector-borne
10 diseases, or other infectious diseases, to remain available
11 until expended: *Provided*, That such costs, including the
12 cost of modifying such loans, shall be as defined in section
13 502 of the Congressional Budget Act of 1974: *Provided*
14 *further*, That such funds are available to subsidize an addi-
15 tional amount of gross obligations for the principal
16 amount of direct loans not to exceed \$1,880,406: *Provided*
17 *further*, That such amount is designated by the Congress
18 as an emergency requirement pursuant to section
19 251(b)(2)(A)(i) of the Balanced Budget and Emergency
20 Deficit Control Act of 1985, except that such amounts
21 shall be available only if the President subsequently so
22 designates such amounts and transmits such designation
23 to the Congress.

1 UNITED STATES AGENCY FOR INTERNATIONAL
2 DEVELOPMENT

3 FUNDS APPROPRIATED TO THE PRESIDENT

4 OPERATING EXPENSES

5 For an additional amount for “Operating Expenses”,
6 \$10,000,000, to remain available until September 30,
7 2017, for necessary expenses to support response efforts
8 related to the Zika virus and related health outcomes,
9 other vector-borne diseases, or other infectious diseases:
10 *Provided*, That such amounts are designated by the Con-
11 gress as an emergency requirement pursuant to section
12 251(b)(2)(A)(i) of the Balanced Budget and Emergency
13 Deficit Control Act of 1985, except that such amounts
14 shall be available only if the President subsequently so
15 designates such amounts and transmits such designation
16 to the Congress.

17 BILATERAL ECONOMIC ASSISTANCE

18 FUNDS APPROPRIATED TO THE PRESIDENT

19 GLOBAL HEALTH PROGRAMS

20 For an additional amount for “Global Health Pro-
21 grams”, \$325,000,000, to remain available until ex-
22 pended, for necessary expenses for assistance or research
23 to prevent, treat, or otherwise respond to the Zika virus
24 and related health outcomes, other vector-borne diseases,
25 or other infectious diseases: *Provided*, That funds appro-

1 priated under this heading may be made available for
2 multi-year funding commitments to incentivize the devel-
3 opment of global health technologies: *Provided further*,
4 That such amounts are designated by the Congress as an
5 emergency requirement pursuant to section
6 251(b)(2)(A)(i) of the Balanced Budget and Emergency
7 Deficit Control Act of 1985, except that such amounts
8 shall be available only if the President subsequently so
9 designates such amounts and transmits such designation
10 to the Congress.

11 INTERNATIONAL SECURITY ASSISTANCE

12 DEPARTMENT OF STATE

13 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND

14 RELATED PROGRAMS

15 For an additional amount for “Nonproliferation,
16 Anti-Terrorism, Demining and Related Programs”,
17 \$8,000,000, to remain available until September 30, 2017,
18 for necessary expenses to support response and research
19 efforts related to the Zika virus and related health out-
20 comes, other vector-borne diseases, or other infectious dis-
21 eases: *Provided*, That such amounts are designated by the
22 Congress as an emergency requirement pursuant to sec-
23 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-
24 gency Deficit Control Act of 1985, except that such
25 amounts shall be available only if the President subse-

1 quently so designates such amounts and transmits such
2 designation to the Congress.

3 MULTILATERAL ASSISTANCE

4 FUNDS APPROPRIATED TO THE PRESIDENT

5 INTERNATIONAL ORGANIZATIONS AND PROGRAMS

6 For an additional amount for “International Organi-
7 zations and Programs”, \$13,500,000, to remain available
8 until September 30, 2017, for necessary expenses to sup-
9 port response and research efforts related to the Zika
10 virus and related health outcomes, other vector-borne dis-
11 eases, or other infectious diseases: *Provided*, That such
12 amounts are designated by the Congress as an emergency
13 requirement pursuant to section 251(b)(2)(A)(i) of the
14 Balanced Budget and Emergency Deficit Control Act of
15 1985, except that such amounts shall be available only if
16 the President subsequently so designates such amounts
17 and transmits such designation to the Congress.

18 GENERAL PROVISIONS

19 USE OF EBOLA BALANCES FOR OTHER INFECTIOUS 20 DISEASES

21 SEC. 201. Unobligated balances of amounts appro-
22 priated under title IX of the Department of State, Foreign
23 Operations, and Related Programs Appropriations Act,
24 2015 (division J of Public Law 113–235) shall also be
25 available for necessary expenses for operations, assistance,

1 or research to prevent, treat, or otherwise respond to the
2 Zika virus and related health outcomes, other vector-borne
3 diseases, or other infectious diseases: *Provided*, That
4 amounts repurposed pursuant to this section are des-
5 ignated by the Congress as an emergency requirement
6 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
7 et and Emergency Deficit Control Act of 1985, except that
8 such amounts shall be available only if the President sub-
9 sequently so designates such amounts and transmits such
10 designation to the Congress.

11 TRANSFER AUTHORITY

12 SEC. 202. (a) Funds appropriated by this title under
13 the headings “Global Health Programs”, “Nonprolifera-
14 tion, Anti-Terrorism, Demining and Related Programs”,
15 “International Organizations and Programs”, and “Oper-
16 ating Expenses” may be transferred to, and merged with,
17 funds appropriated by this title under such headings to
18 carry out the purposes of this Act.

19 (b) Funds appropriated by this title under the head-
20 ings “Diplomatic and Consular Programs”, “Emergencies
21 in the Diplomatic and Consular Service”, and “Repatri-
22 ation Loans Program Account” may be transferred to,
23 and merged with, funds appropriated by this title under
24 such headings to carry out the purposes of this Act.

1 (c) The transfer authorities provided by this section
2 are in addition to any other transfer authority provided
3 by law.

4 (d) Upon a determination that all or part of the funds
5 transferred pursuant to the authorities provided by this
6 section are not necessary for such purposes, such amounts
7 may be transferred back to such appropriations.

8 REIMBURSEMENT AUTHORITY

9 SEC. 203. Funds appropriated by this Act may be
10 used to reimburse accounts administered by the United
11 States Agency for International Development and the De-
12 partment of State for obligations incurred for Zika virus
13 response prior to the date of the enactment of this Act.

14 AVAILABILITY OF FUNDS FOR INTERNATIONAL
15 ORGANIZATIONS

16 SEC. 204. Section 307(a) of the Foreign Assistance
17 Act of 1961 shall not apply to funds appropriated by this
18 Act.

19 NOTWITHSTANDING AUTHORITY

20 SEC. 205. Funds appropriated or otherwise made
21 available under this Act and prior Acts making appropria-
22 tions for the Department of State, Foreign Operations,
23 and Related Programs that are made available to support
24 Zika virus response and related activities may be made
25 available notwithstanding any other provision of law.

1 PERSONAL SERVICE CONTRACTORS

2 SEC. 206. Funds available in this Act to support re-
3 sponse efforts related to the Zika virus and related health
4 outcomes, other vector-borne diseases, or other infectious
5 diseases may be used to enter into contracts with individ-
6 uals for the provision of personal services (as described
7 in section 104 of part 37 of title 48, Code of Federal Reg-
8 ulations (48 C.F.R. 37.104)) in the United States or
9 abroad: *Provided*, That such individuals may not be
10 deemed employees of the United States for the purpose
11 of any law administered by the Office of Personnel Man-
12 agement.

○