

114TH CONGRESS  
2D SESSION

# H. R. 5044

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

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## 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

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## 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.

○