

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

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

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**H.R. 2577**

Making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. NELSON (for himself and Mr. RUBIO)

Viz:

1 At the appropriate place, insert the following:

2 TITLE \_\_\_\_\_

3 DEPARTMENT OF HEALTH AND HUMAN

4 SERVICES

5 The following sums are appropriated, out of any  
6 money in the Treasury not otherwise appropriated, for the  
7 fiscal year ending September 30, 2016, and for other pur-  
8 poses, namely:

## 1 FOOD AND DRUG ADMINISTRATION

## 2 SALARIES AND EXPENSES

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

## 18 CENTERS FOR DISEASE CONTROL AND PREVENTION

## 19 CDC-WIDE ACTIVITIES AND PROGRAM SUPPORT

## 20 (INCLUDING TRANSFER OF FUNDS)

21 For an additional amount for “CDC-Wide Activities  
22 and Program Support”, \$743,000,000, to remain avail-  
23 able until expended, to prevent, prepare for, and respond  
24 to Zika virus, other vector-borne diseases, or other infec-  
25 tious diseases and related health outcomes, domestically

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

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

15 NATIONAL INSTITUTES OF HEALTH

16 NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS

17 DISEASES

18 For an additional amount for “National Institute of  
19 Allergy and Infectious Diseases”, \$277,000,000, to re-  
20 main available until expended, to prevent, prepare for, and  
21 respond to Zika virus, other vector-borne diseases, or  
22 other infectious diseases and related health outcomes, do-  
23 mesticallly and internationally, including expenses related  
24 to carrying out section 301 and title IV of the PHS Act:  
25 *Provided*, That such funds may be transferred by the Di-

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

17 OFFICE OF THE SECRETARY  
18 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY  
19 FUND  
20 (INCLUDING TRANSFER OF FUNDS)

21 For an additional amount for “Public Health and So-  
22 cial Services Emergency Fund”, \$233,000,000, to remain  
23 available until expended, to prevent, prepare for, and re-  
24 spond to Zika virus, other vector-borne diseases, or other  
25 infectious diseases and related health outcomes, domesti-

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

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

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

## 12 GENERAL PROVISIONS

13 (INCLUDING TRANSFER OF FUNDS)

14 SEC. \_\_\_\_01. For purposes of preventing, preparing  
15 for, and responding to Zika virus, other vector-borne dis-  
16 eases, or other infectious diseases and related health out-  
17 comes domestically and internationally, the Secretary of  
18 Health and Human Services may use funds provided in  
19 this Act—

20 (1) to acquire, lease, construct, alter, renovate,  
21 equip, furnish, or manage facilities outside of the  
22 United States, as necessary to conduct such pro-  
23 grams, in consultation with the Secretary of State,  
24 either directly for the use of the United States Gov-  
25 ernment or for the use, pursuant to grants, direct

1 assistance, or cooperative agreements, of public or  
2 nonprofit private institutions or agencies in partici-  
3 pating foreign countries; and

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

12 SEC. \_\_\_\_02. Section 3304 of title 5, United States  
13 Code, is amended by adding at the end the following new  
14 subsection:

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

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

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

1       SEC. \_\_\_\_03. Funds appropriated by this Act may  
2 be used to reimburse accounts administered by the De-  
3 partment of Health and Human Services for obligations  
4 incurred for Zika virus response prior to the date of the  
5 enactment of this Act.

6       SEC. \_\_\_\_04. Funds appropriated to the Department  
7 of Health and Human Services in this Act may be trans-  
8 ferred to and merged with other Federal accounts for pur-  
9 poses specified in this Act following consultation with the  
10 Office of Management and Budget: *Provided*, That such  
11 transfer authority shall be in addition to any other trans-  
12 fer authority provided by law: *Provided further*, That,  
13 upon a determination that all or part of the funds trans-  
14 ferred from an appropriation are not necessary, such  
15 amounts may be transferred back to that appropriation.

16       SEC. \_\_\_\_05. Section 319F-2(c)(1)(B) of the Public  
17 Health Service Act (42 U.S.C. 247d-6b(c)(1)(B)) is  
18 amended—

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

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

23           (3) by adding at the end the following new  
24       clause:

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

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

10                   “(bb) is a countermeasure  
11                   for which the Secretary deter-  
12                   mines that sufficient and satis-  
13                   factory clinical experience or re-  
14                   search data (including data, if  
15                   available, from pre-clinical and  
16                   clinical trials) support a reason-  
17                   able conclusion that the counter-  
18                   measure will qualify for approval  
19                   or licensing within 10 years after  
20                   the date of a determination  
21                   under subclause (I).”.

22                   SEC. \_\_\_\_06. (a) The Secretary of Health and  
23                   Human Services (referred to in this section as the “Sec-  
24                   retary”) shall award grants to territories of the United  
25                   States for the purpose of combating the Zika virus.

1 (b) To be eligible to receive a grant under this sec-  
2 tion, a territory shall submit to the Secretary a plan de-  
3 scribing how the territory will use the grant funds. Within  
4 30 days of receiving such a plan, the Secretary shall—

5 (1) approve any such plan that includes efforts  
6 for combating the Zika virus through education, pre-  
7 vention, testing, screening, treatment, services, or  
8 evaluation efforts; or

9 (2) disapprove any such plan that contains ex-  
10 traneous efforts not related to combating the Zika  
11 virus.

12 (c) To carry out this section, there are authorized to  
13 be appropriated, and there are appropriated,  
14 \$250,000,000 for fiscal year 2016. Any unobligated funds  
15 available on October 1, 2018, shall be returned to the gen-  
16 eral fund of the Treasury.

17 (d) For purposes of this section, the term “territory”  
18 means Puerto Rico, Guam, American Samoa, the Com-  
19 monwealth of the Northern Mariana Islands, or the  
20 United States Virgin Islands.

21 (e) Amounts made available to carry out this section  
22 shall be designated by the Congress as an emergency re-  
23 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
24 anced Budget and Emergency Deficit Control Act of 1985,  
25 except that such amounts shall be available only if the

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

3 TITLE \_\_\_\_\_

4 DEPARTMENT OF STATE

5 The following sums are appropriated, out of any  
6 money in the Treasury not otherwise appropriated, for the  
7 fiscal year ending September 30, 2016, and for other pur-  
8 poses, namely:

9 ADMINISTRATION OF FOREIGN AFFAIRS

10 DIPLOMATIC AND CONSULAR PROGRAMS

11 For an additional amount for “Diplomatic and Con-  
12 sular Programs”, \$14,594,000, to remain available until  
13 September 30, 2017, for necessary expenses to support re-  
14 sponse efforts related to the Zika virus and related health  
15 outcomes, other vector-borne diseases, or other infectious  
16 diseases: *Provided*, That up to \$2,419,000 may be made  
17 available for medical evacuation costs of any other Depart-  
18 ment or agency of the United States under the Chief of  
19 Mission authority, and may be transferred to any other  
20 appropriation of such Department or agency for such  
21 costs: *Provided further*, That such amount is designated  
22 by the Congress as an emergency requirement pursuant  
23 to section 251(b)(2)(A)(i) of the Balanced Budget and  
24 Emergency Deficit Control Act of 1985, except that such  
25 amounts shall be available only if the President subse-



1 *further*, That such funds are available to subsidize an addi-  
2 tional amount of gross obligations for the principal  
3 amount of direct loans not to exceed \$1,880,406: *Provided*  
4 *further*, That such amount is designated by the Congress  
5 as an 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 UNITED STATES AGENCY FOR INTERNATIONAL  
12 DEVELOPMENT

13 FUNDS APPROPRIATED TO THE PRESIDENT

14 OPERATING EXPENSES

15 For an additional amount for “Operating Expenses”,  
16 \$10,000,000, to remain available until September 30,  
17 2017 for necessary expenses to support response efforts  
18 related to the Zika virus and related health outcomes,  
19 other vector-borne diseases, or other infectious diseases:  
20 *Provided*, That such amounts are designated by the Con-  
21 gress as an emergency requirement pursuant to section  
22 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
23 Deficit Control Act of 1985, except that such amounts  
24 shall be available only if the President subsequently so

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

3           BILATERAL ECONOMIC ASSISTANCE

4           FUNDS APPROPRIATED TO THE PRESIDENT

5                   GLOBAL HEALTH PROGRAMS

6           For an additional amount for “Global Health Pro-  
7 grams”, \$325,000,000, to remain available until ex-  
8 pended, for necessary expenses for assistance or research  
9 to prevent, treat, or otherwise respond to the Zika virus  
10 and related health outcomes, other vector-borne diseases,  
11 or other infectious diseases: *Provided*, That funds appro-  
12 priated under this heading may be made available for  
13 multi-year funding commitments to incentivize the devel-  
14 opment of global health technologies: *Provided further*,  
15 That such amounts are designated by the Congress as an  
16 emergency requirement pursuant to section  
17 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
18 Deficit Control Act of 1985, except that such amounts  
19 shall be available only if the President subsequently so  
20 designates such amounts and transmits such designation  
21 to the Congress.

## 1 INTERNATIONAL SECURITY ASSISTANCE

## 2 DEPARTMENT OF STATE

## 3 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND

## 4 RELATED PROGRAMS

5 For an additional amount for “Nonproliferation,  
6 Anti-Terrorism, Demining and Related Programs”,  
7 \$8,000,000, to remain available until September 30, 2017,  
8 for necessary expenses to support response and research  
9 efforts related to the Zika virus and related health out-  
10 comes, other vector-borne diseases, or other infectious dis-  
11 eases: *Provided*, That such amounts are designated by the  
12 Congress as an emergency requirement pursuant to sec-  
13 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
14 gency Deficit Control Act of 1985, except that such  
15 amounts shall be available only if the President subse-  
16 quently so designates such amounts and transmits such  
17 designation to the Congress.

## 18 MULTILATERAL ASSISTANCE

## 19 FUNDS APPROPRIATED TO THE PRESIDENT

## 20 INTERNATIONAL ORGANIZATIONS AND PROGRAMS

21 For an additional amount for “International Organi-  
22 zations and Programs”, \$13,500,000, to remain available  
23 until September 30, 2017, for necessary expenses to sup-  
24 port response and research efforts related to the Zika  
25 virus and related health outcomes, other vector-borne dis-

1 eases, or other infectious diseases: *Provided*, That such  
2 amounts are designated by the Congress as an emergency  
3 requirement pursuant to section 251(b)(2)(A)(i) of the  
4 Balanced Budget and Emergency Deficit Control Act of  
5 1985, except that such amounts shall be available only if  
6 the President subsequently so designates such amounts  
7 and transmits such designation to the Congress.

## 8 GENERAL PROVISIONS

### 9 TRANSFER AUTHORITY

10 SEC. \_\_\_\_01. (a) Funds appropriated by this title  
11 under the headings “Global Health Programs”, “Non-  
12 proliferation, Anti-Terrorism, Demining and Related Pro-  
13 grams”, “International Organizations and Programs”,  
14 and “Operating Expenses” may be transferred to, and  
15 merged with, funds appropriated by this title under such  
16 headings to carry out the purposes of this Act.

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

23 (c) The transfer authorities provided by this section  
24 are in addition to any other transfer authority provided  
25 by law.

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

5 REIMBURSEMENT AUTHORITY

6 SEC. \_\_\_\_02. Funds appropriated by this Act may  
7 be used to reimburse accounts administered by the United  
8 States Agency for International Development and the De-  
9 partment of State for obligations incurred for Zika virus  
10 response prior to the date of the enactment of this Act.

11 AVAILABILITY OF FUNDS FOR INTERNATIONAL  
12 ORGANIZATIONS

13 SEC. \_\_\_\_03. Section 307(a) of the Foreign Assist-  
14 ance Act of 1961 shall not apply to funds appropriated  
15 by this Act.

16 PERSONAL SERVICE CONTRACTORS

17 SEC. \_\_\_\_04. Funds available in this Act to support  
18 response efforts related to the Zika virus and related  
19 health outcomes, other vector-borne diseases, or other in-  
20 fectious diseases may be used to enter into contracts with  
21 individuals for the provision of personal services (as de-  
22 scribed in section 104 of part 37 of title 48, Code of Fed-  
23 eral Regulations (48 CFR 37.104)) in the United States  
24 or abroad: *Provided*, That such individuals may not be  
25 deemed employees of the United States for the purpose

1 of any law administered by the Office of Personnel Man-  
2 agement.