

114TH CONGRESS  
2D SESSION

# S. 2843

To provide emergency supplemental appropriations to address the Zika crisis.

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## IN THE SENATE OF THE UNITED STATES

APRIL 21, 2016

Mr. NELSON (for himself, Mr. REID, Mr. SCHUMER, Ms. HIRONO, Ms. WARREN, Mr. FRANKEN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. MENENDEZ, Mr. REED, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Appropriations

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## A BILL

To provide emergency supplemental appropriations to address the Zika crisis.

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       Departments of Health and Human Services and the De-  
6       partment of State, and related agencies for the fiscal year  
7       ending September 30, 2016, and for other purposes,  
8       namely:

1 TITLE I  
 2 DEPARTMENT OF HEALTH AND HUMAN  
 3 SERVICES  
 4 CENTERS FOR DISEASE CONTROL AND PREVENTION  
 5 CDC-WIDE ACTIVITIES AND PROGRAM SUPPORT  
 6 (INCLUDING TRANSFER OF FUNDS)

7 For an additional amount for “CDC-Wide Activities  
 8 and Program Support”, \$743,000,000, to remain avail-  
 9 able until expended, to prevent, prepare for, and respond  
 10 to Zika virus, other vector-borne diseases, or other infec-  
 11 tious diseases and related health outcomes, domestically  
 12 and internationally; and to carry out titles II, III, and  
 13 XVII of the Public Health Service (referred to in this title  
 14 as the “PHS Act”) with respect to domestic preparedness  
 15 and global health: *Provided*, That products purchased with  
 16 these funds may, at the discretion of the Secretary of  
 17 Health and Human Services, be deposited in the Strategic  
 18 National Stockpile under section 319F–2 of the PHS Act:  
 19 *Provided further*, That funds may be used for purchase  
 20 and insurance of official motor vehicles in foreign coun-  
 21 tries: *Provided further*, That the provisions in section 317S  
 22 of the PHS Act shall apply to the use of funds appro-  
 23 priated in this paragraph as determined by the Director  
 24 of the Centers for Disease Control and Prevention  
 25 (“CDC”) to be appropriate: *Provided further*, That funds

1 appropriated in this paragraph may be used for grants  
2 for the construction, alteration, or renovation of nonfeder-  
3 ally owned facilities to improve preparedness and response  
4 capability at the State and local level: *Provided further*,  
5 That funds appropriated in this paragraph may be used  
6 for acquisition of real property (including long-term  
7 ground leases) and equipment, and construction, demoli-  
8 tion, or renovation of facilities, including construction on  
9 leased land: *Provided further*, That funds appropriated in  
10 this paragraph may be transferred by the Director of CDC  
11 to other accounts of the CDC for the purposes provided  
12 in this paragraph: *Provided further*, That such transfer  
13 authority is in addition to any other transfer authority  
14 provided by law: *Provided further*, That, upon a deter-  
15 mination that all or part of the funds transferred from  
16 this appropriation are not necessary for the purposes pro-  
17 vided herein, such amounts may be transferred back to  
18 this appropriation: *Provided further*, That the amount ap-  
19 propriated in this paragraph is designated by the Congress  
20 as an emergency requirement pursuant to section  
21 251(b)(2)(A) of the Balanced Budget and Emergency  
22 Deficit Control Act of 1985, as amended: *Provided further*,  
23 That such amount shall be available only if the President  
24 designates such amount as an emergency requirement pur-  
25 suant to section 251(b)(2)(A).

1                   DEPARTMENTAL MANAGEMENT  
2       PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY  
3                   FUND  
4                   (INCLUDING TRANSFER OF FUNDS)

5       For an additional amount for “Public Health and So-  
6 cial Services Emergency Fund”, \$233,000,000, to remain  
7 available until expended, to prevent, prepare for, and re-  
8 spond to Zika virus, other vector-borne diseases, or other  
9 infectious diseases and related health outcomes, domesti-  
10 cally and internationally; to develop necessary counter-  
11 measures and vaccines, including the development and  
12 purchase of vaccines, therapeutics, diagnostics, necessary  
13 medical supplies, and administrative activities; for car-  
14 rying out titles II, III, and XVII of the PHS Act with  
15 respect to domestic preparedness and global health; and  
16 for carrying out title III of the PHS Act and title V of  
17 the Social Security Act to provide health care and related  
18 services in areas affected by Zika virus: *Provided*, That  
19 funds appropriated in this paragraph may be used to pro-  
20 cure security countermeasures (as defined in section  
21 319F–2(c)(1)(B) of the PHS Act, as amended by this  
22 Act): *Provided further*, That paragraphs (1) and (7)(C)  
23 of subsection (c) of section 319F–2 of the PHS Act, but  
24 no other provisions of such section, shall apply to such  
25 security countermeasures procured with funds appro-

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

1 may be transferred to other appropriations of the Depart-  
 2 ment of Health and Human Services, as determined by  
 3 the Secretary to be appropriate, to be used for the pur-  
 4 poses specified in this paragraph: *Provided further*, That  
 5 any transfers of these funds shall be made in consultation  
 6 with the Office of Management and Budget: *Provided fur-*  
 7 *ther*, That the transfer authority provided in this para-  
 8 graph is in addition to any other transfer authority pro-  
 9 vided by law: *Provided further*, That, upon a determination  
 10 that all or part of the funds transferred from this appro-  
 11 priation are not necessary for the purposes provided here-  
 12 in, such amounts may be transferred back to this appro-  
 13 priation: *Provided further*, That the amount appropriated  
 14 in this paragraph is designated by the Congress as an  
 15 emergency requirement pursuant to section 251(b)(2)(A)  
 16 of the Balanced Budget and Emergency Deficit Control  
 17 Act of 1985, as amended: *Provided further*, That such  
 18 amount shall be available only if the President designates  
 19 such amount as an emergency requirement pursuant to  
 20 section 251(b)(2)(A).

21 NATIONAL INSTITUTES OF HEALTH

22 NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS  
 23 DISEASES

24 For an additional amount for “National Institute of  
 25 Allergy and Infectious Diseases”, \$277,000,000, to re-

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

## 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 GENERAL PROVISIONS—THIS ACT

## 19 (INCLUDING TRANSFER OF FUNDS)

20 SEC. 101. For purposes of preventing, preparing for,  
21 and responding to Zika virus, other vector-borne diseases,  
22 or other infectious diseases and related health outcomes  
23 domestically and internationally, the Secretary of Health  
24 and Human Services may use funds provided in this Act—



1           (1) to acquire, lease, construct, alter, renovate,  
2       equip, furnish, or manage facilities outside of the  
3       United States, as necessary to conduct such pro-  
4       grams, in consultation with the Secretary of State,  
5       either directly for the use of the United States Gov-  
6       ernment or for the use, pursuant to grants, direct  
7       assistance, or cooperative agreements, of public or  
8       nonprofit private institutions or agencies in partici-  
9       pating foreign countries; and

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

18       SEC. 102. Section 3304 of title 5, United States  
19       Code, is amended by adding at the end the following:

20       “(g) The heads of the Department of Health and  
21       Human Services, Department of State, and the Agency  
22       for International Development may appoint, without re-  
23       gard to the provisions of sections 3309 through 3319, can-  
24       didates needed for positions to perform critical work in

1 direct response to a public health threat requiring an im-  
2 mediate response for which—

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

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

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

12 TRANSFER AUTHORITY

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

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

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

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

5 (3) by adding the following new clause:

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

11 “(II)(aa) is approved or cleared under  
12 chapter V of the Federal Food, Drug, and  
13 Cosmetic Act, or licensed under section  
14 351 of this Act; or

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

24 SEC. 106. (a) IN GENERAL.—

1           (1) For purposes of title XIX of the Social Se-  
2       curity Act, for the one year period beginning with  
3       the first day of the first full fiscal quarter following  
4       enactment of this section, the Federal medical as-  
5       sistance percentage (“FMAP”) under section  
6       1905(b) of such Act for the Territories specified in  
7       paragraph (2) shall be raised from 55 percent to 65  
8       percent. Any net increase in payment to such a ter-  
9       ritory under section 1903(a) of such Act, which is  
10      attributable to such raised FMAP, shall be dis-  
11      regarded in applying sections 1108(f) and 1108(g)  
12      of such Act to the territory.

13           (2) The Territories specified in this paragraph  
14      are the Commonwealth of Puerto Rico, the United  
15      States Virgin Islands, Guam, American Samoa, and  
16      the Northern Mariana Islands.

17      (b) AVAILABILITY OF APPROPRIATIONS FOR IMPLE-  
18      MENTING INCREASED FMAP.—With respect to the  
19      amount needed for purposes of implementing the raised  
20      FMAP under subsection (a) for each of fiscal years 2016  
21      and 2017, such amount is designated by the Congress as  
22      an emergency requirement pursuant to section  
23      251(b)(2)(A) of the Balanced Budget and Emergency  
24      Deficit Control Act of 1985, as amended, and such  
25      amount shall be available only if the President designates

1 such amount as an emergency requirement pursuant to  
 2 section 251(b)(2)(A).

## 3 TITLE II

### 4 DEPARTMENT OF STATE AND OTHER

#### 5 INTERNATIONAL PROGRAMS

##### 6 ADMINISTRATION OF FOREIGN AFFAIRS

##### 7 DIPLOMATIC AND CONSULAR PROGRAMS

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

1           ADMINISTRATION OF FOREIGN AFFAIRS  
2           EMERGENCIES IN THE DIPLOMATIC AND CONSULAR  
3           SERVICE

4           For an additional amount for “Emergencies in the  
5 Diplomatic and Consular Services”, \$4,000,000 for nec-  
6 essary expenses to support response efforts related to the  
7 Zika virus and related health outcomes, other vector-borne  
8 diseases, or other infectious diseases, to remain available  
9 until expended: *Provided*, That such amount is designated  
10 by the Congress as an emergency requirement pursuant  
11 to section 251(b)(2)(A) of the Balanced Budget and  
12 Emergency Deficit Control Act of 1985, as amended: *Pro-*  
13 *vided further*, That such amount shall be available only  
14 if the President designates such amount as an emergency  
15 requirement pursuant to section 251(b)(2)(A).

16           ADMINISTRATION OF FOREIGN AFFAIRS  
17           REPATRIATION LOANS PROGRAM ACCOUNT

18           For an additional amount for “Repatriation Loans  
19 Program Account” for the cost of direct loans,  
20 \$1,000,000, to support the 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 costs, including the  
24 cost of modifying such loans, shall be as defined in section  
25 502 of the Congressional Budget Act of 1974: *Provided*

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) of the Balanced Budget and Emergency  
 7 Deficit Control Act of 1985, as amended: *Provided further*,  
 8 That such amount shall be available only if the President  
 9 designates such amount as an emergency requirement pur-  
 10 suant to section 251(b)(2)(A).

# 11 OTHER

## 12 GLOBAL HEALTH PROGRAMS

13 For an additional amount for “Global Health Pro-  
 14 grams”, \$325,000,000, to remain available until ex-  
 15 pended, for necessary expenses for assistance or research  
 16 to prevent, treat, or otherwise respond to the Zika virus  
 17 and related health outcomes, other vector-borne diseases,  
 18 or other infectious diseases: *Provided*, That funds appro-  
 19 priated under this heading may be made available for  
 20 multi-year funding commitments to incentivize the devel-  
 21 opment of global health technologies: *Provided further*,  
 22 That such amount is designated by the Congress as an  
 23 emergency requirement pursuant to section 251(b)(2)(A)  
 24 of the Balanced Budget and Emergency Deficit Control  
 25 Act of 1985, as amended: *Provided further*, That such

1 amount shall be available only if the President designates  
 2 such amount as an emergency requirement pursuant to  
 3 section 251(b)(2)(A).

#### 4 INTERNATIONAL ASSISTANCE PROGRAMS

##### 5 INTERNATIONAL SECURITY ASSISTANCE

##### 6 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND

##### 7 RELATED PROGRAMS

8 For an additional amount for “Nonproliferation,  
 9 Anti-Terrorism, Demining and Related Programs”,  
 10 \$8,000,000, to remain available until September 30, 2017,  
 11 for necessary expenses to support response and research  
 12 efforts related to the Zika virus and related health out-  
 13 comes, other vector-borne diseases, or other infectious dis-  
 14 eases: *Provided*, That such amount is designated by the  
 15 Congress as an emergency requirement pursuant to sec-  
 16 tion 251(b)(2)(A) of the Balanced Budget and Emergency  
 17 Deficit Control Act of 1985, as amended: *Provided further*,  
 18 That such amount shall be available only if the President  
 19 designates such amount as an emergency requirement pur-  
 20 suant to section 251(b)(2)(A).

##### 21 MULTILATERAL ASSISTANCE

##### 22 INTERNATIONAL ORGANIZATIONS AND PROGRAMS

23 For an additional amount for “International Organi-  
 24 zations and Programs”, \$13,500,000, to remain available  
 25 until September 30, 2017, for necessary expenses to sup-



1 port response and research efforts related to the Zika  
 2 virus and related health outcomes, other vector-borne dis-  
 3 eases, or other infectious diseases: *Provided*, That such  
 4 amount is designated by the Congress as an emergency  
 5 requirement pursuant to section 251(b)(2)(A) of the Bal-  
 6 anced Budget and Emergency Deficit Control Act of 1985,  
 7 as amended: *Provided further*, That such amount shall be  
 8 available only if the President designates such amount as  
 9 an emergency requirement pursuant to section  
 10 251(b)(2)(A).

#### 11 AGENCY FOR INTERNATIONAL DEVELOPMENT

#### 12 OPERATING EXPENSES

13 For an additional amount for “Operating Expenses”,  
 14 \$10,000,000, to remain available until September 30,  
 15 2017, for necessary expenses to support response efforts  
 16 related to the Zika virus and related health outcomes,  
 17 other vector-borne diseases, or other infectious diseases:  
 18 *Provided*, That such amount is designated by the Congress  
 19 as an emergency requirement pursuant to section  
 20 251(b)(2)(A) of the Balanced Budget and Emergency  
 21 Deficit Control Act of 1985, as amended: *Provided fur-*  
 22 *ther*, That such amount shall be available only if the Presi-  
 23 dent designates such amount as an emergency require-  
 24 ment pursuant to section 251(b)(2)(A).

1 GENERAL PROVISIONS—DEPARTMENT OF  
 2 STATE AND OTHER INTERNATIONAL PRO-  
 3 GRAMS

4 USE OF EBOLA BALANCES FOR OTHER INFECTIOUS  
 5 DISEASES

6 SEC. 201. Unobligated balances of amounts appro-  
 7 priated under title IX of the Department of State, Foreign  
 8 Operations, and Related Programs Appropriations Act,  
 9 2015 (division J of Public Law 113–235) shall also be  
 10 available for necessary expenses for operations, assistance,  
 11 or research to prevent, treat, or otherwise respond to the  
 12 Zika virus and related health outcomes, other vector-borne  
 13 diseases, or other infectious diseases: *Provided*, That  
 14 amounts repurposed pursuant to this section are des-  
 15 ignated by the Congress as an emergency requirement  
 16 pursuant to section 251(b)(2)(A) of the Balanced Budget  
 17 and Emergency Deficit Control Act of 1985, as amended:  
 18 *Provided further*, That such amounts shall be available  
 19 only if the President designates such amounts as an emer-  
 20 gency requirement pursuant to section 251(b)(2)(A).

21 TRANSFER AUTHORITY

22 SEC. 202. (a) Funds appropriated by this Act under  
 23 the headings “Global Health Programs”, “Nonprolifera-  
 24 tion, Anti-Terrorism, Demining and Related Programs”,  
 25 “International Organizations and Programs”, and “Oper-

ating Expenses” may be transferred to, and merged with, funds appropriated by this Act under such headings to carry out the purposes of this Act.

(b) Funds appropriated by this Act under the headings “Diplomatic and Consular Programs”, “Emergencies in the Diplomatic and Consular Service”, and “Repatriation Loan Programs” may be transferred to, and merged with, funds appropriated by this Act under such headings to carry out the purposes of this Act.

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

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

#### REIMBURSEMENT AUTHORITY

SEC. 203. Funds appropriated by this Act may be used to reimburse accounts administered by the United States Agency for International Development and the Department of State for obligations incurred for Zika virus response prior to the enactment of this Act.

## 6 NOTWITHSTANDING AUTHORITY

13 PERSONAL SERVICE CONTRACTORS

○