

Bill Nelson

BAI16423

S.L.C.

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 mestically and internationally, including expenses related
24 to carrying out section 301 and title IV of the PIIS 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(e)(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(e)(1)(B) of the Public
17 Health Service Act (42 U.S.C. 247d-6b(e)(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 in 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.