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Zika Response Funding: Request and Congressional Action

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Summary

The second session of the 114th Congress has considered whether and how to provide funds to control the spread of the Zika virus throughout the Americas. Zika infection, which is primarily spread by *Aedes* mosquitoes and sexual contact, has been linked to birth defects and other health concerns. Local transmission of the virus has occurred in Puerto Rico, American Samoa, the U.S. Virgin Islands, and Florida.

On February 22, 2016, the Obama Administration requested more than \$1.89 billion in supplemental funding for the Zika response, all of which it asked to be designated as an emergency requirement, which would effectively exempt the funds from discretionary spending limits. The request included \$1.509 billion for the Department of Health and Human Services (HHS), \$335 million for the U.S. Agency for International Development (USAID), and \$41 million for the Department of State. The request sought authority to transfer the requested funds to other federal agencies to allow greater flexibility as circumstances change. It also sought to provide HHS, the Department of State, and USAID with authority for direct hiring and personal services contracting, not limited to positions related to Zika response efforts.

On April 6, 2016, the White House Office of Management and Budget (OMB) and the Secretary of HHS announced that they had identified \$589 million—\$510 million of it from “existing Ebola resources” within HHS and Department of State/USAID—that could be redirected and spent on immediate efforts to control the spread of Zika in the Americas. On April 8, 2016, the Administration notified Congress of the transfer of \$295 million (included in the \$510 million) from FY2015 unobligated USAID Ebola Economic Support Funds (ESF) to be used for Zika response efforts and other purposes. Of that amount, USAID would provide \$158 million to the Centers for Disease Control and Prevention (CDC)—\$78 million for Zika response and \$80 million for Ebola response. The remaining \$137 million would fund various USAID Zika response activities.

In May, both the House and the Senate passed supplemental appropriations measures for Zika response. On May 18, the House passed a stand-alone bill (H.R. 5243) to provide \$622.1 million, which would be available until September 30, 2016. It did not designate these funds as an emergency requirement, but instead rescinded an equal amount of budget authority. On May 19, as the Senate was considering a bill to provide regular FY2017 appropriations for Military Construction-Veterans Affairs and Transportation-Housing and Urban Development, it amended that bill so that it also would provide \$1.1 billion for Zika response, to be available, depending on the account, either until September 30, 2017, or until expended (S.Amdt. 3900 to H.R. 2577). The Senate bill did not contain any rescissions and instead designated the Zika-related appropriations as emergency requirements.

A conference agreement to provide \$1.1 billion in Zika response funding (H.Rept. 114-640, to accompany H.R. 2577) was filed on June 22 and agreed to by the House on June 23. Amounts to HHS and Department of State/USAID were generally similar to those in the Senate proposal. However, other aspects of the agreement generated some controversy. These included a provision associated with health care funding that would be provided through the Social Services Block Grant (SSBG), and a provision that would rescind a total of \$750 million, most of it from unspent funds provided by the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended) intended to establish health exchanges in the territories. The Senate voted three times (in June, July, and September) not to invoke cloture on the measure.

On August 11, 2016, the Administration reprogrammed \$81 million within HHS to continue funding for Zika vaccine research efforts.

On September 28, 2016, the Senate and House passed H.R. 5325, a legislative vehicle that incorporated appropriations for Military Construction, Veterans Affairs, and Related Agencies (Division A); \$1.1 billion in FY2016 Zika supplemental funding (Division B); a short-term continuing resolution (CR) for FY2017 that would fund remaining government operations through December 9, 2016 (Division C); and a number of rescissions (Division D). The President signed the legislation on September 29, 2016.

This report tracks administrative and congressional action on FY2016 supplemental funding to address the Zika virus. This report incorporates all information from CRS Report R44549, *Supplemental Appropriations for Zika Response: The FY2016 Conference Agreement in Brief*, with no substantive changes. That CRS report is no longer available.

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Introduction

In its second session, the 114th Congress has considered whether and how to provide funds to control the spread of the Zika virus throughout the Americas. Zika infection, primarily spread by *Aedes* mosquitoes and sexual contact, has been linked to severe birth defects and other health concerns. Local transmission of the Zika virus has occurred in American Samoa, Puerto Rico, the U.S. Virgin Islands, and south Florida. Travel-associated cases of Zika infection have been reported in nearly every state, with the largest numbers of cases reported in California, Florida, New York, and Texas.¹

Federal efforts to address the outbreak include research on the infection and its effects, mosquito control measures, efforts to develop a vaccine, and public service messaging about preventing infection. The public health focus, both domestically and elsewhere in the Americas, is to protect pregnant women from infection and, thereby, to prevent potentially severe birth defects. Administration officials and some in Congress are concerned about the resources needed to prevent the spread of Zika infections as the number of imported cases in the United States grows.

This report discusses the Administration's actions on Zika response funding, including its request for FY2016 supplemental appropriations for the Zika response, and reprogramming of existing funds to pay for response activities. It also discusses the supplemental appropriations measures for Zika response that were considered by Congress, and the funding ultimately enacted. A detailed summary of the Administration's supplemental request is provided in **Appendix A**. Information about unobligated Ebola supplemental funds is presented in **Appendix B**. **Appendix C** provides a glossary of acronyms used in tables in this report.

This report incorporates all information from CRS Report R44549, *Supplemental Appropriations for Zika Response: The FY2016 Conference Agreement in Brief*, with no substantive changes. That CRS report is no longer available.

Administration Actions

Supplemental Request

On February 22, 2016, the Obama Administration requested more than \$1.89 billion in supplemental funding to respond to the Zika outbreak. The Administration called for all these funds to be provided as an emergency requirement, which would therefore effectively exempt them from the discretionary spending limits.² The emergency request included \$1.509 billion for HHS, \$335 million for the U.S. Agency for International Development (USAID), and \$41 million for the Department of State. The request also sought authority to transfer some of those supplemental emergency appropriations to other federal agencies such as the Department of Defense, the Environmental Protection Agency, and the U.S. Department of Agriculture, to allow greater flexibility as circumstances change. It also sought to provide HHS, the Department of State, and USAID with authority for direct hiring³ and personal services contracting,⁴ not limited

¹ For more information, see CRS Report R44595, *Zika Virus in the Western Hemisphere: CRS Products*.

² The authority for such appropriations is provided by Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985. White House, Office of Management and Budget, "Estimate #1—FY 2016 Emergency Supplemental: Appropriations Request to Respond to the Zika Virus both Domestically and Internationally," February 22, 2016, https://www.whitehouse.gov/omb/budget_amendments.

³ For more detail, see <https://www.opm.gov/blogs/Director/direct-hire-authority/>.

to positions related to Zika response efforts. A detailed summary of the supplemental request is provided in **Appendix A** of this CRS report.

Reprogrammings

A major theme in congressional debates was whether unobligated (generally, uncommitted for expenditure) FY2015 funds that had been provided to respond to the Ebola virus outbreak should be used to fund part of the Zika response, either temporarily or permanently.⁵ On April 6, 2016, the White House Office of Management and Budget (OMB) and the Secretary of HHS announced that they had identified \$589 million—\$510 million of it from “existing Ebola resources within the Department of Health and Human Services and Department of State/USAID”—that could quickly be redirected and spent on immediate efforts to control and respond to the spread of the Zika virus in the Americas.⁶

As part of the reprogramming, on April 8, 2016, USAID notified Congress of its intent to redirect \$295 million of the \$510 million from FY2015 unobligated Ebola Economic Support Funds (ESF) to be used for Zika response and other purposes. Of that amount, USAID transferred \$158 million to the Centers for Disease Control and Prevention (CDC), including \$78 million for *international* Zika response efforts and \$80 million for Ebola response. The remaining \$137 million, also from FY2015 ESF, was to be redirected to fund various USAID Zika response activities.

On August 11, 2016, the HHS Secretary notified Congress of her intent to redirect an additional \$81 million in unobligated HHS funds for Zika vaccine development activities.⁷ Of this amount, \$34 million was drawn from accounts at the National Institutes of Health (NIH), and \$47 million in total was drawn from unspecified accounts at three other HHS agencies: the Administration for Children and Families (ACF), the Centers for Medicare and Medicaid Services (CMS), and the Substance Abuse and Mental Health Services Administration (SAMHSA).

Uses of Reprogrammed Funds

Information about the use of reprogrammed funds is limited, and is drawn largely from two letters sent by Sylvia M. Burwell, the HHS Secretary, to Congress.⁸

According to HHS, out of the \$589 million identified for reprogramming on April 6, \$374 million was repurposed for *domestic* Zika control activities.⁹ HHS reports that almost all of this funding (\$354 million) was distributed to three HHS agencies as follows:

(...continued)

⁴ As defined in regulation, “The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.” (48 C.F.R. 37.104(a)) Under this authority, federal agencies can quickly contract with individual scientists, physicians, and other experts to aid in response efforts.

⁵ Ryan McCrimmon and Jennifer Shutt, “Zika Funding Squabble Engulfs Senate, House and White House,” *CQ News*, April 26, 2016.

⁶ OMB, Shaun Donovan, “Taking Every Step Necessary, As Quickly as Possible, to Protect the American People from Zika,” OMB blog, April 6, 2016, <https://www.whitehouse.gov/omb/blog>. Information about unobligated Ebola supplemental funds as of June 30, 2016 (the most recent publicly available data for all except some HHS accounts) is presented in **Appendix B**.

⁷ Letter from Sylvia M. Burwell, Secretary of HHS, to congressional leadership, August 11, 2016.

⁸ *Ibid.* Also letter from Sylvia M. Burwell, Secretary of HHS, to congressional appropriators, August 3, 2016.

- \$222 million to CDC for various activities including field staff, state response teams, Zika virus testing, tracking of pregnant women who were infected with Zika, and grants for mosquito control and other Zika prevention activities.
- \$47 million to NIH for Zika vaccine development, including clinical trials on the leading Zika vaccine candidate.¹⁰
- \$85 million to the Biomedical Advanced Research and Development Authority (BARDA) for private sector development of Zika vaccines, treatments, and technologies to protect the blood supply, and other countermeasures.

From the second reprogramming in August, \$34 million (i.e., the amount drawn from other NIH accounts) is to be used by NIH to continue clinical trials on its lead Zika vaccine candidate. The additional \$47 million is to be used by BARDA for continued private sector Zika vaccine development.

Congressional Actions

Between May and September 2016, supplemental funding for Zika response received floor consideration in both the House and the Senate. Congress resolved its consideration of Zika funding on September 28, 2016, when the Senate and House passed H.R. 5325, the “Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act.” This vehicle incorporated appropriations for Military Construction, Veterans Affairs, and Related Agencies (Division A); \$1.1 billion in FY2016 Zika supplemental funding (Division B); a short-term continuing resolution (CR) for FY2017 that would fund remaining government operations through December 9, 2016 (Division C); and a number of rescissions (Division D). The President signed the bill on September 29, 2016.

Congress considered and advanced several Zika supplemental funding proposals before passing H.R. 5325. This section presents the key legislative proposals, including the following:

- H.R. 5243, the Zika Response Appropriations Act, 2016, as passed in the House on May 18, 2016;
- H.R. 2577, Division B, the Zika Response Appropriations Act, 2016 as passed in the Senate on May 19, 2016;
- H.Rept. 114-640, the conference report filed on June 22, 2016, which was adopted in the House but not the Senate, and which included the Zika Response and Preparedness Appropriations Act, 2016 (Division B) and associated proposed rescissions (Division D). (Division A, Military Construction and Veterans Affairs and Related Agencies Appropriations for FY2017, is not discussed in this CRS report. Also, Division C, the Environmental Protection Agency’s regulation of water pollution and pesticides, is not discussed this CRS report.¹¹); and

(...continued)

⁹ As noted earlier, CDC received an additional \$78 million that was reprogrammed from USAID Ebola supplemental funds, and that can be used only for international Zika response activities.

¹⁰ For more information see NIH, National Institute of Allergy and Infectious Diseases (NIAID), “NIH Begins Testing Investigational Zika Vaccine in Humans,” press release, August 3, 2016, <https://www.niaid.nih.gov/news/>.

¹¹ For more information, see CRS Report RL32884, *Pesticide Use and Water Quality: Are the Laws Complementary or in Conflict?*, by (name redacted) .

- H.R. 5325, as passed by both chambers on September 28, 2016, specifically Zika funding in Division B, and certain rescissions in Division D. This CRS report does not discuss Military Construction, Veterans Affairs, and Related Agencies Appropriations for FY2017 (Division A) or the short-term CR for FY2017 (Division C).

This CRS report does not track proposals for Zika response spending in FY2017 regular appropriations bills, which may still receive congressional consideration.

Table 1, below, compares amounts for response to the Zika outbreak proposed in the Administration's supplemental request, and in each of the four legislative vehicles listed above. **Table 2** compares selected provisions in these measures that affect the timing, purpose, and use of the funds, or provide other related authorities. These tables incorporate Tables 1 and 2 from CRS Report R44549, *Supplemental Appropriations for Zika Response: The FY2016 Conference Agreement in Brief*, with no substantive changes.

House Bill (H.R. 5243)

On May 16, 2016, the chairman of the House Appropriations Committee introduced the Zika Response Appropriations Act, 2016 (H.R. 5243). The bill would have provided \$622.1 million, to be available until September 30, 2016, for domestic and international Zika response efforts. Nearly half of the funds were designated as an emergency requirement. The bill also included rescissions of certain Ebola-related appropriations and the HHS nonrecurring expenses fund.¹² The bill provided that its appropriations would be subject to the same requirements for funds that applied to the Consolidated Appropriations Act, 2016 (P.L. 114-113). This would include any restrictions on the use of funds that were contained therein, such as the applicable prohibitions on the use of funds for abortions. The House passed the measure on May 18, 2016, without amendment.

Senate Bill (H.R. 2577)

Senate action on Zika funding initially occurred as an amendment to the FY2017 Military Construction-Veterans Affairs and Transportation-Housing and Urban Development appropriations bills. The texts of these bills were combined for the purposes of initial consideration in the Senate and offered as a substitute amendment to H.R. 2577. On May 19, 2016, the Senate adopted H.R. 2577, as earlier amended to include \$1.1 billion in funds for Zika response and preparedness. These Zika funds would generally be available until September 30, 2017, with the exception of Global Health Funds, which would be available until expended. The bill included a smaller rescission of Ebola-related appropriations than the House bill, and no rescissions affecting HHS accounts. Like the House bill above, provisions in H.R. 2577 would be subject to the same requirements for funds that applied to the Consolidated Appropriations Act, 2016 (P.L. 114-113).

¹² CBO scored the total budgetary effects of these rescissions as reducing budget authority by \$622 million, and reducing outlays by \$12 million during FY2016. On net, CBO estimates the budgetary effects of the bill to be \$0 in budget authority and an increase of \$9 million in outlays for FY2016.

Conference Report (H.Rept. 114-640)

On June 22, 2016, Harold Rogers, chairman of the House Appropriations Committee, filed a conference agreement. (See the “conference report,” H.Rept. 114-640, to accompany H.R. 2577.) Division B of the conference agreement would have provided \$1.1 billion in Zika response funding. Amounts to HHS and State/USAID accounts were somewhat similar to those in the Senate proposal. Like the House and Senate bills, provisions in the conference report would be subject to the same requirements for funds that applied to the Consolidated Appropriations Act, 2016, including applicable prohibitions on the use of funds for abortions. However, other aspects of the agreement generated some controversy.¹³ Two provisions received particular attention: one specifying the purposes of funding provided to the Social Services Block Grant (SSBG), and another rescinding certain funds provided by the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended).

The conference agreement (Division B) would have provided that the \$95 million in SSBG funds were “for health services provided by public health departments, hospitals, or reimbursed through public health plans.” Some expressed concern that designating funds for only these specific entities could prevent states or territories from directing SSBG funds to other types of entities that offer family planning and women’s health services, such as certain Planned Parenthood affiliated health centers.¹⁴ It is not clear whether public health departments or hospitals could have subcontracted with Planned Parenthood or other entities. Under the terms of the conference agreement, it might have been possible for some states or territories to provide these funds to Planned Parenthood affiliated health centers that are eligible providers in a public health plan, such as Medicaid. However, there are cases in which this would not be possible. For instance, Puerto Rico’s International Planned Parenthood Federation affiliate, Profamilias, does not receive Medicaid funding.

Separately, the agreement (Division D) would have rescinded \$750 million in budget authority, the majority of it from unspent funds in the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended) intended to establish health exchanges in the territories.¹⁵

The conference agreement was agreed to by the House on June 23, 2016. On June 28, the Senate voted not to invoke cloture on the measure. Subsequent discussions among Members of Congress and the Administration did not yield an alternative agreement. The Administration sent a letter to congressional leaders on July 12, urging them to provide Zika supplemental funding, and citing examples of activities that could be affected without it.¹⁶ Some Members were concerned, however, that much of the funds reprogrammed by the Administration in April had not yet been obligated, and urged the Administration to make use of funds already available to it.¹⁷ On July 14,

¹³ David M. Herszenhorn, “Zika Bill Is Blocked by Senate Democrats Upset Over Provisions,” *The New York Times*, June 28, 2016.

¹⁴ Ali Rogin, “Senate Zika Bill Falls Apart Largely over Planned Parenthood Objections,” *ABC News*, June 28, 2016, <http://abcnews.go.com/Politics/senate-zika-bill-falls-largely-planned-parenthood-objections/story?id=40193006>.

¹⁵ Section 1323(a) of the ACA provides that each U.S. territory can either elect to establish a health insurance exchange by October 1, 2013, and receive a portion of a \$1 billion appropriation to do so, or increase its Medicaid funding. For more information, see CRS Report R44275, *Puerto Rico and Health Care Finance: Frequently Asked Questions*, coordinated by (name redacted). No U.S. territory elected to establish a health insurance exchange. Section 101 of the conference report would rescind \$543 million from the \$1 billion appropriation.

¹⁶ The letter is available from the article by Jennifer Shutt, “Senate Again Rejects Moving to a Vote on Zika, Veterans Funding,” *CQ News*, July 14, 2016.

¹⁷ Kellie Mejdich, “More Zika Grants on Tap, as Objections over Spending Pace Mount,” *CQ Roll Call*, August 2, 2016.

before adjourning for a seven-week recess, the Senate again voted not to invoke cloture on the conference agreement. On September 6, upon its return, the Senate voted a third time not to invoke cloture.

FY2017 Continuing Resolution Vehicle (H.R. 5325)

On September 22, 2016, the Senate voted to proceed to H.R. 5325, a legislative vehicle that was to be used to address a number of pending appropriations issues prior to the start of FY2017. That same day, Senator McConnell offered a substitute amendment (S.Amdt. 5082 to H.R. 5325), titled the “Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act.” It included Division B, which would provide \$1.1 billion in FY2016 funding for Zika response. Division D of the amendment included rescissions, which are discussed below. On September 28, that substitute amendment was adopted by a voice vote, and the bill, as amended, was passed by the Senate, by a vote of 72-26. The House agreed to the Senate amendment later that same day, by a vote of 342-85. The President signed the bill on September 29, 2016.

Title I of Division B appropriates \$933.0 million for HHS. Title II of Division B appropriates \$175.1 million for the Department of State and USAID. Both amounts (and, therefore, the total) are identical to the funding levels in the conference report that accompanied H.R. 2577, though there are some differences in how these funds may be used.

For instance, Division B provides \$75 million to the Public Health and Social Services Emergency Fund (PHSSEF) to reimburse Zika-related health care costs that are not otherwise covered by private insurance plans. This provision does not specify or limit the types of providers that may receive reimbursement. These funds are to be provided to states, territories, Indian Tribes, or Tribal Organizations with CDC-confirmed cases of the Zika virus or in locations where the CDC confirms that there is local transmission of the virus. Of the \$75 million, not less than \$60 million is to be reserved for territories with the highest rates of Zika transmission.¹⁸

Provisions in Division B are subject to the same requirements for funds that applied to the Consolidated Appropriations Act, 2016, including applicable prohibitions on the use of funds for abortions.¹⁹

All of the funding in Division B is designated as an emergency requirement, and that division contains no rescissions offsetting the funding for the Zika response. Division D rescinds \$400 million in budget authority, \$231.9 million of which is designated as an emergency.²⁰ Similar to the conference report accompanying H.R. 2577, Division D also rescinds unspent funds in the ACA intended to establish exchanges in the territories. However, this proposal rescinds a lesser amount of ACA funds than would the conference report—\$168 million rather than \$543 million of the original \$1 billion ACA appropriation. It is unclear the extent to which these rescissions are directly related to Zika or other purposes.²¹

¹⁸ The provision is discussed in Ryan McCrimmon and Paul M. Krawzak, “CR Has \$1.1 Billion in Zika Aid, Eases Family Planning Dispute,” *CQ News*, September 22, 2016.

¹⁹ H.R. 5325, Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act, Div. B, Tit. III, Sec. 301.

²⁰ Rescissions designated as emergency funding include \$117 million of unobligated foreign affairs Ebola funds (\$7.5 million from USAID’s Operating Expenses and \$109.5 million from Bilateral Economic Assistance) and \$114.9 million from prior year Departments of Commerce, Homeland Security, and Transportation appropriations.

²¹ Section 1323(a) of the ACA provides that each U.S. territory can either elect to establish a health insurance exchange (continued...)

H.R. 5325, as passed, does not include provisions from the House-passed version of H.R. 2577 that would have temporarily waived requirements of a Clean Water Act permit for discharges of pesticide used to control mosquitos or mosquito larvae for prevention or control of the Zika virus.²²

Although the Zika response package in H.R. 5325 reportedly reflected a congressional agreement on this funding and associated provisions, the Senate voted twice on September 27 not to invoke cloture on the measure. Some Members expressed concern that other portions of the bill did not provide funding to address the contaminated water problem in Flint, Michigan.²³ Subsequently, an agreement was reached to address assistance for Flint during congressional consideration of a different vehicle, a water resources authorization bill (H.R. 5303).²⁴ H.R. 5325 then passed in both chambers on September 28, 2016.²⁵

For More Information

For more information about the Zika virus outbreak, see CRS Report R44595, *Zika Virus in the Western Hemisphere: CRS Products*.

See also the following web pages on the Zika outbreak:

- Centers for Disease Control and Prevention (CDC), <https://www.cdc.gov/zika/>;
- World Health Organization (WHO), <http://www.who.int/topics/zika/en/>; and
- Pan American Health Organization (PAHO), http://www.paho.org/hq/index.php?option=com_content&view=article&id=11585&Itemid=41688&lang=en.

Table I. Supplemental FY2016 Funding for Zika Response: Comparison of Administration Request with Legislative Proposals

Budget Authority in Millions of Dollars

| Agency/Program | Request | H.R. 5243 Engrossed in House | H.R. 2577 Engrossed in Senate | H.Rept. 114-640 | H.R. 5325 Enacted |
|---|------------------|------------------------------------|-------------------------------------|--------------------|----------------------|
| HRSA: Community Health Centers | 0.0 | 0.0 | 40.0 | 0.0 | 0.0 |
| HRSA: National Health Service Corps | 0.0 ^a | 0.0 | 6.0 | 0.0 | 0.0 |
| HRSA: Maternal and Child Health Block Grant | 0.0 ^a | 0.0 ^b | 5.0 | 0.0 | 0.0 |

(...continued)

by October 1, 2013, and receive a portion of a \$1 billion appropriation to do so, or increase its Medicaid funding. For more information, see CRS Report R44275, *Puerto Rico and Health Care Finance: Frequently Asked Questions*, coordinated by (name redacted) No U.S. territory elected to establish a health insurance exchange.

²² For more information see CRS Report RL32884, *Pesticide Use and Water Quality: Are the Laws Complementary or in Conflict?*, by (name redacted) .

²³ See for example Jennifer Shutt, “The Winners and Losers in McConnell’s CR,” *CQ News*, September 22, 2016; and Ryan McCrimmon and Jennifer Shutt, “CR Still Stuck; McCarthy Hints at Adding Flint to Water Bill,” *CQ News*, September 26, 2016..

²⁴ Ryan McCrimmon, “Deal on CR Appears to Move Forward With Flint Money Secured,” *CQ News*, September 28, 2016.

²⁵ Ryan McCrimmon and Jennifer Shutt, “Senate Passes Stopgap Spending Bill, Speeds it to House,” *CQ News*, September 28, 2016.

| Agency/Program | Request | H.R. 5243 Engrossed in House | H.R. 2577 Engrossed in Senate | H.Rept. 114-640 | H.R. 5325 Enacted |
|---|----------------------|------------------------------------|-------------------------------------|-------------------------|--------------------------|
| HRSA Subtotal | 0.0 | 0.0 | 51.0 | 0.0 | 0.0 |
| <i>PHSSEF: Social Services Block Grant</i> | <i>0.0</i> | <i>0.0</i> | <i>75.0</i> | <i>95.0</i> | <i>0.0</i> |
| <i>PHSSEF: Community Health Centers</i> | <i>not specified</i> | <i>0.0</i> | <i>0.0</i> | <i>40.0^c</i> | <i>40.0^{cd}</i> |
| <i>PHSSEF: National Health Service Corps</i> | <i>not specified</i> | <i>0.0</i> | <i>0.0</i> | <i>6.0^c</i> | <i>6.0^{cd}</i> |
| <i>PHSSEF: Maternal and Child Health Block Grant</i> | <i>not specified</i> | <i>0.0^b</i> | <i>0.0</i> | <i>0.0</i> | <i>20.0^{cd}</i> |
| <i>PHSSEF: Medical Countermeasure and Other</i> | <i>not specified</i> | <i>103.0</i> | <i>75.0</i> | <i>85.0</i> | <i>246.0</i> |
| <i>PHSSEF: "Costs of Health Care" for Zika</i> | <i>not specified</i> | <i>0.0</i> | <i>0.0</i> | <i>0.0</i> | <i>75.0^e</i> |
| PHSSEF Subtotal | 295.0 | 103.0 | 150.0 | 227.0 | 387.0 |
| CDC | 828.0 | 170.0 ^{fb} | 449.0 | 476.0 | 394.0 |
| NIH/NIAID | 130.0 | 230.0 | 200.0 | 230.0 | 152.0 |
| FDA ^g | 10.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CMS (Medicaid federal matching rate) | 246.0 | no provision | no provision | no provision | no provision |
| HHS Total | 1,509.0 | 503.0 | 850.0 | 933.0 | 933.0 |
| State: Diplomatic and Consular Programs (D&CP) | 14.6 | 9.1 ^h | 14.6 | 14.6 | 14.6 |
| State: Emergencies in the Diplomatic and Consular Service | 4.0 | 0.0 ⁱ | 4.0 | 4.0 | 4.0 |
| State: Repatriation Loans | 1.0 | 0.0 | 1.0 | 1.0 | 1.0 |
| State: Nonproliferation, Anti-Terrorism, Demining and Related Programs (NADR) | 8.0 | 0.0 | 4.0 | 0.0 | 0.0 |
| State: International Organizations and Programs (IO&P) | 13.5 | 0.0 | 13.5 | 0.0 | 0.0 |
| USAID: Operating Expenses (OE) | 10.0 | 10.0 | 10.0 | 10.0 | 10.0 |
| USAID: Global Health Programs (GHP) | 325.0 | 100.0 ⁱ | 211.0 | 145.5 | 145.5 |
| State/USAID Total | 376.1 | 119.1 | 258.1 | 175.1 | 175.1 |
| REQUEST OR BILL TOTAL | 1,885.1 | 622.1 | 1,108.1 | 1,108.1 | 1,108.1 |
| Rescission: USAID, unobligated Ebola OE | 0.0 | 0.0 | -10.0 | -10.0 ^k | See note ^l |
| Rescission: Other Ebola unobligated balances | 0.0 | -352.1 | 0.0 | -107.0 | See note ^l |
| Rescission: HHS, Non-recurring Expenses Fund | 0.0 | -270.0 | 0.0 | -100.0 | See note ^l |
| Rescission: HHS, Affordable Care Act (ACA) Sec. 1323(a) ^m | 0.0 | 0.0 | 0.0 | -543.0 | See note ^l |
| Total Rescissions | 0.0 | -622.1 | -10.0 | -760.0 | See note ^l |
| NET TOTAL BUDGET AUTHORITY | 1,885.1 | 0.0 | 1,098.1 | 348.1 | See note ^l |

Sources: CRS analysis of text of White House, Office of Management and Budget, "Estimate #1—FY 2016 Emergency Supplemental: Appropriations Request to Respond to the Zika Virus both Domestically and

Internationally,” February 22, 2016, https://www.whitehouse.gov/omb/budget_amendments; and bills and reports as cited.

Notes: Requested amounts reflect the initial request of February 2016, and do not reflect reprogramming of funds in April or August 2016. Details may not add to totals due to rounding. Amounts in italics add to subtotals.

- a. Unspecified amounts from the PHSSEF may be transferred to HRSA for National Health Service Corps activities in the territories, and for the Maternal and Child Health Services (MCH) Block Grant.
- b. Up to \$50.0 million of the CDC funds provided may be transferred to the HRSA MCH Block Grant for specified activities.
- c. These funds would be transferred to HRSA for the specified activities.
- d. These funds shall be for Puerto Rico and other territories.
- e. Not less than \$60 million of this amount shall be for territories with the highest rates of Zika transmission.
- f. Of the CDC funds provided, up to \$500,000 each must be transferred to the HHS Office of Inspector General and the Comptroller General for oversight activities.
- g. The House-reported Agriculture and Related Agencies appropriation for FY2017 included \$10 million for FDA activities related to the response to Ebola, Zika, and other emerging threats. H.Rept. 114-531, p. 70.
- h. Up to \$1.35 million of funds for Diplomatic and Consular Services may be used for medical evacuation costs for any U.S. agency.
- i. Up to \$1.0 million of funds for Diplomatic and Consular Services may be transferred to Emergencies in the Diplomatic and Consular Service
- j. Of the Global Health Program funds provided, up to \$500,000 each must be transferred to the USAID Office of Inspector General and the Comptroller General for oversight activities.
- k. Division B of the conference report would rescind these funds previously appropriated for Ebola activities within Division J of P.L. 113-235.
- l. The rescissions in Division D of H.R. 5325 are not specifically tied to reducing the cost of Zika response, and it is unclear the extent to which they are related to Zika funding or other purposes. Among other funds rescinded, the rescissions include: \$7.5 million from USAID unobligated Ebola OE funds; \$109.5 million from foreign affairs bilateral economic assistance Ebola unobligated balances; and \$168.1 million from ACA Sec. 1323(a). (See table note m, below.) The rescissions of Ebola funds are designated as emergency funding. The ACA rescission is not designated as emergency funding. These rescissions total \$400 million in budget authority.
- m. Section 1323(a) of the ACA provides that each U.S. territory can either elect to establish a health insurance exchange by October 1, 2013, and receive a portion of a \$1 billion appropriation to do so, or increase its Medicaid funding. For more information, see CRS Report R44275, *Puerto Rico and Health Care Finance: Frequently Asked Questions*, coordinated by (name redacted). No U.S. territory elected to establish a health insurance exchange.

Table 2. Selected Provisions for FY2016 Zika Response: Comparison of Administration Request with Legislative Proposals

| Provision(s) | Request | H.R. 2577 Engrossed in Senate | H.R. 5243 Engrossed in House | H.Rept. 114-640 | H.R. 5325 Enacted |
|--|---|---|---|---|---|
| Period of Availability of Funds | | | | | |
| HHS Funds | Until expended. | Until Sept. 30, 2017. | Until Sept. 30, 2016. | Until Sept. 30, 2017. | Until Sept. 30, 2017. |
| State/USAID Funds: D&CP: Nonproliferation, Anti-Terrorism, Demining and Related Programs; International Organizations and Programs; Operating Expenses | Until Sept. 30, 2017. | Until Sept. 30, 2017. | Until Sept. 30, 2016. | Until Sept. 30, 2017. | Until Sept. 30, 2017. |
| State/USAID Funds: Emergencies in the Diplomatic and Consular Service; Repatriation Loans; Global Health Programs | Until expended. | Until expended. | Until Sept. 30, 2016. | Until Sept. 30, 2017. | Until Sept. 30, 2017. |
| Oversight funds for HHS and International Affairs | No comparable provision. | Until expended. | Until expended. | Until expended. | Until expended. |
| Authority to Reimburse Prior Obligations | | | | | |
| HHS and State/USAID Funds | Any funds in this Act may be used to reimburse HHS and/or State/USAID accounts for obligations incurred for Zika virus response prior to enactment. | \$88 million may be used to reimburse CDC accounts for obligations incurred for Zika virus response prior to enactment. | No authority to reimburse prior obligations. | \$88 million may be used to reimburse CDC accounts for obligations incurred for Zika virus response prior to enactment. | For CDC, \$44 million to restore funds reprogrammed for Zika response from the Public Health Emergency Preparedness cooperative agreement. For other HHS accounts and for State/USAID, no authority to reimburse prior obligations. |
| Purpose / Use of Funds | | | | | |
| CDC Funds | To prevent, prepare for, and respond to Zika virus, | To prevent, prepare for, and respond to Zika virus, | To prevent, prepare for, and respond to Zika virus, | To prevent, prepare for, and respond to Zika | Same as H.Rept. 114-640. |

| Provision(s) | Request | H.R. 2577 Engrossed in Senate | H.R. 5243 Engrossed in House | H.Rept. 114-640 | H.R. 5325 Enacted |
|--|--|---|---|--|---|
| | other vector-borne diseases, or other infectious diseases and related health outcomes, domestically and internationally. | other vector-borne diseases, and related health outcomes, domestically and internationally. | domestically and internationally. | virus, health conditions related to such virus, and other vector-borne diseases, domestically and internationally. | |
| Use of CDC funds for grants pursuant to PHS §317S, the Mosquito Abatement for Safety and Health (MASH) Act, which allows direct funding to local jurisdictions | Permitted, as determined by the CDC Director to be appropriate. | Not permitted. | Permitted, as determined by the CDC Director to be appropriate. | Permitted, as determined by the CDC Director to be appropriate. | Same as H.Rept. 114-640. |
| HRSA Funds | Scope for PHSSEF funds would apply to any funds transferred to HRSA. | To prevent, prepare for, and respond to Zika virus, other vector-borne diseases, and related health outcomes, domestically and internationally. | Scope for CDC funds would apply to any funds transferred to HRSA. | Scope for PHSSEF funds would apply to any funds transferred to HRSA. | Same as H.Rept. 114-640. |
| NIH Funds | To prevent, prepare for, and respond to Zika virus, other vector-borne diseases, or other infectious diseases and related health outcomes, domestically and internationally. | To prevent, prepare for, and respond to Zika virus, other vector-borne diseases, and related health outcomes, domestically and internationally. | For development of vaccines for the Zika virus. | For specified research and medical countermeasures development regarding Zika virus and other vector-borne diseases, domestically and internationally. | For research on the virology, natural history, and pathogenesis of the Zika virus infection and preclinical and clinical development of vaccines and other medical counter-measures for the Zika virus and other vector-borne diseases, domestically and internationally. |
| PHSSEF Funds | To prevent, prepare for, and respond to Zika virus, other vector-borne diseases, or other infectious diseases and | To prevent, prepare for, and respond to Zika virus, other vector-borne diseases, and related health outcomes, domestically and | To respond to Zika virus, domestically and internationally. | To prevent, prepare for, and respond to Zika virus, health conditions related to such virus, and other vector- borne | Same as H.Rept. 114-640. |

| Provision(s) | Request | H.R. 2577 Engrossed in Senate | H.R. 5243 Engrossed in House | H.Rept. 114-640 | H.R. 5325 Enacted |
|--|--|--|--|---|------------------------------|
| | related health outcomes, domestically and internationally. | internationally. | | diseases, domestically and internationally. | |
| State Dept. Diplomatic and Consular Programs (D&CP) | To support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | To support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | To support cost of medical evacuations and other response efforts related to the Zika virus and health conditions directly associated with the Zika virus. | To support response efforts related to the Zika virus, related health conditions, and other vector-borne diseases. | Same as H.Rept. 114-640. |
| State Dept. Emergencies in Diplomatic and Consular Service | To support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases. | To support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases. | No comparable provision. | To support response efforts related to the Zika virus, related health conditions, and other vector-borne diseases. | Same as H.Rept. 114-640. |
| Repatriation Loans Program | For direct loans to support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | For direct loans to support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | No comparable provision. | For direct loans to support response efforts related to the Zika virus, related health conditions, and other vector-borne diseases. | Same as H.Rept. 114-640. |
| USAID Operating Expenses (OE) | To support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | To support response efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | Response efforts related to the Zika virus and health conditions directly associated with the Zika virus. | To support response efforts related to the Zika virus, related health conditions, and other vector-borne diseases. | Same as H.Rept. 114-640. |
| Global Health Programs (GHP) | For assistance or research to prevent, treat, or otherwise respond to the Zika virus and related health outcomes, other vector-borne diseases, or | For assistance or research to prevent, treat, or otherwise respond to the Zika virus and related health outcomes, other vector-borne diseases, or | For vector control activities to prevent, prepare for, and respond to the Zika virus internationally. | For expenses to prevent, prepare for, and respond to the Zika virus, related health conditions, and other vector-borne diseases. | Same as H.Rept. 114-640. |

| Provision(s) | Request | H.R. 2577 Engrossed in Senate | H.R. 5243 Engrossed in House | H.Rept. 114-640 | H.R. 5325 Enacted |
|--|---|---|--|---|--------------------------|
| | other infectious diseases. | other infectious diseases. | | | |
| Dept. of State, Nonproliferation, Anti-terrorism, Demining and Related Programs (NADR) | To support response and research efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | To support response and research efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | No comparable provision. | No comparable provision. | No comparable provision. |
| International Organizations and Programs (IO&P) | To support response and research efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | To support response and research efforts related to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases. | No comparable provision. | No comparable provision. | No comparable provision. |
| Transfer Authority | | | | | |
| HHS Funds | CDC funds may be transferred within CDC. NIH funds may be transferred within NIH. PHSSEF funds may be transferred to two stated HRSA accounts, as specified, to an HHS countermeasures injury compensation fund, and to any other HHS accounts. | Any HHS funds in the amendment may be transferred to accounts in CDC, HRSA, NIH, and PHSSEF. \$75 million in PHSSEF funds must be transferred to the HHS Social Services Block Grant. | CDC funds may be transferred within CDC, and to three stated HRSA accounts, as specified. NIH funds may be transferred within NIH. PHSSEF funds may be transferred to an HHS countermeasures injury compensation fund. | HHS funds may be transferred and merged with CDC, PHSSEF, and NIH funds for purposes specified in this title following consultation with OMB. PHSSEF funds may be transferred to an HHS countermeasures injury compensation fund. | Same as H.Rept. 114-640. |
| International Affairs | Funds may be transferred between foreign affairs accounts within the same headings to carry out the purposes of this Act and are in addition to other transfer authority within this proposal. | Funds within certain foreign affairs accounts may be transferred between foreign affairs accounts within the same headings to carry out the purposes of this Act and are in addition to other | Specified funds within D&CP may be transferred for medical evacuation, transferred for Emergencies in Diplomatic and Consular Service, and are in addition to any other | Funds for D&CP, Emergencies in Diplomatic and Consular Service, Repatriation Loans Program, and OE may be transferred to funds under such headings to carry out | Same as H.Rept. 114-640. |

| Provision(s) | Request | H.R. 2577 Engrossed in Senate | H.R. 5243 Engrossed in House | H.Rept. 114-640 | H.R. 5325 Enacted |
|---|--------------------------|--|---|--|-----------------------------------|
| | | transfer authority within this proposal. | transfer authority within this proposal. | the purposes of the title, are in addition to other transfer authority provided by law, and require 5 day prior notification in writing to the Appropriations Committees. | |
| Notification, Reporting and Oversight | | | | | |
| HHS Notification Requirement for Obligation | No comparable provision. | No comparable provision. | 15 days in advance of obligation. | No comparable provision. | No comparable provision. |
| International Affairs Notification Requirement for Obligation | No comparable provision. | 15 days in advance of obligation. | 15 days in advance of obligation. | 15 days in advance of obligation. | 15 days in advance of obligation. |
| HHS Reporting Requirement | No comparable provision. | Within 30 days of enactment the HHS Secretary must report to the Appropriations Committees with a spend plan, followed by quarterly reports on obligations until funds have been fully expended. | Within 30 days of enactment the HHS Secretary must report to the Appropriations Committees with a spend plan, which must be updated and resubmitted every 30 days until funds have been fully expended. | Within 30 days after enactment the HHS Secretary must report to the Appropriations Committees with a spend plan, updated every 60 days until September 30, 2017. | Same as H.Rept. 114-640. |
| International Affairs Reporting Requirement | No comparable provision. | Within 45 days after enactment and prior to obligation of international funds, the USAID Administrator must submit spend plans to the Committees on Appropriations, update and resubmit to those committees every 90 days until September 30, 2017, and every 180 days | Within 30 days after enactment the Secretary of State and USAID Administrator must submit to Appropriations Committees a consolidated report and update and submitted to those committees every 30 days until all funds are expended. | Within 30 days after enactment the Secretary of State and USAID Administrator must submit to the Appropriations Committees a consolidated report, including anticipated uses of funds, on a country and project basis, including estimated | Same as H.Rept. 114-640. |

| Provision(s) | Request | H.R. 2577 Engrossed in Senate | H.R. 5243 Engrossed in House | H.Rept. 114-640 | H.R. 5325 Enacted |
|---|--|---|---|---|--------------------------|
| | | thereafter until all funds are expended. | | personnel and administrative costs, and updated every 60 days until September 30, 2017. | |
| HHS: Oversight of Funded Activities | No comparable provision. | No comparable provision. | \$500,000 of CDC funds must be made available to the HHS Office of the Inspector General. An additional \$500,000 of CDC funds must be made available to the Comptroller General. | \$500,000 of PHSSEF funds must be made available to the HHS Office of the Inspector General. An additional \$500,000 of PHSSEF funds must be made available to the Comptroller General. | Same as H.Rept. 114-640. |
| International Affairs: Oversight of Funded Activities | No comparable provision. | \$500,000 from the International Affairs Chapter must be made available to the Comptroller General. | \$500,000 from GHP funds must be made available to USAID's Office of the Inspector General. An additional \$500,000 from GHP funds must be made available to the Comptroller General. | \$500,000 within the international title must be transferred to USAID's Office of the Inspector General. An additional \$500,000 must be made available to the Comptroller General. | Same as H.Rept. 114-640. |
| Incentives for Zika Countermeasures^a | | | | | |
| HHS/BARDA, making Zika countermeasures funded under the Act eligible for advanced development and procurement through Project BioShield | Would amend PHSA Sec. 319F-2 to make Zika countermeasures procured with funds under this Act eligible. | Comparable to request. | Comparable to request. | Comparable to request. | Comparable to request. |

Source: CRS analysis of text of White House, Office of Management and Budget, “Estimate #1–FY 2016 Emergency Supplemental: Appropriations Request to Respond to the Zika Virus both Domestically and Internationally,” February 22, 2016, https://www.whitehouse.gov/omb/budget_amendments; and bills and reports as cited.

- a. Medical countermeasures are vaccines, drugs, antidotes, therapies, diagnostic tools, and blood safety technologies needed for the response to public health emergencies. For more information about Zika countermeasures see BARDA, “BARDA’s Medical Countermeasure Response to Zika,” <http://www.phe.gov/about/barda/zika/Pages/default.aspx>. (Click through dialogue box if necessary.)

Appendix A. Summary of the Emergency Supplemental Appropriations Request for Zika Response Efforts

The following describes the Administration's February 2016 Zika emergency supplemental request components by agency.

It was reported on April 18 that the Administration submitted a revised Zika supplemental request to Congress, which would maintain departmental request totals, while redirecting some of the HHS funds requested for contingency use to vaccine research and development at the National Institutes of Health (NIH).²⁶ Detailed information about this is not publicly available, and the following narrative does not reflect this revision.

Health and Human Services

The Administration's emergency supplemental appropriations request to respond to the Zika outbreak seeks for HHS a total of \$1.509 billion. Each HHS agency request includes the statement that funds would be "to prevent, prepare for, and respond to Zika virus, other vector-borne diseases, or other infectious diseases and related health outcomes, domestically and internationally..." Most of the requested funds would support research, surveillance, vaccine and test development, and various domestic preparedness activities. A portion would support international response activities. The request proposes that all supplemental appropriations to HHS be designated as emergency spending, and remain available until expended.

Centers for Disease Control and Prevention (CDC)

A total of \$828 million of the February 2016 request is for the CDC-Wide Activities and Program Support account. Proposed request language would, among other things, authorize the CDC Director to transfer funds between CDC accounts, and authorize funds to be used for real property acquisition and improvements to non-federal facilities. Funds would be used as follows:

- **Grants and technical assistance to Puerto Rico and U.S. Territories**—\$225 million to, among other purposes, monitor pregnant women and establish a registry of women infected while pregnant; expand mosquito control activities; and enhance laboratory testing capacity.
- **Domestic Response**—\$453 million to provide grants to southern and other U.S. states with *Aedes* mosquitoes for surveillance, improved test methods and testing capacity, public education and outreach, mosquito control measures in areas at risk, and additional federal and state response activities.
- **International Response Activities**—\$150 million to expand the public health workforce, and enhance infectious disease surveillance and emergency response activities, in Zika-affected countries; and to support the laboratory network of the Pan American Health Organization (PAHO), the regional arm of the World Health Organization (WHO) for the Americas.

²⁶ Erik Wasson, "Obama Administration Updates Zika Spending Request," *Bloomberg*, April 18, 2016.

Public Health and Social Services Emergency Fund (PHSSEF)

The PHSSEF is a fund used by appropriators to provide the HHS Secretary with ongoing or one-time emergency funding, such as for the response to disease epidemics. The emergency supplemental request seeks \$295 million for the PHSSEF for the following:

- several maternal and child health and home visitation programs for low-income pregnant women at risk of Zika infection, and families that have children born with birth defects related to Zika infection;
- several health care workforce assistance programs for Puerto Rico and other territories; and
- compensation for persons harmed by the use of tests or vaccines used under emergency authority.²⁷

The requested PHSSEF funds could, in consultation with OMB, be transferred to other agencies within HHS or across the federal government. The request stated that this transfer authority is to provide flexibility in response to changing needs. No congressional notification requirement is included.

National Institutes of Health (NIH)

The emergency supplemental request seeks \$130 million for the NIH National Institute of Allergy and Infectious Diseases (NIAID) to expand research efforts to characterize the progression and effects of Zika infection and other vector-borne diseases, and to develop vaccines against them.²⁸ Proposed request language would authorize the NIH Director to transfer funds between NIH accounts. No congressional notification requirement is included.

Food and Drug Administration (FDA)

The emergency supplemental request seeks \$10 million for FDA's role in reviewing the safety and effectiveness of medical countermeasures (such as test methods, vaccines, and treatments), and post-market monitoring of such countermeasures if and when they become available.

Medicaid Funding for Territories²⁹

The emergency supplemental request would temporarily increase the federal matching rate for Medicaid in the territories. The territories operate Medicaid programs under different rules from those that apply to the 50 states and the District of Columbia. Federal Medicaid funding to the states and the District of Columbia is open-ended, but the territories receive capped annual allotments (i.e., the maximum amount of federal funds available in a year). In addition, the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended) provides the territories with additional federal Medicaid funding to use by September 30, 2019. The territories

²⁷ This compensation program is described in "Covered Countermeasure Process Fund" in CRS Report RS22327, *Pandemic Flu and Medical Biodefense Countermeasure Liability Limitation*, and HHS, Health Resources and Services Administration, Countermeasures Injury Compensation Program (CICP), <http://www.hrsa.gov/cicp/index.html>.

²⁸ This refers to infectious diseases that are transmitted by a living organism (a "vector," such as a mosquito), from one host to another.

²⁹ This section contributed by (name redacted), Specialist in Health Care Financing, Domestic Social Policy Division.

have a federal medical assistance percentage (FMAP) rate (i.e., federal matching rate) for Medicaid of 55%.³⁰

The supplemental request includes a provision that would increase the FMAP rate for the territories to 65% for one year beginning with the first day of the fiscal quarter following enactment. This increased FMAP rate would be available for all Medicaid expenditures, not limited to those provided to treat Zika infection. The federal funding for the increased FMAP rate would not count against the territories' annual federal spending caps or additional ACA funding. The Administration estimates this FMAP rate increase would cause federal Medicaid expenditures to grow by \$246 million.³¹

There is some question about how this provision would affect Puerto Rico if it were to exhaust its additional ACA funding prior to FY2019.³² Depending on the timing of enactment, Puerto Rico might not have access to its full annual Medicaid allotments or additional ACA funding for a portion of the time the provision would be in effect.³³

Retroactive Reimbursement

The request proposes language that would allow funds provided in the act to be used to reimburse HHS accounts for Zika response expenses incurred prior to enactment.

Transfer Authority

The request proposes language that would allow funds appropriated to HHS in the act to be transferred to other federal accounts, including the Department of Defense, the Environmental Protection Agency, and the Department of Agriculture, "to prevent, prepare for, and respond to Zika virus, other vector-borne diseases, or other infectious diseases and related health outcomes, domestically and internationally....," following consultation with OMB. No congressional notification requirement is included.

Expanded Definition of "Security Countermeasure"

The request proposes language that would allow the government to support the advanced development and procurement of medical countermeasures against Zika virus through Project BioShield. Currently, Project BioShield supports only countermeasures against specific chemical, biological, radiological, and nuclear terrorist threats.³⁴ The proposed expansion is not limited to countermeasures against the Zika virus or vector-borne diseases, but rather is stated broadly as a "countermeasure to diagnose, mitigate, prevent, or treat harm from any infectious disease that may pose a threat to the public health."

³⁰ For more information about the Medicaid program in the territories, see CRS Report R44275, *Puerto Rico and Health Care Finance: Frequently Asked Questions*, coordinated by (name redacted)

³¹ The funding for this provision would be provided through a change in mandatory programs (CHIMP), which is a provision in an appropriations act that affects a mandatory spending program.

³² According to HHS, Puerto Rico is projected to exhaust its ACA Medicaid funding by the end of FY2017. HHS, *FY2017 Budget in Brief*, February, 2017, p. 97, <http://www.hhs.gov/sites/default/files/fy2017-budget-in-brief.pdf>.

³³ If Puerto Rico were to exhaust its ACA Medicaid funding before the end of FY2019, it would have to significantly increase its own Medicaid funding share in order to maintain the current program. This would worsen its current fiscal situation. For more information about this situation, see CRS Report R44095, *Puerto Rico's Current Fiscal Challenges*, by (name redacted)

³⁴ For more information, see HHS, "Project BioShield," <https://www.medicalcountermeasures.gov/barda/cbrn/project-bioshield-overview/>.

International Assistance Programs

The Administration's February 2016 emergency supplemental appropriations request to respond to the Zika outbreak seeks for the Department of State and USAID a total of \$376.1 million. This includes funds for control of the disease, prevention, surveillance, evacuating U.S. employees and American citizens, vaccine development, and diagnostic research, among other things. Specifically within the International Assistance section of the request is a request for transfer authority (without a requirement for congressional notification) with certain limitations, reimbursement authority, and hiring of personal services contractors, as well as authorization to use unobligated Ebola balances to combat Zika and other infectious diseases. Also worth noting is that, unlike HHS, funds for international assistance programs have varying periods of availability, as specified below.

Department of State

A total of \$41.1 million is requested for the Department of State operations, multilateral assistance within International Organizations and Programs (IO&P), and international security assistance (nuclear research and techniques) as follows:

- **Diplomatic and Consular Programs account (D&CP)**—\$14.6 million to remain available until September 30, 2017. Of this amount
 - \$8.4 million is to support the Office of Medical Services for medical support and possible evacuation under the Chief of Mission authority of at-risk U.S. employees in Zika-affected countries; and
 - \$6.2 million is to support regional coordination efforts and public diplomacy outreach, among other activities.
- **Emergencies in the Diplomatic and Consular Service**—\$4 million to remain available until expended to support response efforts, including potential evacuation of U.S. citizens.
- **Repatriation Loans Program**—\$1 million to remain available until expended to finance repatriation loans to U.S. citizens who may seek to leave Zika-affected areas or who have been exposed to or have contracted Zika.
- **Nonproliferation, Anti-Terrorism, Demining and Related Programs (NADR)**—\$8 million to remain available until September 30, 2017, for additional voluntary U.S. contributions to the International Atomic Energy Agency (IAEA), an autonomous intergovernmental organization related to the United Nations that promotes the safe, secure, and peaceful use of nuclear technologies. Funds would support Zika research to develop and deploy nuclear techniques to help accelerate diagnosis, provide related specialized training, and to implement sterile insect projects to suppress mosquito populations.³⁵
- **International Organizations and Programs (IO&P)**—\$13.5 million to remain available until September 30, 2017, to support Zika response actions taken by UNICEF, the Food and Agriculture Organization, the WHO, and PAHO.

³⁵ For more information see Aabha Dixit, IAEA Office of Public Information and Communication, "Nuclear Technique Can Help Control Disease-Transmitting Mosquitoes," February 3, 2016, <https://www.iaea.org/newscenter/news/nuclear-technique-can-help-control-disease-transmitting-mosquitoes>.

USAID

For the U.S. Agency for International Development, the Administration is requesting \$335 million to cover USAID's health programs and implementation expenses:

- **USAID Operating Expenses (OE)**—\$10 million to remain available until September 30, 2017, to support Zika response efforts.
- **Global Health Programs (GHP)**—\$325 million to remain available until expended to prevent, treat, or respond to the Zika virus and related health concerns, other vector-borne diseases, or other infectious diseases. Multi-year funding commitments are requested to provide incentives for the development of global technologies such as vaccines, diagnostics equipment, and vector control innovations. Anticipated allocations include
 - \$100 million to implement vector management and control activities in Zika-affected countries;
 - \$100 million to stimulate private sector research and development of vaccines, diagnostics, and vector control innovations through public-private partnerships;
 - \$50 million for maternal and child health support in affected and at-risk countries, including training of health care workers; ensuring access to family planning information, services, and methods; providing support for children with microcephaly; and helping pregnant women and their partners have access to personal protection, including condoms and repellent to protect against mosquitoes;
 - \$25 million for public health communication and behavior change campaigns for affected communities and countries to take actions to protect themselves from Zika and other vector-borne diseases; and
 - \$50 million to issue Global Health Security Grand Challenges that would call for groundbreaking innovations in diagnostics, vector control, personal protection, community engagement and surveillance, and other tools to address Zika and other infectious diseases, as well as to develop public-private partnerships to accelerate development of innovative tools and practices.

Use of Ebola Balances for Other Infectious Diseases

Within the Department of State and Other International Programs General Provisions (in addition to the General Provisions for the entire request), the supplemental request would authorize the use of unobligated Ebola Funds (Title IX, Div. J, P.L. 113-235), stating: “[Unobligated Ebola funds] shall also be available to respond to the Zika virus and related health outcomes, other vector-borne diseases, or other infectious diseases.”

As of January 1, 2016, the Department of State/USAID's unobligated Ebola funds totaled nearly \$1.3 billion. Of that total, about \$600 million is available until September 30, 2016, and about \$694 million is available until expended.³⁶ (See the subsequent section, “HHS, State/USAID, and DOD Unobligated Ebola Response Funds.”)

³⁶ Based on departmental spend plans and/or quarterly reports for HHS, State/USAID, and Defense, as required by P.L. (continued...)

Transfer Authority

The Department of State and Other International Programs General Provisions in the supplemental request would allow transfer of State Department-related funds in the request only among State Department-related accounts within the request and transfer of USAID-related funds in the request only among USAID-related accounts. No congressional notification requirement is included.

Notwithstanding Authority

The supplemental's request for notwithstanding authority could allow funds from this or prior acts supporting the U.S. Zika virus response to be expended despite any previously enacted restrictions and conditions on U.S. foreign aid. For example, if enacted, this authority could allow foreign aid to be provided to states that are otherwise restricted by law: those designated as sponsors of terrorism, those with debt arrearage, human rights violators, or states that practice coercive family planning. The Department of State has indicated in the Global Health Program (GHP) section, however, that funds will provide support for "ensuring access to voluntary family planning information, services, and methods."

Direct Hiring Authority/Personal Services Contractors

The General Provisions Title in the request, and also the General Provisions Title for the Department of State and Other International Programs, allows for expedited hiring authority to directly hire staff during critical public health threats, such as Zika, and to enter into contracts with individuals who are experts in Zika-related fields. This measure does not limit direct hiring or personal services contractors only for Zika-related purposes. This authority for direct hiring and personal services contractors could be used in a broader set of public health circumstances than the Zika virus.

(...continued)

113-235, and obtained by CRS; and additional departmental communications.

Appendix B. HHS, State/USAID, and DOD Unobligated Ebola Response Funds

In December 2014, the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235), provided \$5.4 billion in emergency supplemental appropriations to HHS, the Departments of State and Defense, and USAID to address the Ebola outbreak that began in West Africa in January 2014.³⁷ Because these funds were designated as emergency appropriations, they are effectively exempt from spending limits in the Budget Control Act of 2011 (BCA, P.L. 112-25).³⁸

On April 6, 2016, the Obama Administration announced its plan to reprogram \$510 million of unobligated FY2015 Ebola funding to respond to the Zika virus.³⁹ HHS Ebola funds may be reprogrammable without additional congressional action (subject to existing restrictions on reprogramming, including notification). This is because the relevant appropriations measures stated the funds are available for Ebola and other infectious diseases. Some have debated whether congressional action is necessary to provide the Department of State and USAID with the authority to reprogram the unobligated Ebola funds, as much of the funding was appropriated with specific language to be used to “prevent, prepare for, or respond to the Ebola disease outbreak.”

Table B-1 provides, by account, the original appropriated Ebola funds, remaining (unobligated) amounts, the period of funding availability, and purpose of the funds, based on quarterly reports to Congress as required by the law. As of January 1, 2016, unobligated Ebola funds totaled \$2.77 billion: \$1.46 billion for HHS, \$1.29 billion for State/USAID, and \$17.3 million for Defense. A portion of the total, \$652.9 million—most of which is USAID funding—expires September 30, 2016. Nearly all of the remaining unobligated funds expire September 30, 2019, or are available until expended. **Table B-1** does not incorporate the Administration’s announced plans to reprogram \$510 million of unobligated Ebola funds.

³⁷ This section addresses funds provided in P.L. 113-235 only; it does not track the \$88 million appropriated to HHS for Ebola-related activities in the first FY2015 continuing resolution (P.L. 113-164).

³⁸ Such exemptions may be provided pursuant to Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985. For more information on discretionary spending limits and Ebola funds designated for emergency requirements, see *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2015*, January 20, 2015, at https://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration/sequestration_final_january_2015_president.pdf.

³⁹ OMB, Shaun Donovan, “Taking Every Step Necessary, As Quickly as Possible, to Protect the American People from Zika,” OMB blog, April 6, 2016, <https://www.whitehouse.gov/omb/blog>.

Table B-1. FY2015 Emergency Funds Appropriated for Ebola Response and Related Activities, and Unobligated Balances

Amounts are U.S. dollars in millions.

Unobligated amounts for HHS are as of January 1, 2016, except that amounts for NIH are as of June 30, 2016. Unobligated amounts for State/USAID and DOD are as of June 30, 2016.

| Agency and Account or Activity | P.L. 113-235 ^a | Unobligated Funds | Period of Availability | Purpose(s) |
|--|---------------------------|-------------------|------------------------|--|
| DEPARTMENT OF HEALTH AND HUMAN SERVICES | | | | |
| CDC: International activities | 603.0 | 369.4 | Until Sept. 30, 2019 | Disease control assistance to affected and neighboring countries. |
| CDC: Global Health Security | 597.0 | 525.2 | Until Sept. 30, 2019 | Implementation of Global Health Security Agenda (GHSA) activities. ^b |
| CDC: Public health emergency preparedness | 165.0 | 11.3 | Until Sept. 30, 2019 | Domestic preparedness and response activities, including control in health care settings, and procurement for stockpile. |
| CDC: State and local | 255.0 | 56.0 | Until Sept. 30, 2019 | Grants to state health departments for surveillance, testing, case management. |
| CDC: Worker training | 0.0 | — | — | \$10 million for this activity was transferred to NIH. See below. |
| CDC: Migration/quarantine | 119.3 | 57.4 | Until Sept. 30, 2019 | Screening and management of entrants from affected countries/regions. |
| CDC: Other domestic activities | 37.0 | 11.9 | Until Sept. 30, 2019 | Vaccine trials and other applied public health research. |
| CDC Subtotal | 1,776.3 | 1,031.2 | — | — |
| ASPR (PHSSEF): Hospital Preparedness Program | 208.5 | 21.2 | Until Sept. 30, 2019 | Domestic training, PPE, and establishing regional Ebola Treatment Centers (ETCs). |
| ASPR (PHSSEF): Other prep. and response | 352.2 | 347.4 | Until Sept. 30, 2019 | Not specified. Could include domestic treatment costs for affected individuals. |
| ASPR (PHSSEF): BARDA | 157.0 | 3.7 | Until Sept. 30, 2019 | Research, development, and procurement of vaccines and treatments. |
| ASPR/PHSSEF Subtotal | 717.7 | 372.3 | — | — |
| NIH, NIAID | 238.0 | 13.5 ^c | Until Sept. 30, 2016 | Research and clinical trials on investigational vaccines and treatments. |
| NIH, NIAID | 10.0 | 6.2 ^c | Until Sept. 30, 2019 | Ebola responder safety training, funds transferred from CDC. |
| FDA | 25.0 | 13.7 | Until expended | Development, review, and regulation of vaccines and treatments. |
| HHS Total | 2,767.0 | — | — | — |

| Agency and Account or Activity | P.L. 113-235 ^a | Unobligated Funds | Period of Availability | Purpose(s) |
|---|---------------------------|-------------------|------------------------|--|
| STATE DEPARTMENT/USAID | | | | |
| USAID, Operating Expenses | 19.0 | 14.3 | Until Sept. 30, 2016 | Operating costs to address Ebola outbreak in West Africa, including temporary staffing and technical support. |
| USAID, Inspector General | 5.6 | 2.5 | Until expended | Oversight of Ebola response in West Africa. |
| USAID, International Disaster Assistance (IDA) | 1,436.3 | 532.9 | Until expended | Disaster assistance to address humanitarian needs for West Africa, such as rapid response, maintaining surveillance, screening, and contact tracing. |
| USAID, Global Health Programs | 312.0 | 129.1 | Until expended | Expanded USAID global health security activities to control infectious diseases and limit spread of Ebola, including surveillance and building lab capacity. |
| State/USAID, Economic Support Fund | 711.7 | 368.3 | Until Sept. 30, 2016 | Training and program assistance to prevent economic and government instability during Ebola crisis, including reimbursement for earlier response. Activities include rehabilitation of the water infrastructure, strengthening health information systems, and developing technology to prevent the spread of Ebola. |
| State, Diplomatic, Consular Programs (D&CP) | 36.4 | 2.1 | Until Sept. 30, 2016 | Medical support and evacuation capacity, repatriation assistance, and other needs. |
| State, Repatriation Loans Program | ns | ns | ns | Repatriation loans to U.S. citizens as necessary related to Ebola outbreak. Funding not specified in P.L. 113-235. Explicit transfer authority is provided for up to \$1 million from D&CP into this account. ^d |
| State, International Organizations and Programs (IO&P) | ns | ns | ns | Estimated U.S. contributions to UNMEER. Funding not specified in P.L. 113-235. Explicit transfer authority is provided for up to \$35.3 million from IDA for this account. ^d |
| State, Contributions to International Organizations (CIO) | ns | ns | ns | Funding not specified in P.L. 113-235. Explicit transfer authority is provided for up to \$35.3 million from IDA and \$50 million from Global Health Programs for this account. ^d |
| State, Nonproliferation, Anti-terrorism, Demining, and Related Programs | 5.3 | 0 | Until Sept. 30, 2016 | Biosafety and hazardous materials training in affected countries, efforts to mitigate illicit acquisition of Ebola virus and to promote biosecurity practices associated with outbreak response efforts. |

| Agency and Account or Activity | P.L. 113-235 ^a | Unobligated Funds | Period of Availability | Purpose(s) |
|---|---------------------------|-------------------|------------------------|--|
| State/USAID Total | 2,526.3 | 1,049.2 | — | — |
| DEPARTMENT OF DEFENSE | | | | |
| Defense/DARPA: Defense-wide research, development, testing, and evaluation (RDT&E) | 45.0 | 0.8 | Until Sept. 30, 2016 | Developing medical countermeasures technologies (e.g., using antibodies from survivors) and shortening vaccine development time. |
| Defense/CBDP: RDT&E | 50.0 | 16.4 | Until Sept. 30, 2017 | Research and Development, testing and evaluation. |
| Defense/CBDP: procurement | 17.0 | 0.1 | Until Sept. 30, 2017 | Procurement of detection and diagnostic systems, mortuary supplies, and isolation transport units. ^e |
| Defense Total | 112.0 | 17.3 | — | — |
| TOTAL | 5,405.3 | See note | — | — |

Sources: Departmental spend plans and/or quarterly reports for HHS, State/USAID, and Defense, as required by P.L. 113-235, and obtained by CRS; and additional departmental communications. Information about international Ebola response spending is publicly available in the quarterly joint reports of the USAID and HHS Inspectors General, most recently “Quarterly Progress Report on U.S. Government International Ebola Response and Preparedness,” FY2016, 3rd quarter, June 30, 2016, https://oig.usaid.gov/sites/default/files/other-reports/oig_ebola_quarterly_06302016.pdf.

Notes: Amounts may not add due to rounding; “ns” means not specified. The HHS subtotal and total unobligated amounts are not calculated because the data for HHS and for State/USAID/DOD cover different timespans.

Glossary: ASPR is HHS Assistant Secretary for Preparedness and Response; BARDA is HHS Biomedical Advanced Research and Development Authority; CBDP is Chemical Biological Defense Program; CDC is HHS Centers for Disease Control and Prevention; DARPA is Defense Advanced Research Projects Agency; FDA is HHS Food and Drug Administration; NIAID is NIH National Institute of Allergy and Infectious Diseases; NIH is HHS National Institutes of Health; PHSSEF is HHS Public Health and Social Services Emergency Fund, administered by the HHS Secretary; PPE is personal protective equipment; UNMEER is United Nations Mission for Ebola Emergency Response, and WHO is World Health Organization.

- HHS amounts reflect transfers between the funded agencies, as permitted by the law. P.L. 113-235, 128 Stat. 2522, §604, December 16, 2014.
- For more information, see CDC, Global Health Security Agenda, <http://www.cdc.gov/globalhealth/security/index.htm>.
- Amount is as of June 30, 2016.
- P.L. 113-235, 128 Stat. 2694, §9001.
- Explanatory statement accompanying H.R. 83, *Congressional Record*, vol. 160 (December 11, 2015), p. H9635.

Appendix C. Glossary

Glossary

| | |
|--------|---|
| ACF | Administration for Children and Families (HHS) |
| BARDA | Biomedical Advanced Research and Development Authority (HHS) |
| BCA | Budget Control Act of 2011, P.L. 112-25 |
| CDC | Centers for Disease Control and Prevention (HHS) |
| CMS | Centers for Medicare & Medicaid Services |
| CR | Continuing Resolution |
| D&CP | Diplomatic and Consular Programs |
| FDA | Food and Drug Administration (HHS) |
| FAO | Food and Agriculture Organization |
| GHP | Global Health Programs |
| HHS | Department of Health and Human Services |
| HRSA | Health Resources and Services Administration (HHS) |
| ESF | Economic Support Funds |
| IAEA | International Atomic Energy Agency |
| NIAID | National Institute of Allergy and Infectious Diseases (NIH) |
| NIH | National Institutes of Health (HHS) |
| OE | Operating Expenses |
| OIG | Office of Inspector General |
| PAHO | Pan American Health Organization |
| PHSSEF | Public Health and Social Services Emergency Fund |
| PHSA | Public Health Service Act |
| SAMHSA | Substance Abuse and Mental Health Services Administration (HHS) |
| SSBG | Social Services Block Grant |
| USAID | U.S. Agency for International Development |
| UNICEF | United Nations Children's Fund |
| WHO | World Health Organization |

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