Public Law 101-613
101st Congress

An Act

Nov. 16, 1990
[S. 2857]

To amend the Public Health Service Act with respect to certain programs for the National Institutes of Health.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Institutes of Health Amendments of 1990. Medical research. 42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Institutes of Health Amendments of 1990".

SEC. 2. ESTABLISHMENT OF NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new part:

"PART H—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

42 USC 290b.

"SEC. 499A. ESTABLISHMENT AND DUTIES OF FOUNDATION.

"(a) IN GENERAL.—The Secretary shall establish a nonprofit corporation to be known as the National Foundation for Biomedical Research (hereafter in this section referred to as the 'Foundation'). The Foundation shall not, except for the purposes of the Ethics in Government Act and the Technology Transfer Act, be an agency or instrumentality of the United States Government.

"(b) DUTIES.—

"(1) ESTABLISHMENT OF FUND FOR ENDOWING RESEARCH POSITIONS AT NATIONAL INSTITUTES OF HEALTH.—

"(A) The Foundation shall establish a fund whose primary purpose shall be to provide endowments for positions at the National Institutes of Health to conduct biomedical research. Such positions may be held by scientists without regard to whether the scientists are employees of the Federal Government.

"(B) In addition to the purpose described in subparagraph (A), the fund established under such subparagraph may be expended to recruit scientists to hold the positions endowed by the fund.

"(C) The purposes for which an endowment under subparagraph (A) may be expended include support for the staffing, equipment, and quarters for the biomedical research conducted by scientists holding endowed positions under such subparagraph.

"(2) APPLICABILITY OF CERTAIN STANDARDS REGARDING NON-FEDERAL RESEARCHERS.—In the case of scientists holding endowed positions under paragraph (1)(A) who are not employees of the Federal Government, the Foundation shall negotiate a memorandum of understanding with the Director of the National Institutes of Health, subject to the approval of the Sec-

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retary, that specifies that any such scientist shall observe the ethical and procedural standards regulating research and research finding (including publications and patents) that are followed by scientists conducting research as employees of such Institutes, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act.

"(3) ADDITIONAL DUTIES.—The Foundation shall provide for biennial audits of the financial condition of the Foundation.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—

"(A) The Foundation shall have a Board of Directors (hereafter referred to in this section as the 'Board'), which shall be composed of ex officio and appointed members in accordance with this subsection. All members of the Foundation shall be voting members.

"(B) The ex officio members of the Council shall be—

"(i) the Chairman and ranking minority member of the Subcommittee on Health and the Environment (Committee on Energy and Commerce) or their designees, in the case of the House of Representatives;

"(ii) the Chairman and ranking minority member of the Committee on Labor and Human Resources or their designees, in the case of the Senate; and

"(iii) the Director of the National Institutes of Health.

"(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Council 9 individuals from among a list of candidates to be provided by the National Academy of Science. Of such appointed members—

"(i) 4 shall be representative of the general biomedical field;

"(ii) 2 shall be representatives of the general biobehavorial field; and

"(iii) 3 shall be representatives of the general public.

"(2) CHAIR.—The ex officio members of the Board under paragraph (1)(B) shall designate an appointed member of the Board to serve as the Chair of the Board.

"(3) TERMS AND VACANCIES.—

"(A) The term of office of each member of the Board appointed under paragraph (2)(C) shall be 5 years, except that the terms of offices for the initial appointed members of the Board shall expire as determined by the ex officio members and the Chair.

"(B) Any vacancy in the membership of the Board shall be filled in the manner in which the original position was made and shall not affect the power of the remaining members to execute the duties of the Board.

"(C) If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(D) A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

"(4) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be

reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

"(d) INCORPORATION.—The initial members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

"(e) NONPROFIT STATUS.—The Foundation shall be considered to be a corporation under section 501(c) of the Internal Revenue Code of 1986, and shall be subject to the provisions of such section.

"(f) EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Foundation shall have an Executive Director who shall be appointed by the Board and shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

"(2) COMPENSATION.—The rate of compensation of the Executive Director shall be fixed by the Board.

"(g) POWERS.—In carrying out subsection (b), the Foundation may—

"(1) operate under the direction of its Board;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(3) provide for 1 or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Foundation;

"(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this section;

"(7) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(9) establish a mechanism for the selection of candidates, subject to the approval of the Director of the National Institutes of Health or the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, for the endowed scientific positions within the organizational structure of the intramural research programs of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration and candidates for participation in the National Institutes of Health Scholars program;

Government contracts.

"(10) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

"(11) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

"(12) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

"(13) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; Government contracts.

"(14) appoint other groups of advisors as may be determined necessary from time to time to carry out the functions of the Foundation; and

"(15) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

"(h) ADMINISTRATIVE CONTROL.—No participant in the program established under this part shall exercise any administrative control over any Federal employee.

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—Subject to paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

"(2) LIMITATIONS.—

"(A) Amounts appropriated under paragraph (1) or made available under subparagraph (C) may not be provided to the fund established under subsection (b)(1)(A).

"(B) For the first fiscal year for which amounts are appropriated under paragraph (1), $200,000 is authorized to be appropriated.

"(C) With respect to the first fiscal year for which amounts are appropriated under paragraph (1), the Secretary may, from amounts appropriated for such fiscal year for the programs of the Department of Health and Human Services, make available not more than $200,000 for carrying out this part, subject to subparagraph (A).".

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH.

(a) IN GENERAL.—Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by inserting after section 451 the following new section:

"NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

"SEC. 452. (a) There shall be in the Institute an agency to be known as the National Center for Medical Rehabilitation Research (hereafter in this section referred to as the 'Center'). The Director of the Institute shall appoint a qualified individual to serve as Director of the Center. The Director of the Center shall report directly to the Director of the Institute. 42 USC 285g-4.

"(b) The general purpose of the Center is the conduct and support of research and research training (including research on the development of orthotic and prosthetic devices), the dissemination of health information, and other programs with respect to the rehabilitation of individuals with physical disabilities resulting from

diseases or disorders of the neurological, musculoskeletal, cardiovascular, pulmonary, or any other physiological system (hereafter in this section referred to as 'medical rehabilitation').

"(c)(1) In carrying out the purpose described in subsection (b), the Director of the Center may—

"(A) provide for clinical trials regarding medical rehabilitation;

"(B) provide for research regarding model systems of medical rehabilitation;

"(C) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities;

"(D) support multidisciplinary medical rehabilitation research conducted or supported by more than one such agency;

"(E) in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

"(i) establish technical and scientific peer review groups in addition to those appointed under section 402(b)(6); and

"(ii) appoint the members of peer review groups established under subparagraph (A); and

"(F) support medical rehabilitation research and training centers.

The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under subparagraph (E).

Government contracts.

"(2) In carrying out this section, the Director of the Center may make grants and enter into cooperative agreements and contracts.

"(d)(1) In consultation with the Director of the Center, the coordinating committee established under subsection (e), and the advisory board established under subsection (f), the Director of the Institute shall develop a comprehensive plan for the conduct and support of medical rehabilitation research (hereafter in this section referred to as the 'Research Plan').

"(2) The Research Plan shall—

"(A) identify current medical rehabilitation research activities conducted or supported by the Federal Government, opportunities and needs for additional research, and priorities for such research; and

"(B) make recommendations for the coordination of such research conducted or supported by the National Institutes of Health and other agencies of the Federal Government.

"(3)(A) Not later than 18 months after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, the Director of the Institute shall transmit the Research Plan to the Director of NIH, who shall submit the Plan to the President and the Congress.

"(B) Subparagraph (A) shall be carried out independently of the process of reporting that is required in sections 403 and 407.

"(4) The Director of the Institute shall periodically revise and update the Research Plan as appropriate, after consultation with the Director of the Center, the coordinating committee established under subsection (e), and the advisory board established under subsection (f). A description of any revisions in the Research Plan shall be contained in each report prepared under section 407 by the Director of the Institute.

"(e)(1) The Director of NIH shall establish a committee to be known as the Medical Rehabilitation Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee'). Establishment.

"(2) The Coordinating Committee shall make recommendations to the Director of the Institute and the Director of the Center with respect to the content of the Research Plan and with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health and with other agencies of the Federal Government.

"(3) The Coordinating Committee shall be composed of the Director of the Center, the Director of the Institute, and the Directors of the National Institute on Aging, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Heart, Lung, and Blood Institute, the National Institute of Neurological Disorders and Stroke, and such other national research institutes and such representatives of other agencies of the Federal Government as the Director of NIH determines to be appropriate.

"(4) The Coordinating Committee shall be chaired by the Director of the Center.

"(f)(1) Not later than 90 days after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, the Director of NIH shall establish a National Advisory Board on Medical Rehabilitation Research (hereafter in this section referred to as the 'Advisory Board'). Establishment.

"(2) The Advisory Board shall review and assess Federal research priorities, activities, and findings regarding medical rehabilitation research, and shall advise the Director of the Center and the Director of the Institute on the provisions of the Research Plan.

"(3)(A) The Director of NIH shall appoint to the Advisory Board 18 qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, 12 shall be representatives of health and scientific disciplines with respect to medical rehabilitation and 6 shall be individuals representing the interests of individuals undergoing, or in need of, medical rehabilitation.

"(B) The following officials shall serve as ex officio members of the Advisory Board:

"(i) The Director of the Center.

"(ii) The Director of the Institute.

"(iii) The Director of the National Institute on Aging.

"(iv) The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(v) The Director of the National Institute on Deafness and Other Communication Disorders.

"(vi) The Director of the National Heart, Lung, and Blood Institute.

"(vii) The Director of the National Institute of Neurological Disorders and Stroke.

"(viii) The Director of the National Institute on Disability and Rehabilitation Research.

"(ix) The Commissioner for Rehabilitation Services Administration.

"(x) The Assistant Secretary of Defense (Health Affairs).

"(xi) The Chief Medical Director of the Department of Veterans Affairs.

"(4) The members of the Advisory Board shall, from among the members appointed under paragraph (3)(A), designate an individual to serve as the chair of the Advisory Board.".

42 USC 285g-4 note.

(b) REQUIREMENT OF CERTAIN AGREEMENTS FOR PREVENTING DUPLICATIVE PROGRAMS OF MEDICAL REHABILITATION RESEARCH.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the heads of other Federal agencies shall—

(A) jointly review the programs being carried out (or proposed to be carried out) by each such official with respect to medical rehabilitation research; and

(B) as appropriate, enter into agreements for preventing duplication among such programs.

(2) TIME FOR COMPLETION.—The agreements required in paragraph (1)(B) shall be made not later than one year after the date of the enactment of this Act.

(3) DEFINITION OF MEDICAL REHABILITATION.—For purposes of this subsection, the term "medical rehabilitation" means the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, pulmonary, or any other physiological system.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2857 (H.R. 5661):

HOUSE REPORTS: No. 101-869 accompanying H.R. 5661 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-459 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 19, considered and passed Senate.
Oct. 26, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.

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