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HOUSE OF REPRESENTATIVES
REPORT
117–207

ACCELERATING ACCESS TO CRITICAL THERAPIES FOR ALS ACT

DECEMBER 8, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 3537]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3537) to direct the Secretary of Health and Human Services to support research on, and expanded access to, investigational drugs for amyotrophic lateral sclerosis, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accelerating Access to Critical Therapies for ALS Act".

SEC. 2. GRANTS FOR RESEARCH ON THERAPIES FOR ALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall award grants to participating entities for purposes of scientific research utilizing data from expanded access to investigational drugs for individuals who are not otherwise eligible for clinical trials for the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis. In the case of a participating entity seeking such a grant, an expanded access request must be submitted, and allowed to proceed by the Secretary, under section 561 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb) and part 312 of title 21, Code of Federal Regulations (or any successor regulations), before the application for such grant is submitted.

(b) APPLICATION.—

(1) IN GENERAL.—A participating entity seeking a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall specify.

(2) USE OF DATA.—An application submitted under paragraph (1) shall include a description of how data generated through an expanded access request under section 561 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb) with respect to the investigational drug involved will be used to support research or development related to the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis.

(3) NONINTERFERENCE WITH CLINICAL TRIALS.—An application submitted under paragraph (1) shall include a description of how the proposed expanded access program will be designed so as not to interfere with patient enrollment in ongoing clinical trials for investigational therapies for the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis.

(c) SELECTION.—Consistent with sections 406 and 492 of the Public Health Service Act (42 U.S.C. 284a, 289a), the Secretary shall, in determining whether to award a grant under this section, confirm that—

(1) such grant will be used to support a scientific research objective relating to the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis (as described in subsection (a));

(2) such grant shall not have the effect of diminishing eligibility for, or impeding enrollment of, ongoing clinical trials for the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis by determining that individuals who receive expanded access to investigational drugs through such a grant are not eligible for enrollment in—

(A) ongoing clinical trials that are registered on ClinicalTrials.gov (or successor website), with respect to a drug for the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis; or

(B) clinical trials for the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis for which an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) has been granted by the Food and Drug Administration and which are expected to begin enrollment within one year; and

(3) the resulting project funded by such grant will allow for equitable access to investigational drugs by minority and underserved populations.

(d) USE OF FUNDS.—A participating entity shall use funds received through the grant—

(1) to pay the manufacturer or sponsor for the direct costs of the investigational drug, as authorized under section 312.8(d) of title 21, Code of Federal Regulations (or successor regulations), to prevent, diagnose, mitigate, treat, or cure amyotrophic lateral sclerosis that is the subject of an expanded access request described in subsection (a), if such costs are justified as part of peer review of the grant;

(2) for the entity's direct costs incurred in providing such drug consistent with the research mission of the grant; or

(3) for the direct and indirect costs of the entity in conducting research with respect to such drug.

(e) DEFINITIONS.—In this section:

(1) The term "participating entity" means a participating clinical trial site or sites sponsored by a small business concern (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a))) that is the sponsor of a drug that is the subject of an investigational new drug application under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) to prevent, diagnose, mitigate, treat, or cure amyotrophic lateral sclerosis.

(2) The term "participating clinical trial" means a phase 3 clinical trial conducted pursuant to an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) or section 351(a) of the Public Health

Service Act (42 U.S.C. 262(a)) to investigate a drug intended to prevent, diagnose, mitigate, treat, or cure amyotrophic lateral sclerosis.

(3) The term "participating clinical trial site" means a health care facility, or network of facilities, at which patients participating in a participating clinical trial receive an investigational drug through such trial.

(f) SUNSET.—The Secretary may not award grants under this section on or after September 30, 2026.

SEC. 3. HHS PUBLIC-PRIVATE PARTNERSHIP FOR RARE NEURODEGENERATIVE DISEASES.

(a) ESTABLISHMENT.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish and implement a Public-Private Partnership for Neurodegenerative Diseases between the National Institutes of Health, the Food and Drug Administration, and one or more eligible entities (to be known and referred to in this section as the "Partnership") through cooperative agreements, contracts, or other appropriate mechanisms with such eligible entities, for the purpose of advancing the understanding of neurodegenerative diseases and fostering the development of treatments for amytrophic lateral sclerosis and other rare neurodegenerative diseases. The Partnership shall—

(1) establish partnerships and consortia with other public and private entities and individuals with expertise in amyotrophic lateral sclerosis and other rare neurodegenerative diseases for the purposes described in this subsection;

(2) focus on advancing regulatory science and scientific research that will support and accelerate the development and review of drugs for patients with amyotrophic lateral sclerosis and other rare neurodegenerative diseases; and

(3) foster the development of effective drugs that improve the lives of people that suffer from amyotrophic lateral sclerosis and other rare neurodegenerative diseases.

(b) ELIGIBLE ENTITY.—In this section, the term "eligible entity" means an entity that—

(1) is—

(A) an institution of higher education (as such term is defined in section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of such institutions; or

(B) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under subsection (a) of such section;

(2) has experienced personnel with clinical and other technical expertise in the field of biomedical sciences and demonstrated connection to the patient population;

(3) demonstrates to the Secretary's satisfaction that the entity is capable of identifying and establishing collaborations between public and private entities and individuals with expertise in neurodegenerative diseases, including patients, in order to facilitate—

(A) development and critical evaluation of tools, methods, and processes—

(i) to characterize neurodegenerative diseases and their natural history;

(ii) to identify molecular targets for neurodegenerative diseases; and

(iii) to increase efficiency, predictability, and productivity of clinical development of therapies, including advancement of rational therapeutic development and establishment of clinical trial networks; and

(B) securing funding for the Partnership from Federal and non-Federal governmental sources, foundations, and private individuals; and

(4) provides an assurance that the entity will not accept funding for a Partnership project from any organization that manufactures or distributes products regulated by the Food and Drug Administration unless the entity provides assurances in its agreement with the Secretary that the results of the project will not be influenced by any source of funding.

(c) GIFTS.—

(1) IN GENERAL.—The Partnership may solicit and accept gifts, grants, and other donations, establish accounts, and invest and expend funds in support of basic research and research associated with phase 3 clinical trials conducted with respect to investigational drugs that are the subjects of expanded access requests under section 561 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb).

(2) USE.—In addition to any amounts appropriated for purposes of carrying out this section, the Partnership may use, without further appropriation, any funds derived from a gift, grant, or other donation accepted pursuant to paragraph (1).

SEC. 4. ALS AND OTHER RARE NEURODEGENERATIVE DISEASE ACTION PLAN.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commissioner of Food and Drugs shall publish on the website of the Food and Drug Administration an action plan describing actions the Food and Drug Administration intends to take during the 5-year period following publication of the plan with respect to program enhancements, policy development, regulatory science initiatives, and other appropriate initiatives to—

(1) foster the development of safe and effective drugs that improve or extend, or both, the lives of people living with amyotrophic lateral sclerosis and other rare neurodegenerative diseases; and

(2) facilitate access to investigational drugs for amyotrophic lateral sclerosis and other rare neurodegenerative diseases.

(b) CONTENTS.—The initial action plan published under subsection (a) shall—

(1) identify appropriate representation from within the Food and Drug Administration to be responsible for implementation of such action plan;

(2) include elements to facilitate—

(A) interactions and collaboration between the Food and Drug Administration, including the review centers thereof, and stakeholders including patients, sponsors, and the external biomedical research community;

(B) consideration of cross-cutting clinical and regulatory policy issues, including consistency of regulatory advice and decisionmaking;

(C) identification of key regulatory science and policy issues critical to advancing development of safe and effective drugs; and

(D) enhancement of collaboration and engagement of the relevant centers and offices of the Food and Drug Administration with other operating divisions within the Department of Health and Human Services, the Partnership, and the broader neurodegenerative disease community; and

(3) be subject to revision, as determined appropriate by the Secretary of Health and Human Services.

SEC. 5. FDA RARE NEURODEGENERATIVE DISEASE GRANT PROGRAM.

The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall award grants and contracts to public and private entities to cover the costs of research on, and development of interventions intended to prevent, diagnose, mitigate, treat, or cure, amyotrophic lateral sclerosis and other rare neurodegenerative diseases in adults and children, including costs incurred with respect to the development and critical evaluation of tools, methods, and processes—

(1) to characterize such neurodegenerative diseases and their natural history;

(2) to identify molecular targets for such neurodegenerative diseases; and

(3) to increase efficiency and productivity of clinical development of therapies, including through—

(A) the use of master protocols and adaptive and add-on clinical trial designs; and

(B) efforts to establish new or leverage existing clinical trial networks.

SEC. 6. GAO REPORT.

Not later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(1) with respect to grants awarded under the program established under section 2—

(A) an analysis of what is known about the impact of such grants on research or development related to the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis; and

(B) data concerning such grants, including—

(i) the number of grants awarded;

(ii) the participating entities to whom grants were awarded;

(iii) the value of each such grant;

(iv) a description of the research each such grant was used to further;

(v) the number of patients who received expanded access to an investigational drug to prevent, diagnose, mitigate, treat, or cure amyotrophic lateral sclerosis under each grant;

(vi) whether the investigational drug that was the subject of such a grant was approved by the Food and Drug Administration; and

(vii) the average number of days between when a grant application is submitted and when a grant is awarded; and

(2) with respect to grants awarded under the program established under section 5—

(A) an analysis of what is known about the impact of such grants on research or development related to the prevention, diagnosis, mitigation, treatment, or cure of amyotrophic lateral sclerosis;

(B) an analysis of what is known about how such grants increased efficiency and productivity of the clinical development of therapies, including through the use of clinical trials that operated with common master protocols, or had adaptive or add-on clinical trial designs; and

(C) data concerning such grants, including—

(i) the number of grants awarded;

(ii) the participating entities to whom grants were awarded;

(iii) the value of each such grant;

(iv) a description of the research each such grant was used to further; and

(v) whether the investigational drug that was the subject of such a grant received approval by the Food and Drug Administration.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out this Act, there are authorized to be appropriated $100,000,000 for each of fiscal years 2022 through 2026.

I. PURPOSE AND SUMMARY

H.R. 3537, the "Accelerating Access to Critical Therapies for ALS Act", authorizes the Secretary of Health and Human Services (the Secretary) to award grants to participating entities for purposes of scientific research utilizing data from expanded access to investigational drugs for individuals who are not otherwise eligible for clinical trials for preventing, diagnosing, mitigating, treating, or curing amyotrophic lateral sclerosis (ALS), establishes a public-private partnership for rare neurodegenerative diseases, requires the Food and Drug Administration (FDA) to publish an action plan related to ALS and other rare neurodegenerative diseases, and establishes a grant program at FDA to cover certain costs of research and development of drugs for ALS and other rare neurodegenerative diseases.

II. BACKGROUND AND NEED FOR LEGISLATION

ALS is a rare, progressive, neurological disease that affects nerve cells responsible for controlling voluntary muscle movement.[1] Approximately 5,000 people each year in the United States are diagnosed with ALS.[2] ALS usually presents at first as muscle weakness or stiffness and gradually affects all voluntary muscles, including those used to control actions like speaking, eating, moving, and breathing.[3] There is considerable clinical heterogeneity among patients with ALS, including differing rates of progression.[4] While most people with ALS die within three to five years after symptoms first appear, about 10 percent of people with ALS survive for 10 years or more.[5]

There is no known cure and there are very few FDA-approved treatments for ALS, and the cause of ALS is not well understood. There is no clearly identified and accepted ALS biomarker, which makes it difficult to diagnose the disease, track disease progres-

[1] National Institutes of Health, *Amyotrophic Lateral Sclerosis (ALS) Fact Sheet* (2021) (https://www.ninds.nih.gov/Disorders/Patient-Caregiver-Education/Fact-Sheets/Amyotrophic-Lateral-Sclerosis-ALS-Fact-Sheet).

[2] Centers for Disease Control and Prevention, *What is Amyotrophic Lateral Sclerosis?* (2018) (https://www.cdc.gov/als/WhatisAmyotrophiclateralsclerosis.html).

[3] *Id.*

[4] Namita A. Goyal et al., *Addressing Heterogeneity in Amyotrophic Lateral Sclerosis*, Muscle and Nerve (2020).

[5] *Supra* note 1.

sion, and identify clinical efficacy of investigational treatments.[6] It can take eight to 15 months to diagnose an individual with ALS, which can lead to invasive diagnostic procedures, missed opportunities to receive treatment, and missed opportunities to participate in clinical research.[7] Patients have reported that they are often excluded from clinical trials after the disease has progressed past a certain point, effectively preventing patients from being able to access investigational treatments.[8] While expanded access to investigational treatments is allowed by FDA for some patients who cannot access clinical trials, and almost all applications are granted, many drug manufacturers choose not to operate expanded access programs.[9] FDA cannot require a manufacturer to provide a drug under expanded access.[10]

FDA has sought to encourage additional patient participation in ALS clinical trials through published guidance for industry, which recommends that developers use broader inclusion criteria in their clinical trial design.[11] FDA has also recommended the use of master protocols, which allow for the simultaneous evaluation of multiple drugs, with a shared placebo group, thereby allowing for more drugs to be studied at once, and more individuals to receive investigational treatments, rather than placebo.[12] Additionally, FDA has recommended that developers consider add-on trial designs, in which all individuals in the trial receive a treatment previously shown to be effective in treating ALS, so no patient only receives placebo.[13] FDA also said in its guidance that it would exercise regulatory flexibility in applying statutory standards for effectiveness for serious diseases with unmet medical needs, like ALS, while preserving appropriate assurance of safety and effectiveness.[14] However, some patients have argued that FDA has been too stringent in applying that regulatory flexibility, noting several investigational therapies that were not found to have met safety and efficacy standards.[15]

H.R. 3537 creates two new grant programs to address issues related to research and development of therapies for ALS and other rare neurodegenerative diseases and patient access to investigational therapies. First, the bill authorizes a grant program for five years for purposes of scientific research utilizing data from expanded access to investigational drugs for ALS. Under that program, the Secretary could provide grants to drug manufacturers for investigational ALS drugs to cover costs associated with expanded access for patients not eligible for clinical trials. Additionally, a grant program at FDA would cover costs of research and development for ALS and other rare neurodegenerative disease therapies,

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[6] Martin R. Turner et al., *Mechanisms, Models, and Biomarkers in Amyotrophic Lateral Sclerosis*, ALS and Frontotemporal Degeneration (2013).

[7] Sabrina Paganoni et al., *Diagnostic Timelines and Delays in Diagnosing Amyotrophic Lateral Sclerosis*, ALS and Frontotemporal Degeneration (2014).

[8] Danielle Richards, John Morren, and Erik Pioro, *Time to Diagnosis and Factors Affecting Diagnostic Delay in Amyotrophic Lateral Sclerosis* (July 25, 2021).

[9] Food and Drug Administration, *Expanded Access* (2021) (https://www.fda.gov/news-events/public-health-focus/expanded-access).

[10] House Committee on Energy and Commerce, *Hearing on The Path Forward: Advancing Treatments and Cures for Neurodegenerative Diseases*, 117th Cong. (July 29, 2021).

[11] Food and Drug Administration, Amyotrophic Lateral Sclerosis: Developing Drugs for Treatment: *Guidance for Industry* (Sept. 2019).

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] A *Slow FDA is Denying ALS Patients their Only Hope*, Wall Street Journal (Apr. 26, 2021).

including funding to increase efficiency and productivity of clinical therapy development through the use of master protocols and adaptive and add-on clinical trial designs and efforts to establish new or leverage existing clinical trial networks. The bill requires the Government Accountability Office (GAO) to analyze the efficacy of these grant programs and report to Congress within four years of enactment.

To increase the understanding of neurodegenerative diseases among researchers, developers, and regulators, and to foster development of treatments for ALS and other rare neurodegenerative diseases, H.R. 3537 establishes a public-private partnership between the National Institutes of Health (NIH), FDA, and one or more eligible entities, such as an institution of higher education or a 501(c)(3) non-profit organization. The bill also requires FDA to publish a plan describing the actions the agency intends to take over the next five years with respect to fostering development of treatments and facilitating access to investigational drugs for ALS and other rare neurodegenerative diseases.

To carry out these activities, the bill authorizes $100 million annually for fiscal years 2022 through 2026.

III. COMMITTEE HEARINGS

For the purposes of section 3(c) of rule XIII of the Rules of the House of Representatives, the following hearing was used to develop or consider H.R. 3537:

The Subcommittee on Health held a topical hearing on July 29, 2021 entitled "The Path Forward: Advancing Treatments and Cures for Neurodegenerative Diseases". The Subcommittee received testimony from the following witnesses:

Panel I

- Patrizia Cavazzoni, M.D., Director, Center for Drug Evaluation and Research, FDA;
- Richard J. Hodes, M.D., Director, National Institute on Aging, NIH; and
- Walter J. Koroshetz, M.D., Director, National Institute of Neurological Disorders and Stroke, NIH.

Panel II

- Jinsy Andrews, M.D., Director of Neuromuscular Clinical Trials, Neurological Institute of New York, Associate Professor of Neurology, Columbia University Vagelos College of Physicians and Surgeons;
- Kala Booth, Huntington's Disease Caregiver and Patient;
- Merit Cudkowicz, M.D., Director, Sean M. Healy and AMG Center for ALS, Chief, Neurology Department, Massachusetts General Hospital, Julianne Dorn Professor of Neurology, Harvard Medical School;
- Cartier Esham, Ph.D., Executive Vice President, Emerging Companies, Senior Vice President, Science and Regulatory Affairs, Biotechnology Innovation Organization;
- Yvonne Latty, Caregiver; and
- Brian Wallach, Co-Founder, I AM ALS.

IV. COMMITTEE CONSIDERATION

Representative Mike Quigley (D–IL) and 99 original cosponsors introduced H.R. 3537, the "Accelerating Access to Critical Therapies for ALS Act," on May 25, 2021, and it was referred to the Committee on Energy and Commerce. Subsequently, on May 26, 2021, H.R. 3537 was referred to the Subcommittee on Health.

On November 4, 2021, the Subcommittee on Health met in open markup session, pursuant to notice, to consider H.R. 3537 and 8 other bills. During consideration of the bill, an amendment in the nature of a substitute (AINS) offered by Representative Rodgers (R–WA) was agreed to by a voice vote. Upon conclusion of consideration of the bill, the Subcommittee on Health agreed to report the bill favorably to the full Committee, amended, by a voice vote.

On November 17, 2021, the full Committee met in open markup session, pursuant to notice, to consider H.R. 3537 and 11 other bills. No amendments were offered to H.R. 3537. Upon conclusion of consideration of the bill, the full Committee agreed to a motion on final passage offered by Representative Pallone (D–NJ), Chairman of the Committee, to order H.R. 3537 reported favorably to the House, as amended, by a voice vote.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were no record votes taken on H.R. 3537.

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goals or objectives of this legislation are to direct the Secretary to support research related to ALS and other rare neurodegenerative diseases, foster development of therapies to treat ALS and such diseases, and facilitate access to investigational drugs for appropriate individuals through clinical trials, and in the event that an individual is not eligible for clinical trials and otherwise qualifies, through expanded access.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3537 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3537 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the Act may be cited as the "Accelerating Access to Critical Therapies for ALS Act."

Sec. 2. Grants for research on therapies for ALS

Section 2 creates a grant program at the Department of Health and Human Services (HHS) for purposes of scientific research utilizing data from expanded access to investigational drugs for individuals who are not otherwise eligible for clinical trials for the prevention, diagnosis, mitigation, treatment, or cure of ALS. An expanded access request must be submitted and allowed by FDA before an application for a grant is submitted under this section.

In applying for grants, participating entities would be required to include a description of how data generated through an expanded access request will be used to support research and development related to the prevention, diagnosis, mitigation, treatment, or cure of ALS, and must also include a description of how the proposed expanded access program will not interfere with patient enrollment in ongoing clinical trials for ALS.

Consistent with sections 406 and 492 of the Public Health Service Act, which concern advisory councils at NIH and required peer review processes, the Secretary is required to, when making a decision about whether to award a grant, confirm that the grant will be used to support a scientific research objective relating to the prevention, diagnosis, mitigation, treatment, or cure of ALS and that the grant will not diminish eligibility for or impede enrollment of ongoing clinical trials for ALS, by ensuring that those patients enrolled in the program are not otherwise eligible for either a trial registered on ClinicalTrials.gov or another trial for an approved investigational new drug (IND) which is expected to begin enrollment within one year. The Secretary must also confirm that the resulting project funded by the grant will ensure equitable access to drugs for minority and underserved populations.

Funds in the expanded access grant program shall be used to pay the manufacturer or sponsor for direct costs of an investigational drug to prevent, diagnose, mitigate, treat, or cure ALS that is the subject of the expanded access request allowed to proceed by FDA, if such costs are justified as part of peer review; the participating entity's direct costs incurred in providing such drug consistent with the research mission of the grant; or for the direct and indirect costs of the entity in conducting research with respect to such drug.

Participating entities are defined as a participating clinical trial site or sites sponsored by a small business concern, as defined by section 3(a) of the Small Business Act that is the sponsor of a drug subject to an IND application under the Federal Food, Drug, and Cosmetic Act to prevent, diagnose, mitigate, treat, or cure ALS. Participating clinical trials must operate pursuant to an approved IND and be in Phase 3. Participating clinical trial site means a health care facility or network of facilities at which patients participating in a participating clinical trial receive investigational drugs for ALS.

Section 2 includes a sunset clause which prohibits the Secretary from making any grants under this section on or after September 30, 2026.

Sec. 3. HHS public-private partnership for rare neurodegenerative diseases

Section 3 requires the Secretary to establish a Public-Private Partnership for Neurodegenerative Diseases (the "Partnership") between NIH, FDA, and one or more eligible private entities, for the purpose of advancing the understanding of neurodegenerative diseases and fostering development of treatments for ALS and other rare neurodegenerative diseases. The Partnership would be required to establish partnerships and consortia with other public and private entities and individuals with expertise in ALS and other rare neurodegenerative diseases; focus on advancing regulatory science and scientific research to support and accelerate the

development and review of drugs for patients with ALS and other rare neurodegenerative diseases; and foster the development of effective drugs that improve the lives of those with ALS and other neurodegenerative diseases.

Eligible private entities in the Partnership may be an institution of higher education, a consortium of such institutions, or a 501(c)(3) nonprofit organization. The eligible entities must have experienced personnel with clinical and other technical expertise in the field of biomedical sciences and a demonstrated connection to the patient population, and must demonstrate to the Secretary's satisfaction that it is capable of identifying and establishing collaborations between public and private entities and individuals with expertise in neurodegenerative diseases, including patients, to facilitate the development and evaluation of tools, methods, and processes to characterize neurodegenerative diseases and their natural history, identify molecular targets for neurodegenerative diseases, and to increase efficiency, predictability, and productivity of clinical development of therapies. Eligible entities must also demonstrate that the entity is capable of securing funding for the Partnership from federal and non-federal sources and provide an assurance that it will not accept funding from any organization that manufactures or distributes products regulated by FDA unless the entity provides assurances that the results of the project will not be influenced by any source of funding.

The Partnership is authorized to solicit gifts, grants, and other donations, establish accounts, and invest and expend funds in support of basic research and research associated with Phase 3 clinical trials conducted with respect to investigational drugs that are subject to an expanded access request, and may use such funds received without further appropriation.

Sec. 4. ALS and other rare neurodegenerative disease action plan

Section 4 requires the Commissioner of Food and Drugs to publish on the FDA website an action plan describing the actions FDA intends to take in the next five years to foster the development of safe and effective drugs that improve or extend the lives of people living with ALS and other rare neurodegenerative diseases and facilitate access to investigational drugs for such diseases.

Sec. 5. FDA rare neurodegenerative disease grant program

Section 5 establishes a grant program at FDA to award grants and contracts to public and private entities to cover the costs of research on and development of interventions intended to prevent, diagnose, mitigate, treat, or cure ALS and other rare neurodegenerative diseases in adults and children. The costs covered by grants include those incurred with respect to development and critical evaluation of tools, methods, and processes to characterize such neurodegenerative diseases and their natural history, identify molecular targets for such neurodegenerative diseases, and increase efficiency and productivity of clinical development of therapies, including through the use of master protocols and adaptive and add-on clinical trial designs and efforts to establish new or leverage existing clinical trial networks.

Sec. 6. GAO report.

Section 6 requires GAO to issue a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within four years of enactment, analyzing what is known about the impact the grant programs established in Section 2 and Section 5 had on research and development related to the prevention, diagnosis, mitigation, treatment, or cure of ALS.

Sec. 7. Authorization of appropriations

Section 7 authorizes $100 million annually for fiscal years 2022 through 2026 to carry out this Act.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by H.R. 3537.

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