

106TH CONGRESS  
2D SESSION

# S. 1268

---

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2000

Referred to the Committee on Commerce

---

## AN ACT

To amend the Public Health Service Act to provide support for the modernization and construction of biomedical and behavioral research facilities and laboratory instrumentation.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Twenty-First Century  
5       Research Laboratories Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the National Institutes of Health is the  
4 principal source of Federal funding for medical re-  
5 search at universities and other research institutions  
6 in the United States;

7 (2) the National Institutes of Health has re-  
8 ceived a substantial increase in research funding  
9 from Congress for the purpose of expanding the na-  
10 tional investment of the United States in behavioral  
11 and biomedical research;

12 (3) the infrastructure of our research institu-  
13 tions is central to the continued leadership of the  
14 United States in medical research;

15 (4) as Congress increases the investment in cut-  
16 ting-edge basic and clinical research, it is critical  
17 that Congress also examine the current quality of  
18 the laboratories and buildings where research is  
19 being conducted, as well as the quality of laboratory  
20 equipment used in research;

21 (5) many of the research facilities and labora-  
22 tories in the United States are outdated and inad-  
23 equate;

24 (6) the National Science Foundation found, in  
25 a 1998 report on the status of biomedical research  
26 facilities, that over 60 percent of research-per-

1       forming institutions indicated that they had an inad-  
2       equately amount of medical research space;

3               (7) the National Science Foundation reports  
4       that academic institutions have deferred nearly  
5       \$11,000,000,000 in renovation and construction  
6       projects because of a lack of funds; and

7               (8) future increases in Federal funding for the  
8       National Institutes of Health must include increased  
9       support for the renovation and construction of extra-  
10      mural research facilities in the United States and  
11      the purchase of state-of-the-art laboratory instru-  
12      mentation.

13 **SEC. 3. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILI-**  
14 **TIES.**

15       Section 481A of the Public Health Service Act (42  
16 U.S.C. 287a–2 et seq.) is amended to read as follows:

17 **“SEC. 481A. BIOMEDICAL AND BEHAVIORAL RESEARCH FA-**  
18 **CILITIES.**

19       “(a) MODERNIZATION AND CONSTRUCTION OF FA-  
20 CILITIES.—

21               “(1) IN GENERAL.—The Director of NIH, act-  
22      ing through the Director of the Center, may make  
23      grants or contracts to public and nonprofit private  
24      entities to expand, remodel, renovate, or alter exist-

1       ing research facilities or construct new research fa-  
 2       cilities, subject to the provisions of this section.

3               “(2) CONSTRUCTION AND COST OF CONSTRUC-  
 4       TION.—For purposes of this section, the terms ‘con-  
 5       struction’ and ‘cost of construction’ include the con-  
 6       struction of new buildings and the expansion, ren-  
 7       ovation, remodeling, and alteration of existing build-  
 8       ings, including architects’ fees, but do not include  
 9       the cost of acquisition of land or off-site improve-  
 10      ments.

11       “(b) SCIENTIFIC AND TECHNICAL REVIEW BOARDS  
 12      FOR MERIT-BASED REVIEW OF PROPOSALS.—

13               “(1) IN GENERAL: APPROVAL AS PRECONDITION  
 14      TO GRANTS.—

15               “(A) ESTABLISHMENT.—There is estab-  
 16       lished within the Center a Scientific and Tech-  
 17       nical Review Board on Biomedical and Behav-  
 18       ioral Research Facilities (referred to in this sec-  
 19       tion as the ‘Board’).

20               “(B) REQUIREMENT.—The Director of the  
 21       Center may approve an application for a grant  
 22       under subsection (a) only if the Board has  
 23       under paragraph (2) recommended the applica-  
 24       tion for approval.

25               “(2) DUTIES.—

1           “(A) ADVICE.—The Board shall provide  
2           advice to the Director of the Center and the ad-  
3           visory council established under section 480 (in  
4           this section referred to as the ‘Advisory Coun-  
5           cil’) in carrying out this section.

6           “(B) DETERMINATION OF MERIT.—In car-  
7           rying out subparagraph (A), the Board shall  
8           make a determination of the merit of each ap-  
9           plication submitted for a grant under sub-  
10          section (a), after consideration of the require-  
11          ments established in subsection (c), and shall  
12          report the results of the determination to the  
13          Director of the Center and the Advisory Coun-  
14          cil. Such determinations shall be conducted in a  
15          manner consistent with procedures established  
16          under section 492.

17          “(C) AMOUNT.—In carrying out subpara-  
18          graph (A), the Board shall, in the case of appli-  
19          cations recommended for approval, make rec-  
20          ommendations to the Director and the Advisory  
21          Council on the amount that should be provided  
22          under the grant.

23          “(D) ANNUAL REPORT.—In carrying out  
24          subparagraph (A), the Board shall prepare an  
25          annual report for the Director of the Center

1 and the Advisory Council describing the activi-  
2 ties of the Board in the fiscal year for which  
3 the report is made. Each such report shall be  
4 available to the public, and shall—

5 “(i) summarize and analyze expendi-  
6 tures made under this section;

7 “(ii) provide a summary of the types,  
8 numbers, and amounts of applications that  
9 were recommended for grants under sub-  
10 section (a) but that were not approved by  
11 the Director of the Center; and

12 “(iii) contain the recommendations of  
13 the Board for any changes in the adminis-  
14 tration of this section.

15 “(3) MEMBERSHIP.—

16 “(A) IN GENERAL.—Subject to subpara-  
17 graph (B), the Board shall be composed of 15  
18 members to be appointed by the Director of the  
19 Center, and such ad-hoc or temporary members  
20 as the Director of the Center determines to be  
21 appropriate. All members of the Board, includ-  
22 ing temporary and ad-hoc members, shall be  
23 voting members.

24 “(B) LIMITATION.—Not more than 3 indi-  
25 viduals who are officers or employees of the

1 Federal Government may serve as members of  
2 the Board.

3 “(4) CERTAIN REQUIREMENTS REGARDING  
4 MEMBERSHIP.—In selecting individuals for member-  
5 ship on the Board, the Director of the Center shall  
6 ensure that the members are individuals who, by vir-  
7 tue of their training or experience, are eminently  
8 qualified to perform peer review functions. In select-  
9 ing such individuals for such membership, the Direc-  
10 tor of the Center shall ensure that the members of  
11 the Board collectively—

12 “(A) are experienced in the planning, con-  
13 struction, financing, and administration of enti-  
14 ties that conduct biomedical or behavioral re-  
15 search sciences;

16 “(B) are knowledgeable in making deter-  
17 minations of the need of entities for biomedical  
18 or behavioral research facilities, including such  
19 facilities for the dentistry, nursing, pharmacy,  
20 and allied health professions;

21 “(C) are knowledgeable in evaluating the  
22 relative priorities for applications for grants  
23 under subsection (a) in view of the overall re-  
24 search needs of the United States; and

1           “(D) are experienced with emerging cen-  
2           ters of excellence, as described in subsection  
3           (c)(2).

4           “(5) CERTAIN AUTHORITIES.—

5           “(A) WORKSHOPS AND CONFERENCES.—In  
6           carrying out paragraph (2), the Board may con-  
7           vene workshops and conferences, and collect  
8           data as the Board considers appropriate.

9           “(B) SUBCOMMITTEES.—In carrying out  
10          paragraph (2), the Board may establish sub-  
11          committees within the Board. Such subcommit-  
12          tees may hold meetings as determined necessary  
13          to enable the subcommittee to carry out its du-  
14          ties.

15          “(6) TERMS.—

16          “(A) IN GENERAL.—Except as provided in  
17          subparagraph (B), each appointed member of  
18          the Board shall hold office for a term of 4  
19          years. Any member appointed to fill a vacancy  
20          occurring prior to the expiration of the term for  
21          which such member’s predecessor was ap-  
22          pointed shall be appointed for the remainder of  
23          the term of the predecessor.

24          “(B) STAGGERED TERMS.—Members ap-  
25          pointed to the Board shall serve staggered



1 terms as specified by the Director of the Center  
2 when making the appointments.

3 “(C) REAPPOINTMENT.—No member of  
4 the Board shall be eligible for reappointment to  
5 the Board until 1 year has elapsed after the  
6 end of the most recent term of the member.

7 “(7) COMPENSATION.—Members of the Board  
8 who are not officers or employees of the United  
9 States shall receive for each day the members are  
10 engaged in the performance of the functions of the  
11 Board compensation at the same rate received by  
12 members of other national advisory councils estab-  
13 lished under this title.

14 “(c) REQUIREMENTS FOR GRANTS.—

15 “(1) IN GENERAL.—The Director of the Center  
16 may make a grant under subsection (a) only if the  
17 applicant for the grant meets the following condi-  
18 tions:

19 “(A) The applicant is determined by such  
20 Director to be competent to engage in the type  
21 of research for which the proposed facility is to  
22 be constructed.

23 “(B) The applicant provides assurances  
24 satisfactory to the Director that—

1           “(i) for not less than 20 years after  
2 completion of the construction involved, the  
3 facility will be used for the purposes of the  
4 research for which it is to be constructed;

5           “(ii) sufficient funds will be available  
6 to meet the non-Federal share of the cost  
7 of constructing the facility;

8           “(iii) sufficient funds will be available,  
9 when construction is completed, for the ef-  
10 fective use of the facility for the research  
11 for which it is being constructed; and

12           “(iv) the proposed construction will  
13 expand the applicant’s capacity for re-  
14 search, or is necessary to improve or main-  
15 tain the quality of the applicant’s research.

16           “(C) The applicant meets reasonable quali-  
17 fications established by the Director with re-  
18 spect to—

19           “(i) the relative scientific and tech-  
20 nical merit of the applications, and the rel-  
21 ative effectiveness of the proposed facili-  
22 ties, in expanding the capacity for bio-  
23 medical or behavioral research and in im-  
24 proving the quality of such research;

1 “(ii) the quality of the research or  
2 training, or both, to be carried out in the  
3 facilities involved;

4 “(iii) the congruence of the research  
5 activities to be carried out within the facil-  
6 ity with the research and investigator man-  
7 power needs of the United States; and

8 “(iv) the age and condition of existing  
9 research facilities.

10 “(D) The applicant has demonstrated a  
11 commitment to enhancing and expanding the  
12 research productivity of the applicant.

13 “(2) INSTITUTIONS OF EMERGING EXCEL-  
14 LENCE.—From the amount appropriated under sub-  
15 section (i) for a fiscal year up to \$50,000,000, the  
16 Director of the Center shall make available 25 per-  
17 cent of such amount, and from the amount appro-  
18 priated under such subsection for a fiscal year that  
19 is over \$50,000,000, the Director of the Center shall  
20 make available up to 25 percent of such amount, for  
21 grants under subsection (a) to applicants that in ad-  
22 dition to meeting the requirements established in  
23 paragraph (1), have demonstrated emerging excel-  
24 lence in biomedical or behavioral research, as fol-  
25 lows:

1           “(A) The applicant has a plan for research  
2           or training advancement and possesses the abil-  
3           ity to carry out the plan.

4           “(B) The applicant carries out research  
5           and research training programs that have a  
6           special relevance to a problem, concern, or  
7           unmet health need of the United States.

8           “(C) The applicant has been productive in  
9           research or research development and training.

10          “(D) The applicant—

11               “(i) has been designated as a center  
12               of excellence under section 739;

13               “(ii) is located in a geographic area  
14               whose population includes a significant  
15               number of individuals with health status  
16               deficit, and the applicant provides health  
17               services to such individuals; or

18               “(iii) is located in a geographic area  
19               in which a deficit in health care tech-  
20               nology, services, or research resources may  
21               adversely affect the health status of the  
22               population of the area in the future, and  
23               the applicant is carrying out activities with  
24               respect to protecting the health status of  
25               such population.

1       “(d) REQUIREMENT OF APPLICATION.—The Director  
2 of the Center may make a grant under subsection (a) only  
3 if an application for the grant is submitted to the Director  
4 and the application is in such form, is made in such man-  
5 ner, and contains such agreements, assurances, and infor-  
6 mation as the Director determines to be necessary to carry  
7 out this section.

8       “(e) AMOUNT OF GRANT; PAYMENTS.—

9               “(1) AMOUNT.—The amount of any grant  
10 awarded under subsection (a) shall be determined by  
11 the Director of the Center, except that such amount  
12 shall not exceed—

13                       “(A) 50 percent of the necessary cost of  
14 the construction of a proposed facility as deter-  
15 mined by the Director; or

16                       “(B) in the case of a multipurpose facility,  
17 40 percent of that part of the necessary cost of  
18 construction that the Director determines to be  
19 proportionate to the contemplated use of the fa-  
20 cility.

21       “(2) RESERVATION OF AMOUNTS.—On the ap-  
22 proval of any application for a grant under sub-  
23 section (a), the Director of the Center shall reserve,  
24 from any appropriation available for such grants,  
25 the amount of such grant, and shall pay such

1 amount, in advance or by way of reimbursement,  
2 and in such installments consistent with the con-  
3 struction progress, as the Director may determine  
4 appropriate. The reservation of any amount by the  
5 Director under this paragraph may be amended by  
6 the Director, either on the approval of an amend-  
7 ment of the application or on the revision of the esti-  
8 mated cost of construction of the facility.

9 “(3) EXCLUSION OF CERTAIN COSTS.—In deter-  
10 mining the amount of any grant under subsection  
11 (a), there shall be excluded from the cost of con-  
12 struction an amount equal to the sum of—

13 “(A) the amount of any other Federal  
14 grant that the applicant has obtained, or is as-  
15 sured of obtaining, with respect to construction  
16 that is to be financed in part by a grant author-  
17 ized under this section; and

18 “(B) the amount of any non-Federal funds  
19 required to be expended as a condition of such  
20 other Federal grant.

21 “(4) WAIVER OF LIMITATIONS.—The limita-  
22 tions imposed under paragraph (1) may be waived at  
23 the discretion of the Director for applicants meeting  
24 the conditions described in subsection (c).

1       “(f) RECAPTURE OF PAYMENTS.—If, not later than  
2 20 years after the completion of construction for which  
3 a grant has been awarded under subsection (a)—

4           “(1) the applicant or other owner of the facility  
5 shall cease to be a public or non profit private enti-  
6 ty; or

7           “(2) the facility shall cease to be used for the  
8 research purposes for which it was constructed (un-  
9 less the Director determines, in accordance with reg-  
10 ulations, that there is good cause for releasing the  
11 applicant or other owner from obligation to do so);  
12 the United States shall be entitled to recover from the ap-  
13 plicant or other owner of the facility the amount bearing  
14 the same ratio to the current value (as determined by an  
15 agreement between the parties or by action brought in the  
16 United States District Court for the district in which such  
17 facility is situated) of the facility as the amount of the  
18 Federal participation bore to the cost of the construction  
19 of such facility.

20       “(g) GUIDELINES.—Not later than 6 months after  
21 the date of the enactment of this section, the Director of  
22 the Center, after consultation with the Advisory Council,  
23 shall issue guidelines with respect to grants under sub-  
24 section (a).

1       “(h) REPORT TO CONGRESS.—The Director of the  
 2 Center shall prepare and submit to the appropriate com-  
 3 mittees of Congress a biennial report concerning the sta-  
 4 tus of the biomedical and behavioral research facilities and  
 5 the availability and condition of technologically sophisti-  
 6 cated laboratory equipment in the United States. Such re-  
 7 ports shall be developed in concert with the report pre-  
 8 pared by the National Science Foundation on the needs  
 9 of research facilities of universities as required under sec-  
 10 tion 108 of the National Science Foundation Authoriza-  
 11 tion Act for Fiscal Year 1986 (42 U.S.C. 1886).

12       “(i) AUTHORIZATION OF APPROPRIATIONS.—For the  
 13 purpose of carrying out this section, there are authorized  
 14 to be appropriated \$250,000,000 for fiscal year 2001, and  
 15 such sums as may be necessary for each of the fiscal years  
 16 2002 and 2003.”.

17 **SEC. 4. CONSTRUCTION PROGRAM FOR NATIONAL PRI-**  
 18 **MATE RESEARCH CENTERS.**

19       Section 481B(a) of the Public Health Service Act (42  
 20 U.S.C. 287a–3(a)) is amended by striking “1994” and all  
 21 that follows through “\$5,000,000” and inserting “2000  
 22 through 2002, reserve from the amounts appropriated  
 23 under section 481A(i) such sums as necessary”.



1 **SEC. 5. SHARED INSTRUMENTATION GRANT PROGRAM.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
3 authorized to be appropriated \$100,000,000 for fiscal year  
4 2000, and such sums as may be necessary for each subse-  
5 quent fiscal year, to enable the Secretary of Health and  
6 Human Services, acting through the Director of the Na-  
7 tional Center for Research Resources, to provide for the  
8 continued operation of the Shared Instrumentation Grant  
9 Program (initiated in fiscal year 1992 under the authority  
10 of section 479 of the Public Health Service Act (42 U.S.C.  
11 287 et seq.)).

12 (b) REQUIREMENTS FOR GRANTS.—In determining  
13 whether to award a grant to an applicant under the pro-  
14 gram described in subsection (a), the Director of the Na-  
15 tional Center for Research Resources shall consider—

16 (1) the extent to which an award for the spe-  
17 cific instrument involved would meet the scientific  
18 needs and enhance the planned research endeavors  
19 of the major users by providing an instrument that  
20 is unavailable or to which availability is highly lim-  
21 ited;

22 (2) with respect to the instrument involved, the  
23 availability and commitment of the appropriate tech-  
24 nical expertise within the major user group or the  
25 applicant institution for use of the instrumentation;

1           (3) the adequacy of the organizational plan for  
 2           the use of the instrument involved and the internal  
 3           advisory committee for oversight of the applicant, in-  
 4           cluding sharing arrangements if any;

5           (4) the applicant's commitment for continued  
 6           support of the utilization and maintenance of the in-  
 7           strument; and

8           (5) the extent to which the specified instrument  
 9           will be shared and the benefit of the proposed in-  
 10          strument to the overall research community to be  
 11          served.

12          (c) PEER REVIEW.—In awarding grants under the  
 13          program described in subsection (a) Director of the Na-  
 14          tional Center for Research Resources shall comply with  
 15          the peer review requirements in section 492 of the Public  
 16          Health Service Act (42 U.S.C. 289a).

Passed the Senate November 19, 1999.

Attest:

GARY SISCO,  
*Secretary.*