



November 10, 2006

The Honorable Michael Enzi  
Chairman, Senate Health,  
Education, Labor and  
Pensions Committee  
835 Hart Senate Office Bldg.  
Washington, D.C. 20510

The Honorable Edward Kennedy  
Ranking Member, Senate Health,  
Education, Labor and Pensions  
Committee  
644 Dirksen Senate Office Bldg.  
Washington, D.C. 20510

The Honorable Joseph Barton  
Chairman, House Energy and  
Commerce Committee  
2125 Rayburn House Office Bldg.  
Washington, D.C. 20515

The Honorable John Dingell  
Ranking Member, House Energy and  
Commerce Committee  
2322 Rayburn House Office Bldg.  
Washington, D.C. 20515

Dear Messrs. Enzi, Kennedy, Barton and Dingell:

The Medical Library Association (MLA) and the Association of Academic Health Sciences Libraries (AAHSL) are writing to express their views on H.R. 6164, the National Institutes of Health (NIH) Reform Act of 2006, which passed the House of Representatives on September 26, 2006.

H.R. 6164 represents a significant improvement over the previous draft legislation that was shared with the scientific community in the summer and fall of 2005. During that time MLA and AAHSL provided suggestions for improving the draft legislation. Some of the recommendations were incorporated into H.R. 6164. But a few concerns still remain. We are writing to re-emphasize these concerns.

### **The NIH Director's Common Fund**

Although MLA and AAHSL agree with the concept of the NIH Director's Common Fund, we believe that the funding for this initiative should not be tied to the overall annual increases in funding for the NIH. Our recommendation is to include a distinct authorization for the Common Fund, provide a funding authority, and then rely on the annual appropriations process to determine the annual funding for this new program.

### **Limiting the Number of Institutes and Centers**

MLA and AAHSL do not believe that Congress should arbitrarily limit the number of institutes and centers to 27, or any other specific number. The current structure of the NIH is a reflection of a combination of meritorious research, public will and legislative action. Each of these has a place in the configuration of any federal agency. Arbitrarily limiting the number of institutes and centers removes public will and legislative action from the equation. In retrospect, who is to say that research on cancer or heart disease, for example, would have been better served if the National Cancer Institute (NCI) or the National Heart, Lung and Blood Institute (NHLBI) did not exist? No one is in a position today to predict the optimal number of institutes and centers at the NIH. MLA and AAHSL recommend that this provision be removed from the legislation.

### **Process for the Reconfiguration of the Institutes and Centers**

There is general agreement in the scientific community that the NIH Director should be afforded management tools for overseeing such an important agency. But MLA and AAHSL do not agree with the provision that the NIH Director should have the authority (and a defined process) for eliminating Congressionally established institutes and centers. The NIH Director should be focused on science and managing the research enterprise-not on the politics of whether or not to abolish a Congressionally mandated institute or center. We recommend that this provision be removed from H.R. 6164.

### **Authorization Caps**

MLA and AAHSL are very concerned that H.R. 6164 caps the annual authorization increase at 5%. In 19 out of the last 25 years, Congress has appropriated an increase for the NIH above 5%. This increase was necessary in order to respond to the explosion in biomedical research opportunities and the public's desire for continued progress in solving complex diseases. Although presently the NIH budget increase is relatively modest, it is possible that a better economy and a shift in national priorities would set the tone for annual increases above 5%.

Our recommendation is to provide for more substantial increases on an annual basis, or to authorize upcoming years on a "such sums" basis.

### **Overall Funding Authority vs. Individual Institutes and Centers**

MLA and AAHSL are concerned that providing an overarching funding authority for the NIH, while eliminating the individual funding authorities for each institute and center, is not in the best interest of science. While there may be an opportunity for the Appropriations Committee to continue to provide funding for each institute and center, the legislation does not provide enough safeguards to protect an institute or center from a major shift of funds.

We recommend that each institute and center that now has a distinct budget authority be allowed to keep that authority.

**Public Access to Archived Publications Resulting from NIH-Funded Research**

Given the NIH's policy regarding public access to archived publications resulting from NIH-funded research, and the tension that the policy has created between the publishing community and the scientific community, it would seem appropriate for H.R. 6164 to include a definitive statutory section on public access. This section would accommodate the need for appropriate public access to NIH-funded research while respecting the property rights of the publishing community and the individual researchers. While we appreciate that the committee report mentions public access, we believe that this issue deserves a more comprehensive review.

Thank you for the opportunity to comment on H.R. 6164. As the process of reauthorizing the National Institutes of Health proceeds, we will continue to provide valuable input and appreciate your consideration of our recommendations.

Sincerely,



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