

VETO OF H.R. 2507

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 2507, THE "NATIONAL INSTITUTES OF HEALTH
REVITALIZATION AMENDMENTS OF 1992"



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To the House of Representatives:

I am returning herewith without my approval H.R. 2507, the "National Institutes of Health Revitalization Amendments of 1992," which would extend and amend biomedical research authorities of the National Institutes of Health (NIH).

Before discussing the flaws of H.R. 2507, I must clarify two misperceptions. First, H.R. 2507 is not necessary to assure that Federal spending continue for biomedical research, or for research related to any disease, disorder, or condition. Second, H.R. 2507 is not necessary to increase support for research targeted at women's health needs. Great progress is being made in the area of women's health under the valued leadership of the first female director of the NIH.

H.R. 2507 is unacceptable to me on almost every ground: ethical, fiscal, administrative, philosophical, and legal. I repeatedly warned the Congress of this at each stage of the legislative process. The bill's provisions permitting the use of tissue from induced abortions for federally funded transplantation research involving human subjects are inconsistent with our Nation's deeply held beliefs. Moreover, it is clear that this legislation would be counterproductive to the attainment of our Nation's health research objectives.

H.R. 2507 is objectionable because it would lift the current moratorium on the use of Federal funds for fetal tissue transplantation research where the tissue is obtained from induced abortions. Let it be clear: this is not a moratorium on research. It is only a moratorium on the use of one source of tissue for that research. I believe this moratorium is important in order to prevent taxpayer funds from being used for research that many Americans find morally repugnant and because of its potential for promoting and legitimizing abortion.

My Administration is strongly committed to pursuing research to find cures and treatments for such disorders as Parkinson's disease, diabetes, and Alzheimer's disease that have been held out as areas where fetal tissue research might be pursued. Fetal tissue transplantation research relating to these disorders can proceed without relying on tissue from induced abortions. Medical experts at the Department of Health and Human Services have assured me that ectopic pregnancies and spontaneous abortions provide sufficient and suitable tissue to meet anticipated research needs. Therefore, on May 19, 1992, I issued an Executive order establishing a fetal tissue bank that will collect tissue from these sources so as to meet the needs of the research community. The bank will provide tissue directly to scientists for their research. This approach truly represents the pro-research and ethical alternative that will allow this research to go forward without relying on a source of tissue that many find to be morally objectionable.

H.R. 2507 also contains fiscally irresponsible authorization levels. The total cost of the provisions in this legislation could exceed the

FY 1993 Budget I presented to the Congress by \$3.2 billion. It is exceedingly unlikely, if not impossible, that the Congress can fund the programs contained in H.R. 2507 while complying with the requirements of the Budget Enforcement Act. That being the case, the expectations that this bill will create are unreasonable. Those who suffer from the many diseases and disorders that are the subject of this unrealistic legislation will be sadly disappointed.

H.R. 2507 is also objectionable because its provisions regarding the appointment of "Ethics Advisory Boards" are inconsistent with the Appointments Clause of the Constitution. H.R. 2507 would effectively give these boards unilateral authority to make decisions concerning major research initiatives. As a policy matter, these decisions should be made by the President's chief officer on health issues: the Secretary of Health and Human Services. More fundamentally, however, the Appointments Clause requires that officers vested with this type of power be appointed by the President by and with the advice and consent of the Senate. Instead, H.R. 2507 provides that they are to be appointed by the Secretary of Health and Human Services and then purports to circumscribe the discretion of the appointing authority by imposing various requirements concerning the boards' composition. H.R. 2507's provisions regarding the Scientific and Technical Board on Biomedical and Behavioral Research Facilities and the Office of Research on Women's Health likewise raise Appointments Clause problems.

In addition, H.R. 2507 contains reporting requirements that impair the separation of powers. For example, the bill would require the Director of the National Cancer Institute to submit to specified committees of the Congress the original plan, and any revisions to that plan, regarding certain cancer research. This requirement to submit to the Congress what is in essence a draft plan without the prior review and approval of the executive branch clearly interferes with the deliberative process of the executive branch. The internal workings of the executive branch should be just that—internal. To require the executive branch to display each step in its deliberative process to the Congress would destroy my ability to speak as the single voice of a unitary executive.

I am also troubled by the increasingly frequent imposition of reporting requirements. H.R. 2507 imposes a significant number of new reporting requirements on an executive branch that already suffers under the burden of literally thousands of such requirements. Last October, I noted that "taken together such reports put a heavy burden on the reporting agencies at a time of scarce resources." Thus, I called for "an effort to minimize reporting requirements, both in terms of the number and frequency of reports that must be submitted, as well as the level of detail required." Bills such as H.R. 2507 move us in the opposite direction.

For these reasons, I am returning H.R. 2507 without my approval, and I ask the Congress to adopt a simple extension of those appropriations authorizations for the National Institutes of Health that need to be extended.

GEORGE BUSH.

THE WHITE HOUSE, *June 23, 1992.*