

106TH CONGRESS
2D SESSION

S. 2725

To provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2000

Mr. SMITH of New Hampshire (for himself, Mr. DURBIN, Mr. KERREY, Mr. LAUTENBERG, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

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 “Chimpanzee Health
5 Improvement, Maintenance and Protection Act”.

1 **SEC. 2. ESTABLISHMENT OF NATIONAL SANCTUARY SYS-**
2 **TEM FOR FEDERALLY OWNED OR SUP-**
3 **PORTED CHIMPANZEES NO LONGER NEEDED**
4 **FOR RESEARCH.**

5 (a) IN GENERAL.—The Secretary shall provide for
6 the establishment and operation in accordance with this
7 section of a system to provide for the lifetime care of chim-
8 panzees that have been used, or were bred or purchased
9 for use, in research conducted or supported by the Na-
10 tional Institutes of Health, the Food and Drug Adminis-
11 tration, or other agencies of the Federal Government, and
12 with respect to which it has been determined by the Sec-
13 retary that the chimpanzees are not needed for such re-
14 search (in this section referred to as ‘surplus chim-
15 panzees’).

16 (b) ADMINISTRATION OF SANCTUARY SYSTEM.—The
17 Secretary shall carry out this section, including the estab-
18 lishment of regulations under subsection (d), in consulta-
19 tion with the board of directors of the nonprofit private
20 entity that receives the contract under subsection (e) (re-
21 lating to the operation of the sanctuary system).

22 (c) ACCEPTANCE OF CHIMPANZEES INTO SYSTEM.—
23 All surplus chimpanzees owned by the Federal Govern-
24 ment shall be accepted into the sanctuary system. Subject
25 to standards under subsection (d)(3), any chimpanzee that
26 is not owned by the Federal Government shall be accepted

1 into the system if the owner transfers to the sanctuary
2 system title to the chimpanzee.

3 (d) STANDARDS FOR PERMANENT RETIREMENT OF
4 SURPLUS CHIMPANZEES.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this Act, the Sec-
7 retary shall by regulation establish standards for op-
8 erating the sanctuary system to provide for the per-
9 manent retirement of surplus chimpanzees. In estab-
10 lishing the standards, the Secretary shall consider
11 the recommendations of the board of directors of the
12 nonprofit private entity that receives the contract
13 under subsection (e) and the National Research
14 Council applicable to surplus chimpanzees that are
15 made in the report published in 1997 and entitled
16 “Chimpanzees in Research—Strategies for Their
17 Ethical Care, Management, and Use”.

18 (2) CHIMPANZEES ACCEPTED INTO SYSTEM.—
19 With respect to chimpanzees that are accepted into
20 the sanctuary system, standards under paragraph
21 (1) shall include the following:

22 (A) A prohibition that the chimpanzees
23 may not be used for research. This subpara-
24 graph does not prohibit noninvasive behavioral
25 studies of the chimpanzees, or medical studies

1 conducted during the course of normal veteri-
2 nary care that is provided for the benefit of the
3 chimpanzees.

4 (B) Provisions regarding the housing of
5 the chimpanzees.

6 (C) Provisions regarding the behavioral
7 well-being of the chimpanzees.

8 (D) A requirement that the chimpanzees
9 be cared for in accordance with the Animal
10 Welfare Act.

11 (E) A requirement that the chimpanzees
12 be prevented from breeding.

13 (F) A requirement that complete histories
14 be maintained on the health and use in research
15 of the chimpanzees.

16 (G) A requirement that the chimpanzees
17 be monitored for the purpose of promptly de-
18 tecting the presence in the chimpanzees of any
19 condition that may be a threat to the public
20 health or the health of other chimpanzees.

21 (H) A requirement that chimpanzees pos-
22 sible of such a threat be contained in accordance
23 with applicable recommendations of the Direc-
24 tor of the Centers for Disease Control and Pre-
25 vention.

1 (I) A prohibition that none of the chim-
2 panzees may be subjected to euthanasia, except
3 as in the best interests of the chimpanzee in-
4 volved, as determined by the system and an at-
5 tending veterinarian.

6 (J) A prohibition that the chimpanzees
7 may not be discharged from the system.

8 (K) A provision that the Secretary may, in
9 the discretion of the Secretary, accept into the
10 system chimpanzees that are not surplus chim-
11 panzees.

12 (L) Such additional standards as the Sec-
13 retary determines to be appropriate.

14 (3) NON-FEDERAL CHIMPANZEES OFFERED
15 FOR ACCEPTANCE INTO SYSTEM.—With respect to a
16 chimpanzee that is not owned by the Federal Gov-
17 ernment and is offered for acceptance into the sanc-
18 tuary system, standards under paragraph (1) shall
19 include the following:

20 (A) A provision that the Secretary may au-
21 thorize the imposition of a fee for accepting
22 such chimpanzee into the system, except as fol-
23 lows:

24 (i) Such a fee may not be imposed for
25 accepting the chimpanzee if, on the day be-

1 fore the date of enactment of this Act, the
2 chimpanzee was owned by the nonprofit
3 private entity that receives the contract
4 under subsection (e) or by any individual
5 qualified sanctuary facility receiving a sub-
6 contract or grant under subsection (e)(1).

7 (ii) Such a fee may not be imposed for
8 accepting the chimpanzee if the chim-
9 panzee is owned by an entity that operates
10 a primate center, and if the chimpanzee is
11 housed in the primate center pursuant to
12 the program for regional centers for re-
13 search on primates that is carried out by
14 the National Center for Research Re-
15 sources.

16 Any fees collected under this subparagraph are
17 available to the Secretary for the costs of oper-
18 ating the system. Any other fees received by the
19 Secretary for the long-term care of chimpanzees
20 (including any Federal fees that are collected
21 for such purpose and are identified in the re-
22 port under section 3) are available for operating
23 the system, in addition to availability for such
24 other purposes as may be authorized for the use
25 of the fees.

1 (B) A provision that the Secretary may
2 deny such chimpanzee acceptance into the sys-
3 tem if the capacity of the system is not suffi-
4 cient to accept the chimpanzee, taking into ac-
5 count the physical capacity of the system; the
6 financial resources of the system; the number of
7 individuals serving as the staff of the system,
8 including the number of professional staff; the
9 necessity of providing for the safety of the staff
10 and of the public; the necessity of caring for ac-
11 cepted chimpanzees in accordance with the
12 standards under paragraph (1); and such other
13 factors as may be appropriate.

14 (C) A provision that the Secretary may
15 deny such chimpanzee acceptance into the sys-
16 tem if a complete history of the health and use
17 in research of the chimpanzee is not available to
18 the Secretary.

19 (D) Such additional standards as the Sec-
20 retary determines to be appropriate.

21 (e) AWARD OF CONTRACT FOR OPERATION OF SYS-
22 TEM.—

23 (1) IN GENERAL.—Subject to the availability of
24 funds pursuant to subsection (g), the Secretary shall
25 make an award of a contract to a nonprofit private

1 entity under which the entity has the responsibility
2 of operating (and establishing, as applicable) the
3 sanctuary system and awarding subcontracts or
4 grants to individual qualified sanctuary facilities
5 that meet the standards under subsection (d).

6 (2) REQUIREMENTS.—The Secretary may make
7 an award under paragraph (1) to a nonprofit private
8 entity only if the entity meets the following require-
9 ments:

10 (A) The entity has a governing board of
11 directors that is composed and appointed in ac-
12 cordance with paragraph (3) and is satisfactory
13 to the Secretary.

14 (B) The terms of service for members of
15 such board are in accordance with paragraph
16 (3).

17 (C) The members of the board serve with-
18 out compensation. The members may be reim-
19 bursed for travel, subsistence, and other nec-
20 essary expenses incurred in carrying out the du-
21 ties of the board.

22 (D) The entity has an executive director
23 meeting such requirements as the Secretary de-
24 termines to be appropriate.

1 (E) The entity makes the agreement de-
2 scribed in paragraph (4) (relating to non-Fed-
3 eral contributions).

4 (F) The entity agrees to comply with
5 standards under subsection (d).

6 (G) The entity agrees to make necropsy re-
7 ports on chimpanzees in the sanctuary system
8 available on a reasonable basis to persons who
9 conduct biomedical or behavioral research, with
10 priority given to such persons who are Federal
11 employees or who receive financial support from
12 the Federal Government for research.

13 (H) Such other requirements as the Sec-
14 retary determines to be appropriate.

15 (3) BOARD OF DIRECTORS.—For purposes of
16 subparagraphs (A) and (B) of paragraph (2):

17 (A) The governing board of directors of
18 the nonprofit private entity involved is com-
19 posed and appointed in accordance with this
20 paragraph if the following conditions are met:

21 (i) Such board is composed of not
22 more than 13 voting members.

23 (ii) Such members include individuals
24 with expertise and experience in the
25 science of managing captive chimpanzees

1 (including primate veterinary care), ap-
2 pointed from among individuals endorsed
3 by organizations that represent individuals
4 in such field.

5 (iii) Such members include individuals
6 with expertise and experience in the field
7 of animal protection, appointed from
8 among individuals endorsed by organiza-
9 tions that represent individuals in such
10 field.

11 (iv) Such members include individuals
12 with expertise and experience in the zoo-
13 logical field (including behavioral prima-
14 tology), appointed from among individuals
15 endorsed by organizations that represent
16 individuals in such field.

17 (v) Such members include individuals
18 with expertise and experience in the field
19 of the business and management of non-
20 profit organizations, appointed from
21 among individuals endorsed by organiza-
22 tions that represent individuals in such
23 field.

24 (vi) Such members include representa-
25 tives from entities that provide accredita-

1 tion in the field of laboratory animal medi-
2 cine.

3 (vii) Such members include individuals
4 with expertise and experience in the field
5 of containing biohazards.

6 (viii) Such members include an addi-
7 tional member who serves as the chair of
8 the board, appointed from among individ-
9 uals who have been endorsed for purposes
10 of clause (ii), (iii), (iv), or (v).

11 (ix) None of the members of the
12 board has been fined for, or signed a con-
13 sent decree for, any violation of the Animal
14 Welfare Act.

15 (B) The terms of service for members of
16 the board of directors are in accordance with
17 this paragraph if the following conditions are
18 met:

19 (i) The term of the chair of the board
20 is 3 years.

21 (ii) The initial members of the board
22 select, by a random method, 1 member
23 from each of the 6 fields specified in sub-
24 paragraph (A) to serve a term of 2 years
25 and (in addition to the chair) 1 member

1 from each of such fields to serve a term of
2 3 years.

3 (iii) After the initial terms under
4 clause (ii) expire, each member of the
5 board (other than the chair) is appointed
6 to serve a term of 2 years.

7 (iv) An individual whose term of serv-
8 ice expires may be reappointed to the
9 board.

10 (v) A vacancy in the membership of
11 the board is filled in the manner in which
12 the original appointment was made.

13 (vi) If a member of the board does not
14 serve the full term applicable to the mem-
15 ber, the individual appointed to fill the re-
16 sulting vacancy is appointed for the re-
17 mainder of the term of the predecessor
18 member.

19 (4) REQUIREMENT OF MATCHING FUNDS.—The
20 agreement required in paragraph (2)(E) for a non-
21 profit private entity (relating to the award of the
22 contract under paragraph (1)) is an agreement that,
23 with respect to the costs to be incurred by the entity
24 in establishing and operating the sanctuary system,
25 the entity will make available (directly or through

1 donations from public or private entities) non-Fed-
2 eral contributions toward such costs, in cash or in
3 kind, in an amount not less than the following, as
4 applicable:

5 (A) For expenses associated with estab-
6 lishing the sanctuary system (as determined by
7 the Secretary), 10 percent of such costs (\$1 for
8 each \$9 of Federal funds provided under the
9 contract under paragraph (1)).

10 (B) For expenses associated with operating
11 the sanctuary system (as determined by the
12 Secretary), 25 percent of such costs (\$1 for
13 each \$3 of Federal funds provided under such
14 contract).

15 (5) ESTABLISHMENT OF CONTRACT ENTITY.—

16 If the Secretary determines that an entity meeting
17 the requirements of paragraph (2) does not exist,
18 not later than 60 days after the date of enactment
19 of the Chimpanzee Health Improvement, Mainte-
20 nance and Protection Act, the Secretary shall, for
21 purposes of paragraph (1), make a grant for the es-
22 tablishment of such an entity, including paying the
23 cost of incorporating the entity under the law of one
24 of the States.

25 (f) DEFINITIONS.—For purposes of this section:

1 (1) PERMANENT RETIREMENT.—The term
2 “permanent retirement”, with respect to a chim-
3 panzee that has been accepted into the sanctuary
4 system, means that under subsection (a), the system
5 provides for the lifetime care of the chimpanzee, that
6 under subsection (d)(2), the system does not permit
7 the chimpanzee to be used in research or to be
8 euthanatized (except as provided in subsection
9 (d)(2)(I)), that under such subsection the system
10 will not discharge the chimpanzee from the system,
11 and that under such subsection the system otherwise
12 cares for the chimpanzee.

13 (2) SANCTUARY SYSTEM.—The term “sanc-
14 tuary system” means the system described in sub-
15 section (a).

16 (3) SECRETARY.—The term “Secretary” means
17 the Secretary of Health and Human Services.

18 (4) SURPLUS CHIMPANZEES.—The term “sur-
19 plus chimpanzees” has the meaning given that term
20 in subsection (a).

21 (g) FUNDING.—

22 (1) IN GENERAL.—Of the amount appropriated
23 under this Act for fiscal year 2001 and each subse-
24 quent fiscal year, the Secretary, subject to para-
25 graph (2), shall reserve a portion for purposes of the

1 operation (and establishment, as applicable) of the
2 sanctuary system and for purposes of paragraph (3),
3 except that the Secretary may not for such purposes
4 reserve any further funds from such amount after
5 the aggregate total of the funds so reserved for such
6 fiscal years reaches \$30,000,000. The purposes for
7 which funds reserved under the preceding sentence
8 may be expended include the construction and ren-
9 ovation of facilities for the sanctuary system.

10 (2) LIMITATION.—Funds may not be reserved
11 for a fiscal year under paragraph (1) unless the
12 amount appropriated under this Act for such year
13 equals or exceeds the amount appropriated under
14 this Act for fiscal year 1999.

15 (3) USE OF FUNDS FOR OTHER COMPLIANT FA-
16 CILITIES.—With respect to amounts reserved under
17 paragraph (1) for a fiscal year, the Secretary may,
18 subject to the approval of an entity that meets the
19 requirements of subsection (e)(2), use a portion of
20 such amounts to make awards of grants or contracts
21 to public or private entities operating facilities that
22 provide for the retirement of chimpanzees in accord-
23 ance with the same standards that apply to the
24 sanctuary system pursuant to regulations under sub-

1 section (d)(2). Such an award may be expended for
2 the expenses of operating the facilities involved.

3 **SEC. 3. REPORT TO CONGRESS REGARDING NUMBER OF**
4 **CHIMPANZEES AND FUNDING FOR CARE OF**
5 **CHIMPANZEES.**

6 With respect to chimpanzees that have been used, or
7 were bred or purchased for use, in research conducted or
8 supported by the National Institutes of Health, the Food
9 and Drug Administration, or other agencies of the Federal
10 Government, the Secretary of Health and Human Services
11 shall, not later than 365 days after the date of enactment
12 of this Act, submit to Congress a report providing the fol-
13 lowing information:

14 (1) The number of such chimpanzees in the
15 United States, whether owned or held by the Federal
16 Government, any of the States, or private entities.

17 (2) An identification of any requirement im-
18 posed by the Federal Government that, as a condi-
19 tion of the use of such a chimpanzee in research by
20 a non-Federal entity—

21 (A) fees be paid by the entity to the Fed-
22 eral Government for the purpose of providing
23 for the care of the chimpanzee (including any
24 fees for long-term care); or

1 (B) funds be provided by the entity to a
2 State, unit of local government, or private enti-
3 ty for an endowment or other financial account
4 whose purpose is to provide for the care of the
5 chimpanzee (including any funds provided for
6 long-term care).

7 (3) An accounting for fiscal years 1999 and
8 2000 of all fees paid and funds provided by non-
9 Federal entities pursuant to requirements described
10 in subparagraphs (A) and (B) of paragraph (2).

11 (4) In the case of such fees, a specification of
12 whether the fees were available to the Secretary (or
13 other Federal officials) pursuant to annual appro-
14 priations Acts or pursuant to permanent appropria-
15 tions.

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