

105TH CONGRESS
2D SESSION

H. R. 4744

To amend the Public Health Service Act 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 HOUSE OF REPRESENTATIVES

OCTOBER 8, 1998

Mr. GREENWOOD (for himself and Mr. GINGRICH) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Public Health Service Act 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 “Postresearch Chim-
5 panzee Care 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 Subpart 1 of part E of title IV of the Public Health
6 Service Act (42 U.S.C. 287 et seq.) is amended by insert-
7 ing after section 481B the following section:

8 “SANCTUARY SYSTEM FOR SURPLUS CHIMPANZEES

9 “SEC. 481C. (a) IN GENERAL.—The Secretary shall
10 provide for the establishment and operation in accordance
11 with this section of a system to provide for the lifetime
12 care of chimpanzees that have been used, or were bred
13 or purchased for use, in research conducted or supported
14 by the National Institutes of Health, the Food and Drug
15 Administration, or other agencies of the Federal Govern-
16 ment, and with respect to which it has been determined
17 by the Secretary that the chimpanzees are not needed for
18 such research (in this section referred to as ‘surplus chim-
19 panzees’).

20 “(b) ADMINISTRATION OF SANCTUARY SYSTEM.—
21 The Secretary shall carry out this section, including the
22 establishment of regulations under subsection (d), in con-
23 sultation with the board of directors of the nonprofit pri-
24 vate entity that receives the contract under subsection (e)
25 (relating to the operation of the sanctuary system).

1 “(c) ACCEPTANCE OF CHIMPANZEES INTO SYS-
2 TEM.—All surplus chimpanzees owned by the Federal
3 Government shall be accepted into the sanctuary system.
4 Subject to standards under subsection (d)(3), any surplus
5 chimpanzee that is not owned by the Federal Government
6 shall be accepted into the system if the owner transfers
7 to the Federal Government title to the chimpanzee.

8 “(d) STANDARDS FOR PERMANENT RETIREMENT OF
9 SURPLUS CHIMPANZEES.—

10 “(1) IN GENERAL.—The Secretary shall by reg-
11 ulation establish standards for operating the sanc-
12 tuary system to provide for the permanent retire-
13 ment of surplus chimpanzees. In establishing the
14 standards, the Secretary shall consider the rec-
15 ommendations of the National Research Council ap-
16 plicable to surplus chimpanzees that are made in the
17 report published in 1997 and entitled ‘Chimpanzees
18 in Research—Strategies for Their Ethical Care,
19 Management, and Use’.

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

24 “(A) A prohibition that the chimpanzees
25 may not be used for research. This subpara-

1 graph does not prohibit noninvasive behavioral
2 studies of the chimpanzees, or medical studies
3 conducted during the course of normal veteri-
4 nary care that is provided for the benefit of the
5 chimpanzees.

6 “(B) Provisions regarding the housing of
7 the chimpanzees.

8 “(C) Provisions regarding the behavioral
9 well-being of the chimpanzees.

10 “(D) A requirement that the chimpanzees
11 be cared for in accordance with the Animal
12 Welfare Act.

13 “(E) A requirement that the chimpanzees
14 be prevented from breeding.

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

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

23 “(H) A requirement that chimpanzees pos-
24 ing such a threat be contained in accordance
25 with applicable recommendations of the Direc-

1 tor of the Centers for Disease Control and Pre-
2 vention.

3 “(I) A prohibition that the chimpanzees
4 may not be discharged from the system.

5 “(J) A provision that the Secretary may,
6 in the discretion of the Secretary, accept into
7 the system chimpanzees that are not surplus
8 chimpanzees.

9 “(K) Such additional standards as the Sec-
10 retary determines to be appropriate.

11 “(3) NON-FEDERAL CHIMPANZEES OFFERED
12 FOR ACCEPTANCE INTO SYSTEM.—With respect to a
13 surplus chimpanzee that is not owned by the Federal
14 Government and is offered for acceptance into the
15 sanctuary system, standards under paragraph (1)
16 shall include the following:

17 “(A) A provision that the Secretary may
18 authorize the imposition of a fee for accepting
19 such chimpanzee into the system, except as fol-
20 lows:

21 “(i) Such a fee may not be imposed
22 for accepting the chimpanzee if, on the day
23 before the date of the enactment of the
24 Postresearch Chimpanzee Care Act, the
25 chimpanzee was owned by the nonprofit

1 private entity that receives the contract
2 under subsection (e).

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

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

23 “(B) A provision that the Secretary may
24 deny such chimpanzee acceptance into the sys-
25 tem if the capacity of the system is not suffi-

1 cient to accept the chimpanzee, taking into ac-
2 count the physical capacity of the system; the
3 financial resources of the system; the number of
4 individuals serving as the staff of the system,
5 including the number of professional staff; the
6 necessity of providing for the safety of the staff
7 and of the public; the necessity of caring for ac-
8 cepted chimpanzees in accordance with the
9 standards under paragraph (1); and such other
10 factors as may be appropriate.

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

16 “(D) Such additional standards as the Sec-
17 retary determines to be appropriate.

18 “(e) AWARD OF CONTRACT FOR OPERATION OF SYS-
19 TEM.—

20 “(1) IN GENERAL.—Subject to the availability
21 of funds pursuant to subsection (g), the Secretary
22 shall make an award of a contract to a nonprofit
23 private entity under which the entity has the respon-
24 sibility of operating (and establishing, as applicable)
25 the sanctuary system.

1 “(2) REQUIREMENTS.—The Secretary may
2 make an award under paragraph (1) to a nonprofit
3 private entity only if the entity meets the following
4 requirements:

5 “(A) The entity has a governing board of
6 directors that is composed and appointed in ac-
7 cordance with paragraph (3) and is satisfactory
8 to the Secretary.

9 “(B) The terms of service for members of
10 such board are in accordance with paragraph
11 (3).

12 “(C) The members of the board serve with-
13 out compensation. The members may be reim-
14 bursed for travel, subsistence, and other nec-
15 essary expenses incurred in carrying out the du-
16 ties of the board.

17 “(D) The entity has an executive director
18 meeting such requirements as the Secretary de-
19 termines to be appropriate.

20 “(E) The entity makes the agreement de-
21 scribed in paragraph (4) (relating to non-Fed-
22 eral contributions).

23 “(F) The entity agrees to comply with
24 standards under subsection (d).

1 “(G) Such other requirements as the Sec-
2 retary determines to be appropriate.

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

5 “(A) The governing board of directors of
6 the nonprofit private entity involved is com-
7 posed and appointed in accordance with this
8 paragraph if the following conditions are met:

9 “(i) Such board is composed of not
10 more than 15 voting members.

11 “(ii) Such members include individ-
12 uals with expertise and experience in the
13 science of managing captive chimpanzees
14 (including primate veterinary care), ap-
15 pointed from among individuals endorsed
16 by organizations that represent individuals
17 in such field.

18 “(iii) Such members include individ-
19 uals with expertise and experience in the
20 field of animal protection, appointed from
21 among individuals endorsed by organiza-
22 tions that represent individuals in such
23 field.

24 “(iv) Such members include individ-
25 uals with expertise and experience in the

1 zoological field (including behavioral pri-
2 matology), appointed from among individ-
3 uals endorsed by organizations that rep-
4 resent individuals in such field.

5 “(v) Such members include individuals
6 with expertise and experience in the field
7 of the business and management of non-
8 profit organizations, appointed from
9 among individuals endorsed by organiza-
10 tions that represent individuals in such
11 field.

12 “(vi) Such members include represent-
13 atives from entities that provide accredita-
14 tion in the field of laboratory animal medi-
15 cine.

16 “(vii) Such members include individ-
17 uals with expertise and experience in the
18 field of containing biohazards.

19 “(viii) Such members include an addi-
20 tional member who serves as the chair of
21 the board, appointed from among individ-
22 uals who have been endorsed for purposes
23 of clause (ii), (iii), (iv), or (v).

1 “(ix) None of the members of the
2 board has been fined for a violation of the
3 Animal Welfare Act.

4 “(B) The terms of service for members of
5 the board of directors are in accordance with
6 this paragraph if the following conditions are
7 met:

8 “(i) The term of the chair of the
9 board is three years.

10 “(ii) The initial members of the board
11 select, by a random method, one member
12 from each of the four fields specified in
13 subparagraph (A) to serve a term of two
14 years and (in addition to the chair) one
15 member from each of such fields to serve
16 a term of three years.

17 “(iii) After the initial terms under
18 clause (ii) expire, each member of the
19 board (other than the chair) is appointed
20 to serve a term of two years.

21 “(iv) An individual whose term of
22 service expires may be reappointed to the
23 board.

1 “(v) A vacancy in the membership of
2 the board is filled in the manner in which
3 the original appointment was made.

4 “(vi) If a member of the board does
5 not serve the full term applicable to the
6 member, the individual appointed to fill the
7 resulting vacancy is appointed for the re-
8 mainder of the term of the predecessor
9 member.

10 “(4) REQUIREMENT OF MATCHING FUNDS.—
11 The agreement required in paragraph (2)(E) for a
12 nonprofit private entity (relating to the award of the
13 contract under paragraph (1)) is an agreement that,
14 with respect to the costs to be incurred by the entity
15 in establishing and operating the sanctuary system,
16 the entity will make available (directly or through
17 donations from public or private entities) non-Fed-
18 eral contributions toward such costs, in cash or in
19 kind, in an amount not less than the following, as
20 applicable:

21 “(A) For expenses associated with estab-
22 lishing the sanctuary system (as determined by
23 the Secretary), 10 percent of such costs (\$1 for
24 each \$9 of Federal funds provided under the
25 contract under paragraph (1)).

1 “(B) For expenses associated with operat-
2 ing the sanctuary system (as determined by the
3 Secretary), 50 percent of such costs (\$1 for
4 each \$1 of Federal funds provided under such
5 contract).

6 “(5) ESTABLISHMENT OF CONTRACT ENTITY.—
7 If the Secretary determines that an entity meeting
8 the requirements of paragraph (2) does not exist,
9 the Secretary may for purposes of paragraph (1)
10 make a grant for the establishment of such an en-
11 tity, including paying the cost of incorporating the
12 entity under the law of one of the States.

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

14 “(1) The term ‘permanent retirement’, with re-
15 spect to a surplus chimpanzee, means that the chim-
16 panzee has been accepted into the sanctuary system,
17 that under subsection (a) the system provides for
18 the lifetime care of the chimpanzee, that under sub-
19 section (d)(2) the system does not permit the chim-
20 panzee to be used in research, that under such sub-
21 section the system will not discharge the chimpanzee
22 from the system, and that under such subsection the
23 system otherwise cares for the chimpanzee.

24 “(2) The term ‘sanctuary system’ means the
25 system described in subsection (a).

1 “(3) The term ‘surplus chimpanzees’ has the
2 meaning indicated for such term in subsection (a).

3 “(g) FUNDING.—

4 “(1) IN GENERAL.—Of the amount appro-
5 priated under this Act for fiscal year 2000 and each
6 subsequent fiscal year, the Secretary, subject to
7 paragraph (2), shall reserve a portion for purposes
8 of the operation (and establishment, as applicable)
9 of the sanctuary system, except that the Secretary
10 may not for such purposes reserve any further funds
11 from such amount after the aggregate total of the
12 funds so reserved for such fiscal years reaches
13 \$15,000,000. The purposes for which funds reserved
14 under the preceding sentence may be expended in-
15 clude the construction and renovation of facilities for
16 the sanctuary system, subject to section 496(b).

17 “(2) LIMITATION.—Funds may not be reserved
18 for a fiscal year under paragraph (1) unless the
19 amount appropriated under this Act for such year
20 equals or exceeds the amount appropriated under
21 this Act for fiscal year 1998.”.

1 **SEC. 3. REPORT TO CONGRESS REGARDING NUMBER OF**
2 **CHIMPANZEES AND FUNDING FOR CARE OF**
3 **CHIMPANZEES.**

4 With respect to chimpanzees that have been used, or
5 were bred or purchased for use, in research conducted or
6 supported by the National Institutes of Health, the Food
7 and Drug Administration, or other agencies of the Federal
8 Government, the Secretary of Health and Human Services
9 shall, not later than 120 days after the date of the enact-
10 ment of this Act, submit to the Congress a report provid-
11 ing the following information:

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

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

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

23 (B) funds be provided by the entity to a
24 State, unit of local government, or private en-
25 tity for an endowment or other financial ac-
26 count whose purpose is to provide for the care

1 of the chimpanzee (including any funds pro-
2 vided for long-term care).

3 (3) An accounting for fiscal years 1997 and
4 1998 of all fees paid and funds provided by non-
5 Federal entities pursuant to requirements described
6 in subparagraphs (A) and (B) of paragraph (2).

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

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