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CHIMPANZEE HEALTH IMPROVEMENT, MAINTENANCE AND PROTECTION ACT

OCTOBER 10 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pension, submitted the following

REPORT

[To accompany S. 2725]

The Committee on Health, Education, Labor, and Pensions, to which was referred the bill (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, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

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I. INTRODUCTION

Each year, millions of Federal tax dollars pay for the care of federally-sponsored research chimpanzees through funding to the National Institutes of Health (NIH) and other federal agencies.

In 1986, the NIH launched an initiative to breed chimpanzees that, at the time, were thought to be useful models for AIDS research. When the breeding program was initiated by the NIH, little consideration was given to the long-term care of chimpanzees as it was expected that these chimpanzees would die prematurely from

complications related to the research in which they had been used. However, chimpanzees have not proved as suitable a model as expected for AIDS research, and the Federal Government is now faced with a surplus of several hundred chimpanzees that are no longer useful in medical research. These “surplus” chimpanzees are being warehoused in expensive federally funded research laboratory facilities.

In 1994, the NIH asked the National Research Council to provide NIH with advice on the future research needs involving chimpanzees and options for the long term care and support of chimpanzees in research. The National Research Council (NRC) presented its recommendations to NIH in a 1997 report, “Chimpanzees in Research: Strategies for Their Ethical Care, Management, and Use.” The report identifies chimpanzees no longer needed for research, and states:

The concept of sanctuaries capable of providing for the long-term care and well-being of chimpanzees that are no longer needed for research and breeding should become an integral component of the strategic plan to achieve the best and most cost-effective solutions to the current dilemma.

The report also considers and rejects the option of euthanizing surplus chimpanzees, based on views strongly conveyed to the NRC by members of the scientific community as well as the public. “Many members of the public and the scientific community have called for continuing support for chimpanzees in an acceptable environment, rather than euthanizing them, even when they are no longer wanted for breeding or research. The committee fully recognizes the financial implication of this position in regard to lifetime funding for all animals and for additional space and facilities for an aging population.” The report cites the close similarities between chimpanzees and humans, noting that “[t]here are practical as well as theoretical reasons to reject euthanasia as a general policy. Some of the best and most caring members of the support staff, such as veterinarians and technicians would, for personal and emotional reasons, find it impossible to function effectively in an atmosphere in which euthanasia is a general policy, and might resign. A facility that adopted such a policy could expect to lose some of its best employees.”

S. 2725, the Chimpanzee Health Improvement, Maintenance, and Protection Act (CHIMP Act), addresses many of the recommendations included in the National Research Council report. The committee has reviewed testimony on the CHIMP Act and has found overwhelming support by members of the scientific and academic communities, animal welfare organizations, Dr. Jane Goodall, and others.

Estimates on the number of chimpanzees who would ultimately be transferred to sanctuary facilities vary. The decision-making control over how many and which chimpanzees to transfer would rest, under the legislation, with those who currently have chimpanzees in their facilities. According to the National Research Council’s report, the existing chimpanzee population is well in excess of that required to meet current and anticipated national research needs for at least five years. NIH and other research facili-

ties would decide how many breeding chimps to retain for any unforeseen national emergency. Even if the need for chimpanzees in research grows, not all the chimpanzees that are currently maintained by NIH will be appropriate for future research.

Several researchers have provided congressional testimony about their interest in transferring chimpanzees no longer needed for research to the sanctuary system contemplated by the CHIMP Act. For example, Yerkes Regional Primate Research Center in Atlanta reported that it has 75 chimpanzees ready to be transferred to sanctuaries immediately, and the U.S. Air Force retired 144 chimpanzees 2 years ago. The committee estimates that between 200 and 800 chimpanzees could be transferred to the sanctuary system envisioned by this legislation over the next several years.

II. SUMMARY AND PURPOSE

The CHIMP Act will establish a sanctuary system for chimpanzees no longer needed for research. Current chimpanzee owners will transfer title of the animals to the sanctuary system. Chimpanzees will only enter the sanctuary system when their owners determine the chimpanzee to no longer be appropriate for research (for example, due to advanced age or infections).

The CHIMP Act provides a cost-effective solution to the long term care needs of these chimpanzees. Sanctuary care for animals requires less intensive management than animals in research facilities, and therefore entails lower daily costs. Sanctuaries also afford chimpanzees social interaction with one another and provide a richer environment than laboratory settings.

The CHIMP Act is designed to provide a cost-effective and humane solution to the problem of surplus chimpanzees in research. The National Research Council report estimates that NIH currently spends between \$20–\$30 per day per chimpanzee on care. Sanctuary care is estimated to cost between \$8–\$15 per day per chimpanzee, at a considerable savings to taxpayers. Sanctuary facilities are also two to three times less expensive to build than laboratory facilities where surplus chimpanzees are currently warehoused. For example, Primarily Primates, a nonprofit sanctuary that houses retired Air Force chimpanzees, recently constructed housing for 30 chimpanzees at a cost of \$750,000, or \$25,000 per animal. In contrast, the New Iberia Research Center at the University of Louisiana is building new laboratory facilities to house 36 chimpanzees at a cost of \$1.8 million plus \$18,000 per cage, for a total of \$2.448 million, or \$68,000 per animal.

The report states that the “committee enthusiastically supports the principal of retiring chimpanzees not needed for research or breeding to a low-cost, high-quality life.” The committee further points out that “[i]nnovative sanctuary concepts and developmental plans are encouraged. These should include less intensive management, low costs, and high quality of life for animals no longer needed for research or breeding.”

Finally, this legislation establishes a public/private partnership, in which non-Federal dollars will help cover the facility and operating costs associated with caring for the chimpanzees. The committee urges prompt passage of the CHIMP Act.

III. LEGISLATIVE HISTORY AND COMMITTEE ACTION

On June 13, 2000, Senators Smith (of New Hampshire), Durbin, Kerrey, Lautenberg, and Jeffords introduced S. 2725, the Chimpanzee Health Improvement, Maintenance and Protection Act. On September 20, 2000, the Senate Committee on Health, Education, Labor, and Pensions met in Executive Session to consider Senate bill 2725, the Chimpanzee Health Improvement, Maintenance and Protection Act. The bill was ordered reported favorably by a unanimous voice vote.

IV. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 2000.

Hon. JAMES M. JEFFORDS,
*Chairman, Committee on Health, Education, Labor, and Pensions,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2725, the Chimpanzee Health Improvement, Maintenance, and Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christopher J. Topoleski.
Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

S. 2725—Chimpanzee Health Improvement, Maintenance, and Protection Act

Summary: The Chimpanzee Health Improvement, Maintenance, and Protection Act would require the Secretary of the Department of Health and Human Services (DHHS) to provide lifetime care for “permanently retired” chimpanzees, defined as chimpanzees that are no longer needed in research or captive breeding programs conducted or supported by federal agencies.

The legislation would authorize the construction of a long-term care sanctuary through a contract between DHHS and a private, nonprofit entity. This entity would be required to pay for 10 percent of construction costs and 25 percent of the costs of caring for the chimpanzees. The sanctuary would accept both chimpanzees currently owned or supported by the federal government, and non-federal chimpanzees if facilities permit. In the latter case, the Secretary may determine and impose an entrance fee for acceptance of the animal.

Assuming the appropriation of the necessary amounts, CBO estimates that implementing S. 2725 would cost \$11 million in 2001 and \$2 million over the 2001–2005 period. The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 2725 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2725 is shown in the following table. The costs of this legislation fall primarily within budget function 550 (health).

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Estimated Authorization Level ¹	7	7	7	7	7	7
Estimated Outlays	7	7	7	7	7	7
Proposed Changes:						
New Sanctuary Spending:						
Estimated Authorization Level	0	16	0	0	0	0
Estimated Outlays	0	11	5	0	0	0
Care and Maintenance:						
Estimated Authorization Level	0	0	2	3	3	3
Estimated Outlays	0	0	2	3	3	3
Elimination of Current Spending:						
Estimated Authorization Level	0	0	-4	-7	-7	-7
Estimated Outlays	0	0	-4	-7	-7	-7
Net Changes:						
Estimated Authorization Level	0	16	-2	-4	-4	-3
Estimated Outlays	0	11	2	-4	-4	-3
Spending Under S. 2725:						
Estimated Authorization Level	7	23	5	3	3	3
Estimated Outlays	7	19	9	3	3	3

¹The 2000 level is the amount appropriated for that year for the agencies that would be affected by S. 2725. The 2001–2005 levels are CBO baseline projections.

Note.—Numbers may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted early in fiscal year 2001, and that outlays will follow historical spending rates for the relevant agencies for the authorized activities. CBO based its estimates on amounts spent in the past for the caring of chimpanzees in government facilities and on discussions with individuals familiar with the care of primates in a sanctuary setting. The costs of sanctuary construction and the care and maintenance of surplus chimpanzees would be primarily funded by the federal government, with a provision in the legislation requiring a match by the private nonprofit entity awarded the contract to care for the animals. The contract holder would be responsible for 10 percent of the cost of facility construction and 25 percent of the cost of routine care and maintenance of the chimpanzees.

The legislation also would allow the Secretary of DHHS to withhold appropriated funds in a reserve account not to exceed a total reserve of \$30 million. However, it is unclear as to what activities this cap would apply.

Currently, the federal government pays for the care of almost 1,500 chimpanzees either purchased or bred for research. Of this amount, CBO estimates that over 750 animals would be potential candidates for long-term sanctuary care. This figure assumes retirement of all animals that were used in research and now pose a threat to public health, and almost one-half of those no longer needed for breeding purposes or available for research, but not currently in use. The remaining chimpanzees would not be eligible because of their use in current research projects, need in breeding programs, or need in maintaining an adequate population of research subjects should a public health crisis emerge. In addition,

CBO estimates that new chimpanzees would be added to the sanctuary each year as they were no longer needed for research or breeding.

CBO estimates that the cost of caring for a chimpanzee in an external sanctuary would be less expensive on a per capita basis than if the government continued to house the animals in federally owned and operated facilities. Therefore, the government would realize savings in the care and maintenance of the chimpanzees after 2002. However, facility construction between 2001 and 2002 would be in addition to what is currently spent as the animals are expected to remain in federal facilities during this time. On balance, these factors imply an increase in discretionary spending until construction is completed—probably in 2002—and a net decrease in spending after 2002. This estimate does not include the collection of any fees, to be determined by the Secretary, that may be imposed on the acceptance of chimpanzees into the sanctuary system that are not federally owned.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 2725 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Christopher J. Topoleski. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: Bruce Vavrichek.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. REGULATORY IMPACT STATEMENT

The committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VI. APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 103–1, the Congressional Accountability Act, requires a description of this bill to the legislative branch. Senate bill 2725 would amend Title IV of the Public Health Service Act, as amended, which provides extramural grants through the National Institutes of Health to universities and biomedical research organizations to improve the health of all Americans. This requirement would not apply to the legislative branch.

VII. SECTION-BY-SECTION ANALYSIS

Section 2(a). Establishment of Federal sanctuary system

Establishes a national sanctuary system for federally owned or supported chimpanzees that have been used, or were bred for use, in research conducted or supported by the Public Health Service or other Federal agencies and for which it has been determined that the chimpanzees are no longer needed for research.

Section 2(b). Administration of sanctuary system

Directs the Secretary of Health and Human Services to implement the act in consultation with the nonprofit entity established under section 2(e).

Section 2(c). Acceptance of chimpanzees into sanctuary system

Any surplus chimpanzee that is owned by the Federal Government or that has been involved in federally supported research will be accepted into the sanctuary system subject to the capacity of the system. Chimpanzees not owned by the Federal Government can be accepted also, subject to the standards established under section 2(d) and space availability.

Section 2(d). Sanctuary system standards

Within 180 days of enactment, the Secretary of Health and Human Services will establish standards for operating the sanctuary system based on recommendations from the nonprofit entity established under section 2(e) and the National Research Council's 1997 report, "Chimpanzees in Research: Strategies for their Ethical Care, Management, and Use." The CHIMP Act prohibits the use of chimpanzees in the sanctuary system in research except for noninvasive behavioral studies or medical studies conducted during the course of normal veterinary care. The standards shall include provisions for proper housing, behavioral enrichment, and care in accordance with the Animal Welfare Act. Chimpanzees in the sanctuary system shall be prevented from breeding, shall have monitoring for their health and potential threats to public health, and shall not be subject to euthanasia except when determined to be in the chimpanzee's own best interest.

This section also provides for acceptance into the sanctuary system of chimpanzees not owned by the Federal Government if the physical capacity of the system allows for such additions, and authorizes collection of fees for acceptance of such chimps.

Section 2(e). Operation of the sanctuary system

The Secretary will establish a nonprofit entity responsible for operating the sanctuary system. The Secretary will appoint a board of directors to the nonprofit entity with balanced representation of experts in the fields of captive chimpanzee science (including primate veterinary care), animal protection, zoology, business management, laboratory animal medicine accreditation, and biohazards containment to manage and oversee the sanctuary system. The nonprofit entity is authorized to award subcontracts or grants to individual qualified sanctuary facilities that meet the national system's standards.

S. 2725 requires the nonprofit entity established in section 2(e) to provide non-Federal contributions toward the costs of establishing and operating the sanctuary system. Specifically, the nonprofit entity will contribute 10 percent of the costs of establishing the sanctuary system (i.e., startup construction costs) and 25 percent of the operating costs associated with the sanctuary system (i.e., daily maintenance costs). S. 2725 also directs the Secretary to establish on a timely basis the nonprofit entity responsible for operating the sanctuary system.

Section 2(g). Funding

S. 2725 authorizes up to \$30 million to be made available for the establishment and operation of the sanctuary system so long as the amount appropriated for the Public Health Service equals or exceeds the amount appropriated in fiscal year 1999. The bill allows

appropriators flexibility to provide the entire \$30 million in 1 year or over the course of several years.

Section 3. Report to Congress

The bill requires the Secretary to submit to Congress a report providing the number of chimpanzees owned or supported by the Federal Government with an accounting of user fees and endowments associated with these chimpanzees.

VIII. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * *

TITLE IV—NATIONAL RESEARCH INSTITUTES

PART A—NATIONAL INSTITUTES OF HEALTH

ORGANIZATION OF THE NATIONAL INSTITUTES OF HEALTH

SEC. 401. (a) * * *

* * * * *

PART E—OTHER AGENCIES OF NIH

Subpart 1—National Center for Research Resources

GENERAL PURPOSE

SEC. 480. (a)(1) * * *

* * * * *

SEC. 481C. SANCTUARY SYSTEM FOR SURPLUS CHIMPANZEES.

(a) *IN GENERAL.*—The Secretary shall provide for the establishment and operation in accordance with this section of a system to provide for the lifetime care of chimpanzees that have been used, or were bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government, and with respect to which it has been determined by the Secretary that the chimpanzees are not needed for such research (in this section referred to as “surplus chimpanzees”).

(b) *ADMINISTRATION OF SANCTUARY SYSTEM.*—The Secretary shall carry out this section, including the establishment of regulations under subsection (d), in consultation with the board of directors of the nonprofit private entity that receives the contract under subsection (e) (relating to the operation of the sanctuary system).

(c) *ACCEPTANCE OF CHIMPANZEES INTO SYSTEM.*—All surplus chimpanzees owned by the Federal Government shall be accepted into the sanctuary system. Subject to standards under subsection

(d)(3), any chimpanzee that is not owned by the Federal Government shall be accepted into the system if the owner transfers to the sanctuary system title to the chimpanzee.

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

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section, the Secretary shall by regulation establish standards for operating the sanctuary system to provide for the permanent retirement of surplus chimpanzees. In establishing the standards, the Secretary shall consider the recommendations of the board of directors of the nonprofit private entity that receives the contract under subsection (e) and the National Research Council applicable to surplus chimpanzees that are made in the report published in 1997 and entitled “Chimpanzees in Research—Strategies for Their Ethical Care, Management, and Use”.

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

(A) A prohibition that the chimpanzees may not be used for research. This subparagraph does not prohibit noninvasive behavioral studies of the chimpanzees, or medical studies conducted during the course of normal veterinary care that is provided for the benefit of the chimpanzees.

(B) Provisions regarding the housing of the chimpanzees.

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

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

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

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

(G) A requirement that the chimpanzees be monitored for the purpose of promptly detecting the presence in the chimpanzees of any condition that may be a threat to the public health or the health of other chimpanzees.

(H) A requirement that chimpanzees posing such a threat be contained in accordance with applicable recommendations of the Director of the Centers for Disease Control and Prevention.

(I) A prohibition that none of the chimpanzees may be subjected to euthanasia, except as in the best interests of the chimpanzee involved, as determined by the system and an attending veterinarian.

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

(K) A provision that the Secretary may, in the discretion of the Secretary, accept into the system chimpanzees that are not surplus chimpanzees.

(L) Such additional standards as the Secretary determines to be appropriate.

(3) **NON-FEDERAL CHIMPANZEES OFFERED FOR ACCEPTANCE INTO SYSTEM.**—With respect to a chimpanzee that is not owned

by the Federal Government and is offered for acceptance into the sanctuary system, standards under paragraph (1) shall include the following:

(A) A provision that the Secretary may authorize the imposition of a fee for accepting such chimpanzee into the system, except as follows:

(i) Such a fee may not be imposed for accepting the chimpanzee if, on the day before the date of enactment of this section, the chimpanzee was owned by the nonprofit private entity that receives the contract under subsection (e) or by any individual qualified sanctuary facility receiving a subcontract or grant under subsection (e)(1).

(ii) Such a fee may not be imposed for accepting the chimpanzee if the chimpanzee is owned by an entity that operates a primate center, and if the chimpanzee is housed in the primate center pursuant to the program for regional centers for research on primates that is carried out by the National Center for Research Resources.

Any fees collected under this subparagraph are available to the Secretary for the costs of operating the system. Any other fees received by the Secretary for the long-term care of chimpanzees (including any Federal fees that are collected for such purpose and are identified in the report under section 3) are available for operating the system, in addition to availability for such other purposes as may be authorized for the use of the fees.

(B) A provision that the Secretary may deny such chimpanzee acceptance into the system if the capacity of the system is not sufficient to accept the chimpanzee, taking into account the physical capacity of the system; the financial resources of the system; the number of individuals serving as the staff of the system, including the number of professional staff; the necessity of providing for the safety of the staff and of the public; the necessity of caring for accepted chimpanzees in accordance with the standards under paragraph (1); and such other factors as may be appropriate.

(C) A provision that the Secretary may deny such chimpanzee acceptance into the system if a complete history of the health and use in research of the chimpanzee is not available to the Secretary.

(D) Such additional standards as the Secretary determines to be appropriate.

(e) AWARD OF CONTRACT FOR OPERATION OF SYSTEM.—

(1) *IN GENERAL.*—Subject to the availability of funds pursuant to subsection (g), the Secretary shall make an award of a contract to a nonprofit private entity under which the entity has the responsibility of operating (and establishing, as applicable) the sanctuary system and awarding subcontracts or grants to individual qualified sanctuary facilities that meet the standards under subsection (d).

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

(A) *The entity has a governing board of directors that is composed and appointed in accordance with paragraph (3) and is satisfactory to the Secretary.*

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

(C) *The members of the board serve without compensation. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the board.*

(D) *The entity has an executive director meeting such requirements as the Secretary determines to be appropriate.*

(E) *The entity makes the agreement described in paragraph (4) (relating to non-Federal contributions).*

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

(G) *The entity agrees to make necropsy reports on chimpanzees in the sanctuary system available on a reasonable basis to persons who conduct biomedical or behavioral research, with priority given to such persons who are Federal employees or who receive financial support from the Federal Government for research.*

(H) *Such other requirements as the Secretary determines to be appropriate.*

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

(A) *The governing board of directors of the nonprofit private entity involved is composed and appointed in accordance with this paragraph if the following conditions are met:*

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

(ii) *Such members include individuals with expertise and experience in the science of managing captive chimpanzees (including primate veterinary care), appointed from among individuals endorsed by organizations that represent individuals in such field.*

(iii) *Such members include individuals with expertise and experience in the field of animal protection, appointed from among individuals endorsed by organizations that represent individuals in such field.*

(iv) *Such members include individuals with expertise and experience in the zoological field (including behavioral primatology), appointed from among individuals endorsed by organizations that represent individuals in such field.*

(v) *Such members include individuals with expertise and experience in the field of the business and management of nonprofit organizations, appointed from among individuals endorsed by organizations that represent individuals in such field.*

(vi) *Such members include representatives from entities that provide accreditation in the field of laboratory animal medicine.*

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

(viii) *Such members include an additional member who serves as the chair of the board, appointed from among individuals who have been endorsed for purposes of clause (ii), (iii), (iv), or (v).*

(ix) *None of the members of the board has been fined for, or signed a consent decree for, any violation of the Animal Welfare Act.*

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

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

(ii) *The initial members of the board select, by a random method, 1 member from each of the 6 fields specified in subparagraph (A) to serve a term of 2 years and (in addition to the chair) 1 member from each of such fields to serve a term of 3 years.*

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

(iv) *An individual whose term of service expires may be reappointed to the board.*

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

(vi) *If a member of the board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy is appointed for the remainder of the term of the predecessor member.*

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

(A) *For expenses associated with establishing the sanctuary system (as determined by the Secretary), 10 percent of such costs (\$1 for each \$9 of Federal funds provided under the contract under paragraph (1)).*

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

(5) **ESTABLISHMENT OF CONTRACT ENTITY.**—*If the Secretary determines that an entity meeting the requirements of paragraph (2) does not exist, not later than 60 days after the date of enactment of the Chimpanzee Health Improvement, Maintenance and Protection Act, the Secretary shall, for purposes of paragraph (1), make a grant for the establishment of such an*

entity, including paying the cost of incorporating the entity under the law of one of the States.

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

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

(2) **SANCTUARY SYSTEM.**—The term “sanctuary system” means the system described in subsection (a).

(3) **SURPLUS CHIMPANZEES.**—The term “surplus chimpanzees” has the meaning given that term in subsection (a).

(g) **FUNDING.**—

(1) **IN GENERAL.**—Of the amount appropriated under this Act for fiscal year 2001 and each subsequent fiscal year, the Secretary, subject to paragraph (2), shall reserve a portion for purposes of the operation (and establishment, as applicable) of the sanctuary system and for purposes of paragraph (3), except that the Secretary may not for such purposes reserve any further funds from such amount after the aggregate total of the funds so reserved for such fiscal years reaches \$30,000,000. The purposes for which funds reserved under the preceding sentence may be expended include the construction and renovation of facilities for the sanctuary system.

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

(3) **USE OF FUNDS FOR OTHER COMPLIANT FACILITIES.**—With respect to amounts reserved under paragraph (1) for a fiscal year, the Secretary may, subject to the approval of an entity that meets the requirements of subsection (e)(2), use a portion of such amounts to make awards of grants or contracts to public or private entities operating facilities that provide for the retirement of chimpanzees in accordance with the same standards that apply to the sanctuary system pursuant to regulations under subsection (d)(2). Such an award may be expended for the expenses of operating the facilities involved.