

We are lagging behind in action, but the desire to end invasive research on Great Apes has been present for more than a decade. In 1997, the National Research Council concluded that there should be a moratorium on further chimpanzee breeding. And the National Institutes of Health (NIH) has already announced an end to funding for the breeding of federally-owned chimpanzees for research, but this should be codified.

Government needs to take action to make invasive research on chimpanzees illegal.

That is why today I am introducing the bipartisan Great Ape Protection and Cost Savings Act, along with my colleagues Senators SUSAN COLLINS, BERNIE SANDERS and JOE LIEBERMAN.

The Great Ape Protection and Cost Savings Act is a commonsense policy reform to protect our closest living relatives in the animal kingdom from physical and psychological harm, and help reduce government spending and our federal deficit.

Specifically, this bill will phase out the use of chimpanzees in invasive research over a three-year period, require permanent retirement to suitable sanctuaries for the 500 federally-owned chimpanzees currently being warehoused in research laboratories, and codifies the current administrative moratorium on government-funded breeding of chimpanzees.

We have been delaying this action for too long. It is time to get this done and end this type of harmful research and end this wasteful government spending.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 144—SUPPORTING EARLY DETECTION FOR BREAST CANCER

Mrs. HUTCHISON submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 144

Whereas the 5-year relative survival rate for breast cancer has increased from 74 percent in 1979 to 90 percent in 2011;

Whereas when breast cancer is detected early and confined to the breast, the 5-year relative survival rate is 98 percent;

Whereas the National Breast and Cervical Cancer Early Detection Program (referred to in this preamble as the "NBCCEDP") was established by the Breast and Cervical Cancer Mortality Prevention Act of 1990 (42 U.S.C. 300k et seq.) to provide early detection services for low-income women who are uninsured or underinsured and do not qualify for Medicaid;

Whereas the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106-354; 114 Stat. 1381) allows for breast cancer treatment assistance to be provided through Medicaid to eligible women who were screened through the NBCCEDP;

Whereas NBCCEDP and the provisions of the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106-354; 114 Stat. 1381) have effectively reduced mortality among low-income uninsured and

medically underserved women with breast cancer;

Whereas early detection of breast cancer increases survival rates for the disease, as evidenced by a 5-year relative survival rate of 98 percent for breast cancers that are discovered before the cancer spreads beyond the breast, compared to 23 percent for stage IV breast cancers;

Whereas the cost of treating stage IV breast cancers is more than 5 times more expensive than the cost of treating stage I breast cancers;

Whereas as of the date of agreement to this resolution, the economy has placed a strain on State budgets while increasing the demand for safety-net services;

Whereas significant disparities in breast cancer outcomes persist across racial and ethnic groups;

Whereas breast cancer is the most frequently diagnosed cancer and is the leading cause of cancer death among women worldwide;

Whereas in 2011, more than 200,000 women and men will be diagnosed with breast cancer and more than 40,000 will die of breast cancer in the United States;

Whereas every woman should have access to life-saving screening and treatment that is not dependent on where she lives;

Whereas investments in cancer research have improved the understanding of the different types of breast cancer and led to more effective, personalized treatments; and

Whereas organizations such as Susan G. Komen for the Cure® empower women with knowledge and awareness, ensure access to quality care, and energize science to discover and deliver cures for breast cancer: Now, therefore, be it

Resolved, That the Senate—

(1) remains committed to ensuring access to life-saving breast cancer screening, diagnostic, and treatment services, particularly for medically underserved women;

(2) supports increasing awareness and improving education about breast cancer, the importance of early detection, and the availability of screening services for women in need; and

(3) remains committed to discovering and delivering cures for breast cancer and encouraging the development of screening tools that are more accurate and less costly.

AMENDMENTS SUBMITTED AND PROPOSED

SA 294. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 294. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —REGULATORY FLEXIBILITY IMPROVEMENT

SEC. .01. SHORT TITLE.

This title may be cited as the "Regulatory Flexibility Improvement Act of 2011".

SEC. .02. DEFINITIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) the term ‘rule’—

“(A) has the meaning given that term in section 551(4);

“(B) includes any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment; and

“(C) does not include—

“(i) a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances; or

“(ii) an interpretative rule involving the internal revenue laws of the United States, published in the Federal Register, that does not impose a collection of information requirement;”;

(2) in paragraph (5), by inserting after “special districts,” the following: “or tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)),”;

(3) in paragraph (6), by striking “and” at the end; and

(4) by striking paragraphs (7) and (8) and inserting the following:

“(7) the term ‘collection of information’ has the meaning given that term in section 3502(3) of title 44;

“(8) the term ‘recordkeeping requirement’ has the meaning given that term in section 3502(13) of title 44;

“(9) the term ‘interim final rule’ means a rule which will become effective without prior notice and comment, including a rule for which the agency makes a finding under section 553(b)(3)(B) of this title; and

“(10) the term ‘impact’, when used to describe the effect of a rule, means—

“(A) the economic effects on small entities directly regulated by the rule; and

“(B) the reasonably foreseeable economic effects of the rule on small entities that—

“(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

“(ii) are directly regulated by other governmental entities as a result of the rule; or

“(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.”.

SEC. .03. REGULATORY AGENDA.

Section 602(a) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking “, and” and inserting a semicolon;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) the list of rules required to be published under section 610(c).”.

SEC. .04. INITIAL REGULATORY FLEXIBILITY ANALYSIS.

Section 603 of title 5, United States Code, as amended by section 1100G of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203; 124 Stat. 2112), is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking “or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States” and inserting “publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, or publishes an interim final rule”; and

(B) by striking “The initial regulatory” and all that follows through the period at the end;

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following:

“(b)(1) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration electronically of any draft rule (including a proposed rule, an interpretive rule involving the internal revenue laws of the United States, and an interim final rule) that may have a significant economic impact on a substantial number of small entities—

“(A) on the date on which the agency submits the draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

“(B) if no submission to the Office of Information and Regulatory Affairs is required, at a reasonable time before publication of the draft rule by the agency.

“(2) Each notice under paragraph (1) shall include the draft rule and a draft of the initial regulatory flexibility analysis.”;

(4) in subsection (c), as so redesignated—

(A) by striking “proposed” each place that term appears;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(6) a description of the economic impact of the rule on small entities; and

“(7) a description of the cumulative economic impact on small entities of the rules—

“(A) promulgated by the agency during the 10-year period ending on the date of the initial regulatory flexibility analysis; and

“(B) proposed, but not promulgated, by the agency before the date of the initial regulatory flexibility analysis.”;

(5) in subsection (d), as so redesignated—

(A) by striking “proposed” each place that term appears;

(B) in paragraph (3), by striking “and” at the end;

(C) in paragraph (4), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(6) the establishment of less stringent requirements for all entities covered by the rule, including small entities.”;

(6) in subsection (e), as so redesignated—

(A) by striking “proposed” each place that term appears;

(B) in paragraph (1)(C), by striking “subsection (b)” and inserting “subsection (c)”; and

(C) in paragraph (2)(B), by striking “subsection (b)” and inserting “subsection (c)”; and

(7) by adding at the end the following:

“(f) Except as provided in section 608, not later than the date of publication of a notice of proposed rulemaking or an interim final rule, an agency shall—

“(1) make the initial regulatory flexibility analysis required under subsection (a) available electronically to the public; and

“(2) publish the initial regulatory flexibility analysis, or a summary of the initial regulatory flexibility analysis, in the Federal Register.”.

SEC. 05. FINAL REGULATORY FLEXIBILITY ANALYSIS.

Section 604 of title 5, United States Code, is amended—

(1) by striking “proposed” each place that term appears;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “as described in section 603(a)”; and

(B) by redesignating the second paragraph designated as paragraph (6) (relating to cov-

ered agencies), as added by section 1100G(c)(3) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203; 124 Stat. 2113), as paragraph (8);

(C) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111-240; 124 Stat. 2251), by striking “and” at the end;

(D) by inserting after paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111-240; 124 Stat. 2251), the following:

“(7) a description of the cumulative impact on small entities of the rules—

“(A) promulgated by the agency during the 10-year period ending on the date of the final regulatory flexibility analysis; and

“(B) proposed, but not promulgated, by the agency before the date of the final regulatory flexibility analysis; and”;

(3) in subsection (b)—

(A) by striking “The agency shall make copies of” and inserting “Not later than the date of publication of a final rule, the agency shall make”; and

(B) by striking “available to members of the public” and inserting “for the final rule available electronically to the public”; and

(4) by adding at the end the following:

“(c)(1) If an agency publishes an interim final rule, the agency shall prepare a final regulatory flexibility analysis that contains the information required to be included in a final regulatory flexibility analysis under subsection (a).

“(2) The agency shall prepare and make available to members of the public the final regulatory flexibility analysis not later than the earlier of—

“(A) 180 days after the end of the period for comment on the initial regulatory flexibility analysis prepared under section 603 of this title; and

“(B) the date of publication of a final rule following the interim final rule.

“(d) An agency may not fulfill the requirements of this section until the agency has complied with the requirements of section 603.”.

SEC. 06. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSIS.

Section 605(b) of title 5, United States Code is amended—

(1) in the first sentence, by inserting “, interim final,” before “or final”; and

(2) in the second sentence by inserting “interim final or” before “final rule”; and

(3) in the third sentence, by inserting before the period at the end the following: “electronically, at a reasonable time before the publication of the notice, interim final rule, or final rule”.

SEC. 07. PROCEDURE FOR DELAY OF COMPLETION.

Section 608 of title 5, United States Code, is amended—

(1) in the section heading, by striking “WAIVER OR”;

(2) by striking subsection (a) and inserting the following:

“(a) An agency head may delay the completion of some or all of the requirements of section 603 for a period of not more than 180 days after the date of publication in the Federal Register of a notice of proposed rulemaking or interim final rule by publishing in the Federal Register, not later than the date of publication of the notice of proposed rulemaking or interim final rule, a written finding, with reasons therefor, that the notice of proposed rulemaking, interim final rule, or final rule is being promulgated in response

to an emergency that makes timely compliance with section 603 impracticable.”;

(3) in subsection (b)—

(A) by striking the first sentence; and

(B) by striking “If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule” and inserting the following: “(c) If the agency has not prepared an initial regulatory flexibility analysis under section 603 or a final regulatory flexibility analysis under section 604 before the date that is 180 days after the date of publication of the interim final rule”; and

(4) by adding at the end the following:

“(d) Except as provided in subsections (b) and (c) of section 605, an agency head may not waive the requirements of section 603 or 604.”.

SEC. 08. PROCEDURES FOR GATHERING COMMENTS.

Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(B) by inserting after paragraph (3) the following:

“(4) not later than 60 days before the date on which a covered agency convenes a review panel under paragraph (3), the covered agency shall submit written notification and a statement to the Chief Counsel for Advocacy of the Small Business Administration and the Office of Information and Regulatory Affairs within the Office of Management and Budget that includes—

“(A) the earliest date the review panel may convene;

“(B) the most recent draft regulatory text (if available) and economic analysis;

“(C) a description of the most significant regulatory components of the rule, with significant regulatory alternatives, accompanied by a discussion of the costs, cost-effectiveness, benefits, advantages, and disadvantages of the alternatives;

“(D) a description of the number and type of small entities affected, related State and Federal regulatory requirements, and the technical and legal bases for the rule;

“(E) a full description of the methodology that underlies the analysis in subparagraphs (B), (C), and (D), including any key assumptions; and

“(F) any other materials necessary for the individuals identified under paragraph (2) and the members of the review panel to make informed recommendations to the review panel and the covered agency.”;

(C) in paragraph (5), as so redesignated, by striking “subsections 603(b), paragraphs (3), (4) and (5) and 603(c)” and inserting “paragraphs (3) through (7) of subsection (c) and subsection (d) of section 603”; and

(D) in paragraph (6), as so redesignated, by striking “subsections 603(b), paragraphs (3), (4) and (5) and 603(c)” and inserting “paragraphs (3) through (7) of subsection (c) and subsection (d) of section 603”; and

(2) in subsection (e), by striking “subsections (b)(3), (b)(4), and (b)(5)” and inserting “paragraphs (3), (4), (5), (6) of subsection (b)”.

SEC. 09. PERIODIC REVIEW OF RULES.

Section 610 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “(1)” before “Within”; and

(B) by adding at the end the following:

“(2) Each agency shall allow an interested person to petition the agency for the review of a rule of the agency then in effect, if—

“(A) the head of the agency made a certification under section 605(b) with respect to the rule;

“(B) evidence that is not in the rulemaking record exists showing that the rule has a significant economic impact on a substantial number of small entities; and

“(C) there are reasonable alternatives to the requirements under the rule that would reduce the economic impact on small entities.”; and

(2) by striking subsection (c) and inserting the following:

“(c)(1) Each agency shall publish in the regulatory flexibility agenda required under section 602 a list of the rules of the agency that have a significant economic impact on a substantial number of small entities, that the agency will review under this section during the 6-month period following the date of publication of the regulatory flexibility agenda.

“(2) The list required under paragraph (1) shall include—

“(A) for a rule that is the subject of a petition under subsection (a)(2) that the agency receives not later than 60 days before the date of publication of the list—

“(i) a statement that the agency will review the rule under this section; or

“(ii) a detailed explanation of how the petition failed to meet the requirements under subsection (a)(2), if the agency determines it will not review the rule under this section;

“(B) for each rule, a brief description of the rule, the need for the rule, and the legal basis of the rule; and

“(C) an invitation for public comment on the rules to be reviewed.

“(d) Upon review of any rule under this section, an agency shall publish notice of and accept comment on an initial regulatory review with respect to the rule that contains—

“(1) an evaluation of the factors described in subsection (b);

“(2) a statement of the objectives of and legal basis for the rule;

“(3) a description of, and, if feasible, an estimate of the number of, small entities to which the rule applies;

“(4) a description of the reporting, record-keeping, and other compliance requirements of the rule, including the classes of small entities that are subject to the requirements and the type of professional skills necessary for preparation of any report or record required under the rule;

“(5) a description of any significant alternatives to the rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the rule on small entities, including, as applicable—

“(A) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to the small entities;

“(B) the clarification, consolidation, or simplification of compliance and reporting requirement under the rule for the small entities;

“(C) the use of performance standards rather than design standards;

“(D) an exemption from application of the rule, or any part thereof, for the small entities; and

“(E) any significant alternative proposed by a person that submits a petition for review under subsection (a)(2) of this section.

“(e)(1) Except as provided in paragraph (2), not later than 180 days after the end of the comment period specified by an agency under subsection (d), the agency shall publish in the Federal Register and make available to the public a final regulatory review that contains—

“(A) a statement of the need for, and objectives of, the rule;

“(B) a description of any significant issues raised by public comment in response to the

initial regulatory review, and a statement of the assessment of the agency of the issues;

“(C) the response of the agency to any comment filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the initial regulatory review;

“(D) a description, and an estimate of the number, of small entities to which the rule applies, or an explanation of why no such estimate is available;

“(E) a description of the reporting, record-keeping, and other compliance requirements of the rule, including the classes of small entities that are subject to the requirement and the type of professional skills necessary for preparation of any report or record required under the rule; and

“(F) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for not selecting any significant alternative to the rule considered by the agency that would affect the impact on small entities.

“(2) An agency is not required to publish a final regulatory review under paragraph (1) if, not later than 180 days after the end of the comment period specified by the agency under subsection (d), the agency initiates a rulemaking for the purpose of proposing the adoption of a significant alternative to the rule under review.”.

SEC. 10. JUDICIAL REVIEW.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking “608(b)” and inserting “608”;

(2) in paragraph (2), by striking “608(b)” and inserting “608”;

(3) in paragraph (3)(B), by inserting after “the issuance of” the following: “an initial regulatory flexibility analysis on an interim final rule pursuant to section 608(a) or”.

SEC. 11. SMALL ENTITY COMPLIANCE GUIDES.

(a) SMALL ENTITY COMPLIANCE GUIDES.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

“§ 613. Small entity compliance guides

“(a)(1) For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications ‘small entity compliance guides’ (referred to in this section as a ‘guide’).

“(2) The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known contacts representing regulated small entities, including trade associations and business organizations.

“(3) An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4)(A) Each guide shall explain the actions a small entity is required to take to comply with a rule.

“(B) The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible

procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

“(C) Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

“(5) An agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with trade associations and business representatives of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

“(6) The head of each agency shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency’s compliance with paragraphs (1) through (5).

“(b) Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

“(c) An agency’s small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note), the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking section 212.

(c) SAVINGS CLAUSE.—On and after the date of enactment of this Act, an agency may use a small entity compliance guide published under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) before the date of enactment of this Act.

SEC. 12. TECHNICAL AND CONFORMING AMENDMENTS.

The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 608 and inserting the following:

“608. Procedure for delay of completion.”; and

(2) by adding at the end the following:

“613. Small entity compliance guides.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on April 13, 2011.