

Calendar No. 557

112TH CONGRESS
2^D SESSION

S. 810

[Report No. 112-242]

To prohibit the conducting of invasive research on great apes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 2011

Ms. CANTWELL (for herself, Ms. COLLINS, Mr. SANDERS, Mr. LIEBERMAN, Mr. BROWN of Ohio, Mr. AKAKA, Mrs. GILLIBRAND, Mr. KERRY, Mr. BLUMENTHAL, Mr. BEGICH, Mr. MERKLEY, Mr. LEAHY, Mr. UDALL of New Mexico, Mr. INOUE, Mr. MENENDEZ, Ms. MIKULSKI, Mr. REED, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

NOVEMBER 30, 2012

Reported by Mrs. BOXER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To prohibit the conducting of invasive research on great apes, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Great Ape Protection
3 and Cost Savings Act of 2011”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds that—

6 (1) chimpanzees are the only great apes cur-
7 rently used in invasive research in the United
8 States;

9 (2)(A) as of the date of introduction of this
10 Act, there are approximately 1,000 chimpanzees
11 housed in laboratories in the United States;

12 (B) more than ½ of these chimpanzees are
13 owned by the Federal Government; and

14 (C) the vast majority are financially supported
15 by the Federal Government;

16 (3) great apes are highly intelligent and social
17 animals;

18 (4) research laboratory environments involving
19 invasive research cannot meet the complex physical,
20 social, and psychological needs of great apes;

21 (5) invasive research performed on great apes,
22 and the breeding, housing, maintenance, and trans-
23 port of great apes for these purposes, are economic
24 in nature and substantially affect interstate com-
25 merce;

1 (6) maintaining great apes in laboratories costs
2 the Federal Government more than caring for great
3 apes in suitable sanctuaries that are specifically de-
4 signed to provide adequate lifetime care for great
5 apes; and

6 (7) the National Research Council report enti-
7 tled “Chimpanzees in Research—Strategies for their
8 Ethical Care, Management, and Use” concluded
9 that—

10 (A) there is a “moral responsibility” for
11 the long-term care of chimpanzees used for sci-
12 entific research;

13 (B) there should be a moratorium on fur-
14 ther chimpanzee breeding;

15 (C) euthanasia should not be used as a
16 means to control the size of the great ape popu-
17 lation; and

18 (D) sanctuaries should be created to house
19 chimpanzees in a manner consistent with high
20 standards of lifetime care, social enrichment,
21 and cognitive development.

22 (b) PURPOSES.—The purposes of this Act are to—

23 (1) phase out invasive research on great apes
24 and the use of Federal funding of such research,
25 both within and outside of the United States;

1 (2) prohibit the transport of great apes for pur-
2 poses of invasive research;

3 (3) prohibit the breeding of great apes for pur-
4 poses of invasive research; and

5 (4) require the provision of lifetime care of
6 great apes who are owned by or under the control
7 of the Federal Government in a suitable sanctuary
8 through the permanent retirement of the apes.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) **ASSIGNED TO AN ACTIVE PROTOCOL.**—The
12 term “assigned to an active protocol” means that a
13 great ape is supported by, or used pursuant to, pub-
14 lic or private funding that requires invasive research.

15 (2) **GREAT APE.**—The term “great ape” means
16 any individual of the following species:

17 (A) Chimpanzee (*Pan troglodytes*).

18 (B) Bonobo (*Pan paniscus*).

19 (C) Gorilla (*Gorilla gorilla* or *Gorilla*
20 *beringei*).

21 (D) Orangutan (*Pongo pygmaeus* or *Pongo*
22 *abelii*).

23 (E) Gibbon (Family *Hylobatidae*).

24 (3) **INVASIVE RESEARCH.**—

1 (A) IN GENERAL.—The term “invasive re-
2 search” means any research that may cause
3 death, injury, pain, distress, fear, or trauma to
4 a great ape, including—

5 (i) the testing of any drug or inten-
6 tional exposure to a substance that may be
7 detrimental to the health or psychological
8 well-being of a great ape;

9 (ii) research that involves penetrating
10 or cutting the body or removing body
11 parts, restraining, tranquilizing, or anes-
12 thetizing a great ape; or

13 (iii) isolation, social deprivation, or
14 other experimental manipulations that may
15 be detrimental to the health or psycho-
16 logical well-being of a great ape.

17 (B) EXCLUSIONS.—

18 (i) IN GENERAL.—The term “invasive
19 research” does not include—

20 (I) close observation of natural or
21 voluntary behavior of a great ape, if
22 the research does not require an anes-
23 thetic or sedation event to collect data
24 or record observations;

1 (II) the temporary separation of
 2 a great ape from the social group of
 3 the great ape, leaving and returning
 4 by the own volition of the great ape;

5 (III) post-mortem examination of
 6 a great ape that was not killed for the
 7 purpose of examination or research;
 8 and

9 (IV) the administration of a
 10 physical exam by a licensed veteri-
 11 narian or physician conducted for the
 12 well-being of the individual great ape.

13 (ii) PHYSICAL EXAM.—A physical
 14 exam conducted for the well-being of an in-
 15 dividual great ape, as described in clause
 16 (i)(IV), may include the collection of bio-
 17 logical samples to further the well-being of
 18 the individual great ape, the social group
 19 of the great ape, or the great ape species.

20 (4) PERMANENT RETIREMENT.—

21 (A) IN GENERAL.—The term “permanent
 22 retirement” means a situation in which—

23 (i) a great ape is placed in a suitable
 24 sanctuary that will provide for the lifetime
 25 care of the great ape; and

1 (ii) the great ape will no longer be
2 used in invasive research.

3 (B) ~~EXCLUSION.~~—The term “permanent
4 retirement” does not include euthanasia.

5 (5) ~~PERSON.~~—The term “person” means—

6 (A) an individual, corporation, partnership,
7 trust, association, or any other private or not-
8 for-profit entity;

9 (B) any officer, employee, agent, depart-
10 ment, or instrumentality of the Federal Govern-
11 ment, a State, municipality, or political subdivi-
12 sion of a State; or

13 (C) any other entity subject to the jurisdic-
14 tion of the United States.

15 (6) ~~SUITABLE SANCTUARY.~~—The term “suit-
16 able sanctuary” means—

17 (A) a sanctuary that meets or exceeds the
18 standards of care for chimpanzees held in the
19 federally supported sanctuary system, as de-
20 fined in part 9 of title 42, Code of Federal Reg-
21 ulations; or

22 (B) a wildlife sanctuary that is a nonprofit
23 organization that—

24 (i) operates a place of refuge where
25 abused, neglected, unwanted, impounded,

1 abandoned, orphaned, displaced, or retired
 2 animals are provided care for the lifetime
 3 of the animal;

4 (ii) does not conduct invasive research
 5 on animals;

6 (iii) does not conduct any commercial
 7 activity with animals, including, at a min-
 8 imum, sale, trade, auction, lease, or loan of
 9 animals or animal parts, or use of animals
 10 in any manner in a for-profit business or
 11 operation;

12 (iv) does not use animals for enter-
 13 tainment purposes or in a traveling exhibit;

14 (v) does not breed any animals,
 15 whether intentionally or by failing to use
 16 adequate birth control methods; and

17 (vi) does not allow members of the
 18 public the opportunity to come into phys-
 19 ical contact with the animals.

20 **SEC. 4. PROHIBITIONS.**

21 (a) **INVASIVE RESEARCH PROHIBITED.**—No person
 22 shall conduct invasive research on a great ape.

23 (b) **HOUSING FOR INVASIVE RESEARCH PROHIB-**
 24 **ITED.**—No person shall possess, maintain, or house a
 25 great ape for the purpose of conducting invasive research.

1 (c) **FEDERAL FUNDING FOR INVASIVE RESEARCH**
 2 **PROHIBITED.**—No Federal funds may be used to conduct
 3 invasive research on a great ape or to support an entity
 4 conducting or facilitating invasive research on a great ape
 5 either within or outside of the United States.

6 (d) **BREEDING FOR INVASIVE RESEARCH PROHIB-**
 7 **ITED.**—No person shall knowingly breed a great ape for
 8 the purpose of conducting or facilitating invasive research.

9 (e) **TRANSPORT FOR INVASIVE RESEARCH PROHIB-**
 10 **ITED.**—No person shall transport, move, deliver, receive,
 11 lease, rent, donate, purchase, sell, or borrow a great ape
 12 in interstate or foreign commerce for the purpose of con-
 13 ducting or facilitating invasive research on a great ape.

14 (f) **TRANSFER OF OWNERSHIP PROHIBITED.**—No
 15 Federal agency may transfer ownership of a great ape to
 16 a non-Federal entity unless the entity is a suitable sanc-
 17 tuary.

18 (g) **EXEMPTION.**—Nothing in this Act limits or pre-
 19 vents individualized medical care performed on a great ape
 20 by a licensed veterinarian or physician for the well-being
 21 of the great ape, including surgical procedures or chemical
 22 treatments for birth control.

23 **SEC. 5. RETIREMENT.**

24 Notwithstanding any other provision of law, not later
 25 than 3 years after the date of enactment of this Act, the

1 Secretary of Health and Human Services shall effectuate
2 the permanent retirement of all great apes owned by the
3 Federal Government that are being maintained in any fa-
4 cility for the purpose of breeding for, holding for, or con-
5 ducting invasive research.

6 **SEC. 6. CIVIL PENALTIES.**

7 (a) **IN GENERAL.**—In addition to any other penalties
8 that may apply under law, any person who violates any
9 provision of this Act shall be assessed a civil penalty of
10 not more than \$10,000 for each violation.

11 (b) **MULTIPLE VIOLATIONS.**—Each day that a viola-
12 tion of this Act continues shall constitute a separate of-
13 fense.

14 **SEC. 7. GREAT APE SANCTUARY SYSTEM FUND.**

15 (a) **ESTABLISHMENT OF FUND.**—There is estab-
16 lished in the Treasury of the United States a fund to be
17 known as the “Great Ape Sanctuary System Fund” (re-
18 ferred to in this section as the “Fund”); to be adminis-
19 tered by the Secretary of Health and Human Services, to
20 be available without fiscal year limitation and not subject
21 to appropriation, for construction, renovation, and oper-
22 ation of the sanctuary system established pursuant to sec-
23 tion 481C of the Public Health Service Act (42 U.S.C.
24 287a–3a).

25 (b) **TRANSFERS TO FUND.**—

1 (1) ~~IN GENERAL.~~—The Fund shall consist of—

2 (A) such amounts as are appropriated to
3 the Fund under paragraph (2); and

4 (B) such other amounts as are appro-
5 priated to the Fund under this Act.

6 (2) ~~CIVIL PENALTIES.~~—There are appropriated
7 to the Fund, out of funds of the Treasury not other-
8 wise appropriated, amounts equivalent to amounts
9 collected as penalties and received in the Treasury
10 under section 6.

11 (c) ~~PROHIBITION.~~—Amounts in the Fund may not be
12 made available for any purpose other than a purpose de-
13 scribed in subsection (a).

14 (d) ~~ANNUAL REPORTS.~~—

15 (1) ~~IN GENERAL.~~—Not later than 60 days after
16 the end of each fiscal year beginning with fiscal year
17 2012, the Secretary of Health and Human Services
18 shall submit to the appropriate committees of Con-
19 gress a report on the operation of the Fund during
20 the fiscal year.

21 (2) ~~CONTENTS.~~—Each report shall include, for
22 the fiscal year covered by the report, the following:

23 (A) A statement of the amounts deposited
24 into the Fund.

1 (B) A description of the expenditures made
2 from the Fund for the fiscal year, including the
3 purpose of the expenditures.

4 (C) Recommendations for additional au-
5 thorities to fulfill the purpose of the Fund.

6 (D) A statement of the balance remaining
7 in the Fund at the end of the fiscal year.

8 **SEC. 8. EFFECTIVE DATES.**

9 (a) **PROHIBITION ON RESEARCH.**—The prohibition
10 under section (4)(a) shall take effect—

11 (1) on the date that is 3 years after the date
12 of enactment of this Act for great apes assigned to
13 an active protocol on the date of enactment of this
14 Act; or

15 (2) on the date of enactment of this Act for
16 great apes not assigned to an active protocol on that
17 date.

18 (b) **PROHIBITION ON HOUSING AND FUNDING.**—The
19 prohibitions under subsections (b) and (c) of section 4
20 shall take effect on the date that is 3 years after the date
21 of enactment of this Act.

22 (c) **OTHER REQUIREMENTS.**—Any provision of this
23 Act for which a specific effective date is not provided shall
24 take effect on the date of enactment of this Act.

1 **SEC. 9. SEVERABILITY.**

2 In the event that any provision of this Act shall, for
3 any reason, be held to be invalid or unenforceable in any
4 respect, such invalidity or unenforceability shall not affect
5 any other provision of this Act, and this Act shall be con-
6 strued as if the invalid or unenforceable provision had
7 never been included in this Act.

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Great Ape Protection*
10 *and Cost Savings Act of 2012”.*

11 **SEC. 2. FINDINGS AND PURPOSE.**

12 *(a) FINDINGS.—Congress finds that—*

13 *(1) chimpanzees are the only great apes cur-*
14 *rently used in invasive research in the United States;*

15 *(2)(A) as of the date of introduction of this Act,*
16 *there are approximately 1,000 chimpanzees housed in*
17 *laboratories in the United States;*

18 *(B) more than 1/2 of these chimpanzees are*
19 *owned by the Federal Government; and*

20 *(C) the vast majority are financially supported*
21 *by the Federal Government;*

22 *(3) great apes are highly intelligent and social*
23 *animals;*

24 *(4) research laboratory environments involving*
25 *invasive research cannot meet the complex physical,*
26 *social, and psychological needs of great apes;*

1 (5) *invasive research performed on great apes,*
2 *and the breeding, housing, maintenance, and trans-*
3 *port of great apes for these purposes, are economic in*
4 *nature and substantially affect interstate commerce;*

5 (6) *the Federal Government incurs significant*
6 *costs maintaining great apes in laboratories;*

7 (7) *the National Research Council report entitled*
8 *“Chimpanzees in Research—Strategies for their Eth-*
9 *ical Care, Management, and Use” concluded that—*

10 (A) *there is a “moral responsibility” for the*
11 *long-term care of chimpanzees used for scientific*
12 *research;*

13 (B) *eutanasia should not be used as a*
14 *means to control the size of the great ape popu-*
15 *lation;*

16 (C) *sanctuary animals require less intensive*
17 *management than animals in research facilities*
18 *and therefore entail lower costs of daily care;*
19 *and*

20 (D) *sanctuaries offer an opportunity for*
21 *substantially reducing the costs of long-term*
22 *maintenance of chimpanzees without compro-*
23 *mitting high standards of well-being; and*

24 (8) *the Institute of Medicine and National Re-*
25 *search Council report entitled “Chimpanzees in Bio-*

1 *medical and Behavioral Research: Assessing the Ne-*
2 *cessity” concluded that—*

3 *(A) while the chimpanzee has been a valu-*
4 *able animal model in past research, most current*
5 *use of chimpanzees for biomedical research is un-*
6 *necessary;*

7 *(B) chimpanzees are not necessary for re-*
8 *search relating to a Hepatitis C antiviral drug,*
9 *respiratory syncytial virus, future monoclonal*
10 *antibodies therapies, or a therapeutic Hepatitis*
11 *C vaccine;*

12 *(C) the use of a combination of non-chim-*
13 *panzee methods for the development of*
14 *monoclonal antibody therapies may make re-*
15 *search on the chimpanzee largely unnecessary;*
16 *and*

17 *(D) non-chimpanzee models, if further im-*
18 *proved, may reduce or obviate the need for the*
19 *continued use of the chimpanzee for prophylactic*
20 *Hepatitis C vaccine research.*

21 **(b) PURPOSES.**—*The purposes of this Act are—*

22 *(1) to phase out invasive research on great apes*
23 *and the use of Federal funding of that research, both*
24 *within and outside of the United States;*

1 (2) *to prohibit the transport of great apes for*
2 *purposes of invasive research;*

3 (3) *to prohibit the breeding of great apes for pur-*
4 *poses of invasive research; and*

5 (4) *to require the provision of lifetime care for*
6 *great apes that are owned by or under the control of*
7 *the Federal Government in a suitable sanctuary*
8 *through the permanent retirement of the great apes.*

9 **SEC. 3. DEFINITIONS.**

10 *In this Act:*

11 (1) *ASSIGNED TO AN ACTIVE PROTOCOL.—The*
12 *term “assigned to an active protocol” means that a*
13 *great ape is supported by, or used pursuant to, public*
14 *or private funding that requires invasive research.*

15 (2) *DEBILITATING.—The term “debilitating”*
16 *means causing major irreversible morbidity, includ-*
17 *ing blindness, loss of hearing, paralysis, or stroke.*

18 (3) *DISEASE OR DISORDER.—*

19 (A) *IN GENERAL.—The term “disease or*
20 *disorder” means a life-threatening or debili-*
21 *tating clinical condition in human beings.*

22 (B) *EXCLUSIONS.—The term “disease or*
23 *disorder” does not include a clinical condition in*
24 *human beings for which research on chimpanzees*

1 *has been found to be unnecessary by a Committee*
2 *of the Institute of Medicine.*

3 (4) *FUND.*—*The term “Fund” means the Great*
4 *Ape Sanctuary System Fund established by section*
5 *8(a).*

6 (5) *GREAT APE.*—*The term “great ape” means*
7 *any individual of the following species:*

8 (A) *Chimpanzee (Pan troglodytes).*

9 (B) *Bonobo (Pan paniscus).*

10 (C) *Gorilla (Gorilla gorilla or Gorilla*
11 *beringei).*

12 (D) *Orangutan (Pongo pygmaeus or Pongo*
13 *abelii).*

14 (E) *Gibbon (Family Hylobatidae).*

15 (6) *INVASIVE RESEARCH.*—

16 (A) *IN GENERAL.*—*The term “invasive re-*
17 *search” means any research that may cause*
18 *death, injury, pain, distress, fear, or trauma to*
19 *a great ape, including—*

20 (i) *the testing of any drug or inten-*
21 *tional exposure to a substance that may be*
22 *detrimental to the health or psychological*
23 *well-being of a great ape;*

24 (ii) *research that involves penetrating*
25 *or cutting the body or removing body parts,*

1 *restraining, tranquilizing, or anesthetizing*
2 *a great ape; and*

3 *(iii) isolation, social deprivation, or*
4 *other experimental manipulations that may*
5 *be detrimental to the health or psychological*
6 *well-being of a great ape.*

7 *(B) EXCLUSIONS.—*

8 *(i) IN GENERAL.—The term “invasive*
9 *research” does not include—*

10 *(I) close observation of natural or*
11 *voluntary behavior of a great ape, if*
12 *the research does not require an anes-*
13 *thetic or sedation event to collect data*
14 *or record observations;*

15 *(II) the temporary separation of a*
16 *great ape from the social group of the*
17 *great ape, leaving and returning by the*
18 *own volition of the great ape;*

19 *(III) post-mortem examination of*
20 *a great ape that was not killed for the*
21 *purpose of examination or research;*
22 *and*

23 *(IV) the administration of a phys-*
24 *ical exam by a licensed veterinarian or*

1 *physician conducted for the well-being*
2 *of the individual great ape.*

3 (ii) *PHYSICAL EXAM.*—*A physical*
4 *exam conducted for the well-being of an in-*
5 *dividual great ape, as described in clause*
6 *(i)(IV), may include the collection of bio-*
7 *logical samples or the implantation of mon-*
8 *itoring devices previously approved by the*
9 *Food and Drug Administration, subject to*
10 *the condition that the collection or implan-*
11 *tation is carried out to further the well-*
12 *being of the individual great ape, the social*
13 *group of the great ape, or the great ape spe-*
14 *cies.*

15 (7) *MONITORING DEVICE.*—*The term “moni-*
16 *toring device” means a medical device that has been*
17 *approved by the Food and Drug Administration that*
18 *collects data from an individual great ape but does*
19 *not dispense any drugs or harmful substances.*

20 (8) *PERMANENT RETIREMENT.*—

21 (A) *IN GENERAL.*—*The term “permanent*
22 *retirement” means a situation in which—*

23 (i) *a great ape is placed in a suitable*
24 *sanctuary that will provide for the lifetime*
25 *care of the great ape; and*

1 (ii) the great ape will no longer be
2 used in invasive research.

3 (B) *EXCLUSION.*—The term “permanent re-
4 tirement” does not include euthanasia.

5 (9) *PERSON.*—The term “person” means—

6 (A) an individual, corporation, partnership,
7 trust, association, or any other private or not-
8 for-profit entity;

9 (B) any officer, employee, agent, depart-
10 ment, or instrumentality of the Federal Govern-
11 ment, a State, municipality, or political subdivi-
12 sion of a State; or

13 (C) any other entity subject to the jurisdic-
14 tion of the United States.

15 (10) *SECRETARY.*—The term “Secretary” means
16 the Secretary of Health and Human Services.

17 (11) *SUITABLE SANCTUARY.*—The term “suitable
18 sanctuary” means—

19 (A) a sanctuary that meets or exceeds the
20 standards of care for chimpanzees held in the
21 federally supported sanctuary system, as defined
22 in part 9 of title 42, Code of Federal Regula-
23 tions; or

24 (B) a wildlife sanctuary that is a nonprofit
25 organization that—

1 (i) operates a place of refuge where
2 abused, neglected, unwanted, impounded,
3 abandoned, orphaned, displaced, or retired
4 animals are provided care for the lifetime of
5 the animal;

6 (ii) does not conduct invasive research
7 on animals;

8 (iii) does not conduct any commercial
9 activity with animals, including, at a min-
10 imum, the sale, trade, auction, lease, or
11 loan of animals or animal parts, or use of
12 animals in any manner in a for-profit
13 business or operation;

14 (iv) does not use animals for entertain-
15 ment purposes or in a traveling exhibit;

16 (v) does not breed any animals, wheth-
17 er intentionally or by failing to use ade-
18 quate birth control methods; and

19 (vi) does not allow members of the pub-
20 lic the opportunity to come into physical
21 contact with the animals.

22 (12) *TASK FORCE*.—The term “Task Force”
23 means the Great Ape Research Task Force established
24 under section 5(b).

1 **SEC. 4. PROHIBITIONS.**

2 (a) *INVASIVE RESEARCH PROHIBITED.*—No person
3 shall conduct invasive research on a great ape.

4 (b) *HOUSING FOR INVASIVE RESEARCH PROHIB-*
5 *ITED.*—No person shall possess, maintain, or house a great
6 ape for the purpose of conducting invasive research.

7 (c) *FEDERAL FUNDING FOR INVASIVE RESEARCH PRO-*
8 *HIBITED.*—No Federal funds may be used to conduct
9 invasive research on a great ape or to support an entity
10 conducting or facilitating invasive research on a great ape
11 either within or outside of the United States.

12 (d) *BREEDING FOR INVASIVE RESEARCH PROHIB-*
13 *ITED.*—No person shall knowingly breed a great ape for the
14 purpose of conducting or facilitating invasive research.

15 (e) *TRANSPORT FOR INVASIVE RESEARCH PROHIB-*
16 *ITED.*—No person shall transport, move, deliver, receive,
17 lease, rent, donate, purchase, sell, or borrow a great ape
18 in interstate or foreign commerce for the purpose of con-
19 ducting or facilitating invasive research on a great ape.

20 (f) *TRANSFER OF OWNERSHIP PROHIBITED.*—No Fed-
21 eral agency may transfer ownership of a great ape to a
22 non-Federal entity unless the entity is a suitable sanctuary.

23 (g) *EXEMPTION.*—Nothing in this Act limits or pre-
24 vents individualized medical care performed on a great ape
25 by a licensed veterinarian or physician for the well-being

1 *of the great ape, including surgical procedures or chemical*
2 *treatments for birth control.*

3 **SEC. 5. INVASIVE RESEARCH TO ADDRESS HUMAN HEALTH**
4 **THREATS.**

5 (a) *IN GENERAL.*—*If at any time beginning on the*
6 *date that is 3 years after the date of enactment of this Act,*
7 *the Secretary finds, based on the best available scientific*
8 *evidence, that a new, emerging, or reemerging disease or*
9 *disorder presents a challenge to treatment, prevention, or*
10 *control that defies non-great ape models and technologies*
11 *and, as a result, the use of great apes for research may be*
12 *required, the Secretary shall publish that preliminary find-*
13 *ing in the Federal Register.*

14 (b) *GREAT APE RESEARCH TASK FORCE.*—

15 (1) *IN GENERAL.*—*Notwithstanding section 4, if*
16 *the Secretary determines under subsection (a) that the*
17 *use of invasive research on great apes may be nec-*
18 *essary, the Secretary shall convene the Great Ape Re-*
19 *search Task Force, which shall consist of—*

20 (A) *the Secretary;*

21 (B) *the Director of the National Institutes*
22 *of Health;*

23 (C) *the Secretary of Defense;*

24 (D) *the Secretary of the Interior;*

1 (E) *the President of the Institute of Medi-*
2 *cine;*

3 (F) *the Chair of the Association of Zoos and*
4 *Aquariums Ape Taxon Advisory Group;*

5 (G) *an individual appointed by the Sec-*
6 *retary with scientific expertise in the use of great*
7 *apes in areas of research relating to the disease*
8 *or disorder for which the Task Force is consid-*
9 *ering authorizing invasive research;*

10 (H) *an individual appointed by the Sec-*
11 *retary with scientific expertise in the use of re-*
12 *search models that do not use great apes in areas*
13 *of research relating to the disease or disorder for*
14 *which the Task Force is considering authorizing*
15 *invasive research; and*

16 (I) *an individual appointed by the Sec-*
17 *retary who is a representative of an animal pro-*
18 *tection organization.*

19 (2) *DUTIES.—*

20 (A) *IN GENERAL.—The Task Force shall re-*
21 *view proposed research protocols and determine*
22 *whether to authorize invasive research on great*
23 *apes.*

24 (B) *CONSULTATION.—In reviewing proposed*
25 *research protocols, the Task Force shall consult*

1 *with the Animal Welfare Information Center es-*
2 *ablished under section 13(e) of the Animal Wel-*
3 *fare Act (7 U.S.C. 2143(e)).*

4 (3) *PUBLIC PARTICIPATION.*—*The Secretary shall*
5 *allow public comment on any proposed research pro-*
6 *tol prior to final authorization by the Task Force.*

7 (4) *AUTHORIZATION.*—*After consideration of any*
8 *public comments submitted to the Task Force, the*
9 *Task Force may issue written authorization for a per-*
10 *son to carry out an approved research protocol for*
11 *invasive research on a great ape in order to prevent,*
12 *control, or treat the new, emerging, or reemerging dis-*
13 *ease or disorder for which the Secretary convenes the*
14 *Task Force, only if the Task Force determines based*
15 *on the best scientific evidence available that—*

16 (A) *for invasive research for biomedical*
17 *purposes—*

18 (i) *there is no suitable model available*
19 *other than great apes, such as in vitro,*
20 *nonhuman, in vivo, or other models, for the*
21 *research in question;*

22 (ii) *the research in question cannot be*
23 *performed ethically on human subjects;*

24 (iii) *foregoing the use of great apes for*
25 *the research in question will significantly*

1 *slow or prevent important advancements to*
2 *prevent, control, or treat life-threatening or*
3 *debilitating conditions; and*

4 *(iv) the research has not already been*
5 *found to be unnecessary by a committee of*
6 *the Institute of Medicine; or*

7 *(B) for invasive research for comparative*
8 *genomics and behavioral studies—*

9 *(i) a study using great apes would pro-*
10 *vide otherwise unattainable insight into*
11 *comparative genomics, normal and abnor-*
12 *mal behavior, mental health, emotion, or*
13 *cognition;*

14 *(ii) each experiment is performed on*
15 *acquiescent animals, using techniques that*
16 *are minimally invasive, and in a manner*
17 *that minimizes pain and distress; and*

18 *(iii) the research has not already been*
19 *found to be unnecessary by a committee of*
20 *the Institute of Medicine.*

21 (5) *REQUIREMENTS.—If the Task Force author-*
22 *izes the use of great apes for invasive research under*
23 *this section, the Task Force shall require each person*
24 *authorized to carry out the research—*

1 (A) to identify each individual great ape on
2 which research will be performed based on the
3 prior medical history of the great ape;

4 (B) to minimize the pain and physical or
5 mental harm or distress to the great ape result-
6 ing from the research; and

7 (C) to maintain the great ape in
8 ethologically appropriate physical and social en-
9 vironments throughout the course of the author-
10 ized research protocol.

11 (6) *NONAPPLICABILITY OF FACIA.*—*The Federal*
12 *Advisory Committee Act (5 U.S.C. App.) shall not*
13 *apply to the Task Force.*

14 (c) *LIMITATION.*—*A person conducting invasive re-*
15 *search pursuant to a written authorization issued under*
16 *subsection (b)(4) shall be exempt from the prohibitions*
17 *under section 4.*

18 (d) *EFFECT.*—*Nothing in this section authorizes re-*
19 *search to be conducted on a great ape retired pursuant to*
20 *the Chimpanzee Health Improvement, Maintenance, and*
21 *Protection Act (Public Law 106–551; 114 Stat. 2752) or*
22 *the Chimp Haven is Home Act (Public Law 110–170; 121*
23 *Stat. 2465).*

24 (e) *REPORT.*—

1 (1) *IN GENERAL.*—*The Secretary shall submit to*
2 *Congress a report detailing the findings and rec-*
3 *ommendations of the Working Group on the Use of*
4 *Chimpanzees in NIH-Supported Research of the*
5 *Council of Councils of the National Institutes of*
6 *Health.*

7 (2) *INCLUSIONS.*—*The report shall include any*
8 *legislative recommendations relating to the Task*
9 *Force and the requirements of this section that are*
10 *necessary to ensure consistency with the recommenda-*
11 *tions of the working group described in paragraph*
12 *(1).*

13 (f) *AUTHORITY.*—*The Secretary may promulgate regu-*
14 *lations to carry out the findings and recommendations of*
15 *the working group described in subsection (e)(1) and the*
16 *requirements of this section in a manner consistent with*
17 *this Act.*

18 **SEC. 6. RETIREMENT.**

19 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
20 *sion of law, not later than 3 years after the date of enact-*
21 *ment of this Act, the Secretary shall effectuate the perma-*
22 *nent retirement of all great apes owned by the Federal Gov-*
23 *ernment that are being maintained in any facility for the*
24 *purpose of breeding for, holding for, or conducting invasive*
25 *research.*

1 (b) *INVASIVE RESEARCH.*—A federally owned great
 2 ape that is selected for invasive research under section 5
 3 shall be returned to a suitable sanctuary immediately after
 4 the research is concluded.

5 **SEC. 7. CIVIL PENALTIES.**

6 (a) *IN GENERAL.*—In addition to any other penalties
 7 that may apply under law, any person who violates any
 8 provision of this Act shall be assessed a civil penalty of not
 9 more than \$10,000 for each violation.

10 (b) *MULTIPLE VIOLATIONS.*—Each day that a viola-
 11 tion of this Act continues shall constitute a separate offense.

12 **SEC. 8. GREAT APE SANCTUARY SYSTEM FUND.**

13 (a) *ESTABLISHMENT OF FUND.*—There is established
 14 in the Treasury of the United States a fund to be known
 15 as the “Great Ape Sanctuary System Fund”, to be adminis-
 16 tered by the Secretary, to be available without fiscal year
 17 limitation and not subject to appropriation, for construc-
 18 tion, renovation, and operation of the sanctuary system es-
 19 tablished pursuant to section 404K of the Public Health
 20 Service Act (42 U.S.C. 283m).

21 (b) *TRANSFERS TO FUND.*—

22 (1) *IN GENERAL.*—The Fund shall consist of—

23 (A) such amounts as are appropriated to
 24 the Fund under paragraph (2); and

1 (B) such other amounts as are appropriated
2 to the Fund under this Act.

3 (2) CIVIL PENALTIES.—There are authorized to
4 be appropriated to the Fund, out of funds of the
5 Treasury not otherwise appropriated, amounts equiv-
6 alent to amounts collected as penalties and received
7 in the Treasury under section 7.

8 (c) PROHIBITION.—Amounts in the Fund may not be
9 made available for any purpose other than a purpose de-
10 scribed in subsection (a).

11 (d) ANNUAL REPORTS.—

12 (1) IN GENERAL.—Not later than 60 days after
13 the end of each fiscal year beginning with fiscal year
14 2013, the Secretary shall submit to the appropriate
15 committees of Congress a report on the operation of
16 the Fund during the fiscal year.

17 (2) CONTENTS.—Each report shall include, for
18 the fiscal year covered by the report—

19 (A) a statement of the amounts deposited
20 into the Fund;

21 (B) a description of the expenditures made
22 from the Fund for the fiscal year, including the
23 purpose of the expenditures;

24 (C) recommendations for additional au-
25 thorities to fulfill the purpose of the Fund; and

1 (D) a statement of the balance remaining in
2 the Fund at the end of the fiscal year.

3 **SEC. 9. EFFECTIVE DATES.**

4 (a) *PROHIBITION ON RESEARCH.*—The prohibition
5 under section (4)(a) takes effect—

6 (1) on the date that is 3 years after the date of
7 enactment of this Act for great apes assigned to an
8 active protocol as of the date of enactment of this Act;
9 or

10 (2) on the date of enactment of this Act for great
11 apes not assigned to an active protocol as of that
12 date.

13 (b) *PROHIBITION ON HOUSING AND FUNDING.*—The
14 prohibitions under subsections (b) and (c) of section 4 take
15 effect on the date that is 3 years after the date of enactment
16 of this Act.

17 (c) *OTHER REQUIREMENTS.*—Any provision of this
18 Act for which a specific effective date is not provided takes
19 effect on the date of enactment of this Act.

20 **SEC. 10. SEVERABILITY.**

21 In the event that any provision of this Act is, for any
22 reason, be held to be invalid or unenforceable in any respect,
23 the invalidity or unenforceability shall not affect any other
24 provision of this Act, and this Act shall be construed as

- 1 *if the invalid or unenforceable provision had never been in-*
- 2 *cluded in this Act.*

Calendar No. 557

112TH CONGRESS
2^D SESSION

S. 810

[Report No. 112-242]

A BILL

To prohibit the conducting of invasive research on
great apes, and for other purposes.

NOVEMBER 30, 2012

Reported with an amendment