AMENDMENT NO._______ Calendar No._______

Purpose: In the nature of a substitute.


S. 810

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

Referred to the Committee on ________________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____________

Viz:

1 Strike all after the enacting clause and insert the following:

3 SECTION 1. SHORT TITLE.

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

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS.—Congress finds that—

8 (1) chimpanzees are the only great apes currently used in invasive research in the United States;
(2)(A) as of the date of introduction of this Act, there are approximately 1,000 chimpanzees housed in laboratories in the United States;

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

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

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

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

(5) invasive research performed on great apes, and the breeding, housing, maintenance, and transport of great apes for these purposes, are economic in nature and substantially affect interstate commerce;

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

(7) the National Research Council report entitled “Chimpanzees in Research—Strategies for their Ethical Care, Management, and Use” concluded that—
(A) there is a “moral responsibility” for the long-term care of chimpanzees used for scientific research;

(B) euthanasia should not be used as a means to control the size of the great ape population;

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

(D) sanctuaries offer an opportunity for substantially reducing the costs of long-term maintenance of chimpanzees without compromising high standards of well-being; and

(8) the Institute of Medicine and National Research Council report entitled “Chimpanzees in Biomedical and Behavioral Research: Assessing the Necessity” concluded that—

(A) while the chimpanzee has been a valuable animal model in past research, most current use of chimpanzees for biomedical research is unnecessary;

(B) chimpanzees are not necessary for research relating to a Hepatitis C antiviral drug, respiratory syncytial virus, future monoclonal
antibodies therapies, or a therapeutic Hepatitis C vaccine;

(C) the use of a combination of non-chimpanzee methods for the development of monoclonal antibody therapies may make research on the chimpanzee largely unnecessary; and

(D) non-chimpanzee models, if further improved, may reduce or obviate the need for the continued use of the chimpanzee for prophylactic Hepatitis C vaccine research.

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

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

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

(3) to prohibit the breeding of great apes for purposes of invasive research; and

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

SEC. 3. DEFINITIONS.

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

(2) **DEBILITATING.**—The term “debilitating” means causing major irreversible morbidity, including blindness, loss of hearing, paralysis, or stroke.

(3) **DISEASE OR DISORDER.**—

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

   (B) **EXCLUSIONS.**—The term “disease or disorder” does not include a clinical condition in human beings for which research on chimpanzees has been found to be unnecessary by a Committee of the Institute of Medicine.

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

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

   (A) Chimpanzee (Pan troglodytes).

   (B) Bonobo (Pan paniscus).

   (C) Gorilla (Gorilla gorilla or Gorilla beringei).
(D) Orangutan (Pongo pygmaeus or Pongo abelii).

(E) Gibbon (Family Hylobatidae).

(6) INVASIVE RESEARCH.—

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

(i) the testing of any drug or intentional exposure to a substance that may be detrimental to the health or psychological well-being of a great ape;

(ii) research that involves penetrating or cutting the body or removing body parts, restraining, tranquilizing, or anesthetizing a great ape; and

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

(B) EXCLUSIONS.—

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

(I) close observation of natural or voluntary behavior of a great ape, if
the research does not require an anesthetic or sedation event to collect data or record observations;

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

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

(IV) the administration of a physical exam by a licensed veterinarian or physician conducted for the well-being of the individual great ape.

(ii) Physical Exam.—A physical exam conducted for the well-being of an individual great ape, as described in clause (i)(IV), may include the collection of biological samples or the implantation of monitoring devices previously approved by the Food and Drug Administration, subject to the condition that the collection or implantation is carried out to further the well-being of the individual great ape, the social
group of the great ape, or the great ape species.

(7) Monitoring Device.—The term “monitoring device” means a medical device that has been approved by the Food and Drug Administration that collects data from an individual great ape but does not dispense any drugs or harmful substances.

(8) Permanent Retirement.—

(A) In General.—The term “permanent retirement” means a situation in which—

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

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

(B) Exclusion.—The term “permanent retirement” does not include euthanasia.

(9) Person.—The term “person” means—

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

(B) any officer, employee, agent, department, or instrumentality of the Federal Government, a State, municipality, or political subdivision of a State; or
(C) any other entity subject to the jurisdiction of the United States.

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

(11) Suitable sanctuary.—The term “suitable sanctuary” means—

(A) a sanctuary that meets or exceeds the standards of care for chimpanzees held in the federally supported sanctuary system, as defined in part 9 of title 42, Code of Federal Regulations; or

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

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

(ii) does not conduct invasive research on animals;

(iii) does not conduct any commercial activity with animals, including, at a minimum, the sale, trade, auction, lease, or loan of animals or animal parts, or use of
animals in any manner in a for-profit business or operation;

(iv) does not use animals for entertainment purposes or in a traveling exhibit;

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

(vi) does not allow members of the public the opportunity to come into physical contact with the animals.

(12) Task Force.—The term “Task Force” means the Great Ape Research Task Force established under section 5(b).

SEC. 4. PROHIBITIONS.

(a) Invasive Research Prohibited.—No person shall conduct invasive research on a great ape.

(b) Housing for Invasive Research Prohibited.—No person shall possess, maintain, or house a great ape for the purpose of conducting invasive research.

(c) Federal Funding for Invasive Research Prohibited.—No Federal funds may be used to conduct invasive research on a great ape or to support an entity conducting or facilitating invasive research on a great ape either within or outside of the United States.
(d) **Breeding for Invasive Research Prohibited.**—No person shall knowingly breed a great ape for the purpose of conducting or facilitating invasive research.

(e) **Transport for Invasive Research Prohibited.**—No person shall transport, move, deliver, receive, lease, rent, donate, purchase, sell, or borrow a great ape in interstate or foreign commerce for the purpose of conducting or facilitating invasive research on a great ape.

(f) **Transfer of Ownership Prohibited.**—No Federal agency may transfer ownership of a great ape to a non-Federal entity unless the entity is a suitable sanctuary.

(g) **Exemption.**—Nothing in this Act limits or prevents individualized medical care performed on a great ape by a licensed veterinarian or physician for the well-being of the great ape, including surgical procedures or chemical treatments for birth control.

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

(a) **In General.**—If at any time beginning on the date that is 3 years after the date of enactment of this Act, the Secretary finds, based on the best available scientific evidence, that a new, emerging, or reemerging disease or disorder presents a challenge to treatment, prevention, or control that defies non-great ape models and tech-
ologies and, as a result, the use of great apes for research may be required, the Secretary shall publish that preliminary finding in the Federal Register.

(b) GREAT APE RESEARCH TASK FORCE.—

(1) IN GENERAL.—Notwithstanding section 4, if the Secretary determines under subsection (a) that the use of invasive research on great apes may be necessary, the Secretary shall convene the Great Ape Research Task Force, which shall consist of—

(A) the Secretary;

(B) the Director of the National Institutes of Health;

(C) the Secretary of Defense;

(D) the Secretary of the Interior;

(E) the President of the Institute of Medicine;

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

(G) an individual appointed by the Secretary with scientific expertise in the use of great apes in areas of research relating to the disease or disorder for which the Task Force is considering authorizing invasive research;

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

(I) an individual appointed by the Secretary who is a representative of an animal protection organization.

(2) DUTIES.—

(A) IN GENERAL.—The Task Force shall review proposed research protocols and determine whether to authorize invasive research on great apes.

(B) CONSULTATION.—In reviewing proposed research protocols, the Task Force shall consult with the Animal Welfare Information Center established under section 13(e) of the Animal Welfare Act (7 U.S.C. 2143(e)).

(3) PUBLIC PARTICIPATION.—The Secretary shall allow public comment on any proposed research protocol prior to final authorization by the Task Force.

(4) AUTHORIZATION.—After consideration of any public comments submitted to the Task Force, the Task Force may issue written authorization for a person to carry out an approved research protocol
for invasive research on a great ape in order to prevent, control, or treat the new, emerging, or re-emerging disease or disorder for which the Secretary convenes the Task Force, only if the Task Force determines based on the best scientific evidence available that—

(A) for invasive research for biomedical purposes—

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

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

(iii) foregoing the use of great apes for the research in question will significantly slow or prevent important advancements to prevent, control, or treat life-threatening or debilitating conditions; and

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

(B) for invasive research for comparative genomics and behavioral studies—
(i) a study using great apes would provide otherwise unattainable insight into comparative genomics, normal and abnormal behavior, mental health, emotion, or cognition;

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

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

(5) REQUIREMENTS.—If the Task Force authorizes the use of great apes for invasive research under this section, the Task Force shall require each person authorized to carry out the research—

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

(B) to minimize the pain and physical or mental harm or distress to the great ape resulting from the research; and

(C) to maintain the great ape in ethologically appropriate physical and social en-
environments throughout the course of the authorized research protocol.


(e) LIMITATION.—A person conducting invasive research pursuant to a written authorization issued under subsection (b)(4) shall be exempt from the prohibitions under section 4.

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

(e) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to Congress a report detailing the findings and recommendations of the Working Group on the Use of Chimpanzees in NIH-Supported Research of the Council of Councils of the National Institutes of Health.

(2) INCLUSIONS.—The report shall include any legislative recommendations relating to the Task Force and the requirements of this section that are
necessary to ensure consistency with the recommendations of the working group described in paragraph (1).

(f) AUTHORITY.—The Secretary may promulgate regulations to carry out the findings and recommendations of the working group described in subsection (e)(1) and the requirements of this section in a manner consistent with this Act.

SEC. 6. RETIREMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 3 years after the date of enactment of this Act, the Secretary shall effectuate the permanent retirement of all great apes owned by the Federal Government that are being maintained in any facility for the purpose of breeding for, holding for, or conducting invasive research.

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

SEC. 7. CIVIL PENALTIES.

(a) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of this Act shall be assessed a civil penalty of not more than $10,000 for each violation.
(b) MULTIPLE VIOLATIONS.—Each day that a violation of this Act continues shall constitute a separate offense.

SEC. 8. GREAT APE SANCTUARY SYSTEM FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the “Great Ape Sanctuary System Fund”, to be administered by the Secretary, to be available without fiscal year limitation and not subject to appropriation, for construction, renovation, and operation of the sanctuary system established pursuant to section 404K of the Public Health Service Act (42 U.S.C. 283m).

(b) TRANSFERS TO FUND.—

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

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

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

(2) CIVIL PENALTIES.—There are authorized to be appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, amounts equivalent to amounts collected as penalties and received in the Treasury under section 7.
(c) Prohibition.—Amounts in the Fund may not be made available for any purpose other than a purpose described in subsection (a).

(d) Annual Reports.—

(1) In general.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2013, the Secretary shall submit to the appropriate committees of Congress a report on the operation of the Fund during the fiscal year.

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

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

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

(C) recommendations for additional authorities to fulfill the purpose of the Fund; and

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

SEC. 9. EFFECTIVE DATES.

(a) Prohibition on Research.—The prohibition under section (4)(a) takes effect—

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

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

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

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

**SEC. 10. SEVERABILITY.**

In the event that any provision of this Act is, for any reason, be held to be invalid or unenforceable in any respect, the invalidity or unenforceability shall not affect any other provision of this Act, and this Act shall be construed as if the invalid or unenforceable provision had never been included in this Act.