

GREAT APE CONSERVATION REAUTHORIZATION
AMENDMENTS ACT OF 2010

SEPTEMBER 29, 2010.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4416]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4416) to reauthorize the Great Ape Conservation Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Great Ape Conservation Reauthorization Amendments Act of 2010”.

SEC. 2. AMENDMENT AND REAUTHORIZATION OF GREAT APE CONSERVATION ACT.

The Great Ape Conservation Act of 2000 is amended as follows:

(1) **MULTIYEAR GRANTS.**—In section 4 (16 U.S.C. 6303), by adding at the end the following new subsections:

“(j) **MULTIYEAR GRANTS.**—

“(1) **IN GENERAL.**—The Secretary may award a multiyear grant under this section to a person who is otherwise eligible for a grant under this section, to carry out a project that the person demonstrates is an effective, long-term conservation strategy for great apes and their habitats.

“(2) **ANNUAL GRANTS NOT AFFECTED.**—This subsection shall not be construed as precluding the Secretary from awarding grants on an annual basis.

“(k) **EXCELLENCE IN GREAT APE CONSERVATION AWARDS.**—

“(1) IN GENERAL.—The Secretary, subject to the availability of appropriations, may implement a program to acknowledge outstanding achievement in great ape conservation, to enhance great ape conservation and to demonstrate the indebtedness of the entire world to the commitment made by individuals and local communities to protect and conserve populations of great apes.

“(2) AWARDS.—Under the program, the Secretary may use amounts appropriated under this subsection to make appropriate awards, including—

“(A) cash awards, each of which shall not exceed \$7,500;

“(B) noncash awards;

“(C) posthumous awards; and

“(D) public ceremonies to acknowledge such awards.

“(3) SELECTION OF AWARD RECIPIENTS.—The Secretary may select each year for receipt of an award under the program—

“(A) no more than three individuals whose contributions to the field of great ape conservation have had a significant and material impact on the conservation of great apes; and

“(B) individuals selected from within great ape range states, whose contributions represent selfless sacrifice and uncommon valor and dedication to the conservation of great apes and their habitats.

“(4) NOMINATION GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, and after consultation with the heads of other relevant Federal agencies and other governmental and nongovernmental organizations with expertise in great ape conservation, the Secretary shall publish in the Federal Register guidelines specifying the details and process for nominating award candidates. Such guidelines shall allow for nominations of both citizens and noncitizens of the United States.”.

(2) PANEL OF EXPERTS.—In section 4(i) (16 U.S.C. 6303(i))—

(A) in paragraph (1), by—

(i) striking “Every 2 years” and inserting “Within one year after the date of the enactment of the Great Ape Conservation Reauthorization Amendments Act of 2010, and every 5 years thereafter”;

(ii) striking “may convene” and inserting “shall convene”;

(iii) inserting “and priorities” after “needs”; and

(iv) adding at the end the following new sentence: “The panel shall, to the extent practicable, include representatives from foreign range states with expertise in great ape conservation.”; and

(B) by redesignating paragraph (2) as paragraph (4), and inserting after paragraph (1) the following new paragraphs:

“(2) In identifying conservation needs and priorities under paragraph (1), the panel shall consider relevant great ape conservation plans or strategies including scientific research and findings related to—

“(A) the conservation needs and priorities of great apes;

“(B) regional or species-specific action plans or strategies;

“(C) applicable strategies developed or initiated by the Secretary; and

“(D) any other applicable conservation plan or strategy.

“(3) The Secretary, subject to the availability of appropriations, may pay expenses of convening and facilitating meetings of the panel.”.

(3) ADMINISTRATIVE EXPENSES LIMITATION.—In section 5(b)(2) (16 U.S.C. 6304(b)(2)), by striking “\$100,000” and inserting “\$150,000”.

(4) AUTHORIZATION OF APPROPRIATIONS.—By amending section 6 (16 U.S.C. 6305) to read as follows:

“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to the Fund to carry out this Act—

“(1) \$5,500,000 for fiscal year 2011;

“(2) \$6,000,000 for fiscal year 2012;

“(3) \$6,500,000 for fiscal year 2013;

“(4) \$7,000,000 for fiscal year 2014; and

“(5) \$7,500,000 for fiscal year 2015.”.

PURPOSE OF THE BILL

The purpose of H.R. 4416 is to reauthorize the Great Ape Conservation Act, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Recognizing the many and varied threats facing Great Ape populations globally, including habitat loss, illegal poaching, and consumption in the bushmeat trade, Congress passed the Great Ape Conservation Act of 2000 (Public Law 106–411) (16 U.S.C. 6301 et seq.). The law authorizes the U.S. Fish and Wildlife Service (FWS) to provide financial assistance for projects that support conservation and research of Great Apes in the range states where they are found.

Under the law, a Great Ape is defined to include the species chimpanzee, gorilla, bonobo, orangutan, and gibbon. These primate species, with the exception of gibbons, are remarkably similar to human beings in terms of anatomy, physiology, and behavior. Each of these species are listed as endangered under the Endangered Species Act, Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the International Union for the Conservation of Nature and Natural Resources (IUCN) Red List of Threatened Species. Great Apes were once numerous throughout Africa and Southeast Asia, but wild populations have been devastated over the past twenty years.

On the African continent, the three species of Great Apes are bonobos, chimpanzees and gorillas. The other two species identified as eligible to receive funding under the Great Ape Conservation Act are orangutans and gibbons, which live within Southeast Asia. Funding provided through the Great Ape Conservation Act has been directly responsible for numerous gains in Great Ape conservation, including the discovery of the Cross River Gorilla, a gorilla subspecies which was once thought to be extinct, and the 2007 discovery of a population of more than 125,000 western lowland gorillas living in northern areas of the Republic of Congo.

In the last five years, the Department of the Interior has received a cumulative appropriation of \$17.8 million for the Great Ape Conservation Fund. With that money, the FWS has funded 265 projects and leveraged an additional \$20.5 million in private sector contributions. These projects are critical to restoring habitat, providing for additional personnel and capacity-building in range states, increasing community participation and support for Great Ape conservation, and strengthening comprehensive conservation campaigns. The authorization of appropriations expires in Fiscal Year 2010.

COMMITTEE ACTION

H.R. 4416 was introduced on January 12, 2010 by Representative George Miller (D–CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. On January 27, 2010, the Subcommittee held a hearing on the bill.

On July 22, 2010, the Subcommittee was discharged from the further consideration of H.R. 4416 and the full Natural Resources Committee met to consider the bill. Rep. George Miller offered an amendment in the nature of a substitute to authorize the Secretary of the Interior to implement an “Excellence in Great Ape Conservation Awards” Program to recognize the contributions of individuals in range states to the conservation of Great Apes, and to require

that the Secretary develop and publish in the Federal Register guidelines for the process for nominating award candidates. The amendment in the nature of a substitute also requires that the panel of experts include representatives from range states. Finally, specific references to Great Ape conservation plans and strategies are struck, and the amendment instead requires that the panel of experts consider all applicable conservation plans, strategies, and scientific findings when identifying conservation priorities for Great Apes.

Ranking Member Doc Hastings (R-WA), on behalf of Rep. Jason Chaffetz (R-UT), offered an amendment to the amendment in the nature of a substitute that would level funding for the Act at \$5,000,000 per year for the next five years, reducing the total authorization from \$32.5 million to \$25 over that time. The amendment was not adopted by a roll call vote of 14 yeas to 21 nays, as follows:

COMMITTEE ON NATURAL RESOURCES

U.S. House of Representatives

111th Congress

Date: July 22, 2010

Convened:

Adjourned:

Meeting on: **HR 4416** - An amendment by Mr. Hastings on behalf of Mr. Chaffetz to the amendment in the nature of a substitute was NOT AGREED TO by a roll call vote of 14 yeas and 21 nays.

Recorded Vote #

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		Mr. Wittman, VA	✓		
Mr. Hastings, WA	✓			Mr. Sablan, MP		✓	
Mr. Miller, CA		✓		Mr. Paul Brown, GA	✓		
Mr. Young, AK				Mr. Heinrich, NM		✓	
Mr. Markey, MA				Mr. Fleming, LA	✓		
Mr. Gallegly, CA				Mr. Luján, NM		✓	
Mr. Kildee, MI				Mr. Coffman, CO	✓		
Mr. Duncan, TN				Mr. Hinchey, NY			
Mr. DeFazio, OR		✓		Mr. Chaffetz, UT			
Mr. Flake, AZ	✓			Mrs. Christensen, VI		✓	
Mr. Faleomavaega, AS				Mrs. Lummis, WY			
Mr. Henry Brown, SC	✓			Ms. DeGette, CO		✓	
Mr. Pallone, NJ		✓		Mr. McClintock, CA	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Kind, WI		✓	
Mrs. Napolitano, CA		✓		Mr. Cassidy, LA	✓		
Mr. Gohmert, TX				Mrs. Capps, CA		✓	
Mr. Holt, NJ		✓		Mr. Inslee, WA		✓	
Mr. Bishop, UT	✓			Mr. Baca, CA		✓	
Mr. Grijalva, AZ		✓		Ms. Herseth Sandlin, SD	✓		
Mr. Shuster, PA				Mr. Sarbanes, MD		✓	
Ms. Bordallo, GU				Ms. Shea-Porter, NH			
Mr. Lamborn, CO	✓			Ms. Tsongas, MA			
Mr. Costa, CA		✓		Mr. Kratovil, Jr., MD		✓	
Mr. Smith, NE	✓			Mr. Pierluisi, PR		✓	
Mr. Boren, OK		✓					
				Total	14	21	

Markups - 1/3 to meet (16), 25 to report
July 22, 2010 (3:32pm)

The amendment in the nature of a substitute was then agreed to by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1—Short Title

Section 1 provides that this Act may be cited as the “Great Ape Conservation Reauthorization Amendments Act of 2010.”

Section 2—Amendment and reauthorization of Great Ape Conservation Act

Section 2 authorizes the Secretary to award multi-year grants to a person who is otherwise eligible for a grant under the program. This shall not preclude the Secretary from awarding grants on an annual basis. In addition, Section 2 authorizes the “Excellence in Great Ape Conservation Awards,” to acknowledge outstanding achievement in great ape conservation made by local communities and individuals. These awards may be cash awards not to exceed \$7,500, noncash awards, posthumous awards, and public ceremonies to acknowledge such awards. Each year the Secretary may select up to three individuals whose conservation work has had a material and significant impact on the conservation of great apes, and individuals selected from within great ape range states whose contributions represent selfless sacrifice and uncommon valor in the conservation of great apes. Guidelines for the nomination of award recipients are required to be developed in consultation with relevant governmental and nongovernmental organizations and published in the Federal Register within 180 days of the passage of this Act.

Section 2 also requires that the Panel of Experts required under current law meet within one year of passage of this Act and every 5 years thereafter, and that the Panel include representatives from range states, to the extent practicable. The Panel is required to consider the conservation needs and priorities of great apes, applicable regional or species-specific action plans or strategies, strategies developed by the Secretary, and any other applicable conservation plans in the identification of conservation priorities. The limit on annual administrative expenses for the program is changed from \$100,000 to \$150,000.

Section 2 authorizes to the Great Ape Conservation Fund to carry out this Act \$5.5 million for fiscal year 2011, \$6 million for fiscal year 2012, \$6.5 million for fiscal year 2013, \$7 million for fiscal year 2014, and \$7.5 for fiscal year 2015.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reauthorize the Great Ape Conservation Act, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4416—Great Ape Conservation Reauthorization Amendments Act of 2010

Summary: H.R. 4416 would authorize the appropriation of \$33 million over the 2011–2015 period for the Department of the Interior (DOI) to make grants to develop and implement conservation strategies for great apes (chimpanzees, gorillas, and orangutans) and their habitats and to provide awards to those that have protected and conserved great ape populations. CBO estimates that implementing this legislation would cost \$28 million over the 2011–2015 period, assuming the appropriation of the specified amounts. Enacting H.R. 4416 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The bill 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 H.R. 4416 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011– 2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	6	6	7	7	8	33
Estimated Outlays	2	6	6	7	7	28

Note: Amounts do not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2011 and that the amounts specified will be provided for each year.

H.R. 4416 would authorize the appropriation of \$33 million over the 2011–2015 period for DOI to make grants to wildlife management authorities and other individuals that demonstrate effective, long-term strategies for protecting great apes and their habitats. The legislation also would authorize DOI to provide awards, including monetary awards not to exceed \$7,500, to individuals who have contributed to the conservation and protection of great ape populations. Based on the historical spending patterns of similar DOI programs, CBO estimates that implementing H.R. 4416 would cost \$28 million over the 2011–2015 period.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 4416 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: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 4416 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (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):

GREAT APE CONSERVATION ACT OF 2000

* * * * *

SEC. 4. GREAT APE CONSERVATION ASSISTANCE.

(a) * * *

* * * * *

(i) PANEL.—

(1) IN GENERAL.—**[Every 2 years]** *Within one year after the date of the enactment of the Great Ape Conservation Reauthorization Amendments Act of 2010, and every 5 years thereafter,* the Secretary **[may]** *shall* convene a panel of experts to iden-

tify the greatest needs and priorities for the conservation of great apes. The panel shall, to the extent practicable, include representatives from foreign range states with expertise in great ape conservation.

(2) In identifying conservation needs and priorities under paragraph (1), the panel shall consider relevant great ape conservation plans or strategies including scientific research and findings related to—

(A) the conservation needs and priorities of great apes;

(B) regional or species-specific action plans or strategies;

(C) applicable strategies developed or initiated by the Secretary; and

(D) any other applicable conservation plan or strategy.

(3) The Secretary, subject to the availability of appropriations, may pay expenses of convening and facilitating meetings of the panel.

[(2)] (4) APPLICABILITY OF FACa.—The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to a panel convened under paragraph (1).

(j) **MULTIYEAR GRANTS.**—

(1) **IN GENERAL.**—The Secretary may award a multiyear grant under this section to a person who is otherwise eligible for a grant under this section, to carry out a project that the person demonstrates is an effective, long-term conservation strategy for great apes and their habitats.

(2) **ANNUAL GRANTS NOT AFFECTED.**—This subsection shall not be construed as precluding the Secretary from awarding grants on an annual basis.

(k) **EXCELLENCE IN GREAT APE CONSERVATION AWARDS.**—

(1) **IN GENERAL.**—The Secretary, subject to the availability of appropriations, may implement a program to acknowledge outstanding achievement in great ape conservation, to enhance great ape conservation and to demonstrate the indebtedness of the entire world to the commitment made by individuals and local communities to protect and conserve populations of great apes.

(2) **AWARDS.**—Under the program, the Secretary may use amounts appropriated under this subsection to make appropriate awards, including—

(A) cash awards, each of which shall not exceed \$7,500;

(B) noncash awards;

(C) posthumous awards; and

(D) public ceremonies to acknowledge such awards.

(3) **SELECTION OF AWARD RECIPIENTS.**—The Secretary may select each year for receipt of an award under the program—

(A) no more than three individuals whose contributions to the field of great ape conservation have had a significant and material impact on the conservation of great apes; and

(B) individuals selected from within great ape range states, whose contributions represent selfless sacrifice and uncommon valor and dedication to the conservation of great apes and their habitats.

(4) **NOMINATION GUIDELINES.**—Not later than 180 days after the date of enactment of this subsection, and after consultation with the heads of other relevant Federal agencies and other gov-

ernmental and nongovernmental organizations with expertise in great ape conservation, the Secretary shall publish in the Federal Register guidelines specifying the details and process for nominating award candidates. Such guidelines shall allow for nominations of both citizens and noncitizens of the United States.

SEC. 5. GREAT APE CONSERVATION FUND.

(a) * * *

(b) EXPENDITURES FROM FUND.—

(1) * * *

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to ~~["\$100,000"]~~ *\$150,000*, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

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[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years 2006 through 2010.]

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Fund to carry out this Act—

- (1) \$5,500,000 for fiscal year 2011;*
- (2) \$6,000,000 for fiscal year 2012;*
- (3) \$6,500,000 for fiscal year 2013;*
- (4) \$7,000,000 for fiscal year 2014; and*
- (5) \$7,500,000 for fiscal year 2015.*

DISSENTING VIEWS OF REPRESENTATIVE HASTINGS OF
WASHINGTON AND REPRESENTATIVE CHAFFETZ

The Committee on Natural Resources has ordered reported H.R. 4416 which increases the authorization level of the Great Ape Conservation Fund from its existing level of \$5 million per year to \$7.5 million annually. As an alternative, we supported a reasonable amendment offered by Congressman Jason Chaffetz to level fund this Act for the next five years. Regrettably, this amendment was rejected on a party line vote.

While we recognize that we are not talking about a huge sum of money, this bill is a just another symptom of a much larger problem which is the Democrats' insatiable appetite to spend our constituents' hard earned tax dollars. There is no rationale for increasing this authorization level. Since its inception eleven years ago, no Administration has ever requested more than \$2 million in a single fiscal year for the Great Ape Conservation Fund. The greatest amount ever appropriated by the Congress to the Fund was \$2.5 million for the current fiscal year; this is exactly half of what has been authorized. In terms of total funding, \$50 million has been authorized and slightly less than \$15 million has been appropriated.

Who is asking for this increase? Based on the testimony given at the Subcommittee hearing, it is apparently a number of nongovernmental organizations—like the Wildlife Conservation Society and the World Wildlife Fund—who frankly are in far better financial shape than the federal government. Our nation now has a national debt of \$13.4 trillion, and this Congress has been piling a mountain of debt on our children and grandchildren that will strangle economic prosperity in this country.

We urge our colleagues to vote no on H.R. 4416 when it is considered on the floor of the House of Representatives. We simply cannot afford this increase for the Great Ape Conservation Fund.

DOC HASTINGS.
JASON CHAFFETZ.

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