AMENDMENT TO RULES COMMITTEE PRINT 117-13

OFFERED BY MR. BIGGS OF ARIZONA

At the end of title 60, add the following:

SEC. 11. EXCLUSIONS AND EXEMPTIONS FROM THE ENDANGERED SPECIES ACT OF 1973 FOR DEFENSE-RELATED OPERATIONS.

(a) Exclusion of Military Institutions as Critical Habitat.—Section 4(a)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)(B)) is amended to read as follows:

“(B)(i) The Secretary shall not designate as critical habitat—

“(I) any military installation or a State-owned National Guard installation, or any portion thereof, as such terms are defined in section 100 of the Sikes Act; or

“(II) any other lands, waters, or geographical area that is otherwise designated for use by the Secretary of Defense including by any contractor of the Department of Defense, if the
Secretary of Defense determines in writing and submitted to the Secretary of the Interior that such area is necessary for military training, weapons testing, or any other reason determined appropriate by such Secretary of Defense.

“(ii) The Secretary of Defense shall not be required to consult with the Secretary of the Interior, under section 7(a)(2) of this Act with respect to agency action, regardless of whether the area described in clause (i) is subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act.”.

(b) ADDITIONAL EXCLUSIONS AND EXEMPTIONS FROM THE ENDANGERED SPECIES ACT FOR DEFENSE-RELATED OPERATIONS.—Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following new subsection:

“(h) EXCLUSION FOR NATIONAL DEFENSE-RELATED OPERATIONS.—

“(1) EXCLUSIONS.—The prohibitions under section 9 shall not apply with respect to military per-
sonnel engaged in a national defense-related operation, unless such prohibited act is the purpose of such operation.

“(2) DEFINITIONS.—For the purposes of this subsection—

“(A) The term ‘national defense-related operation’ means—

“(i) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems;

“(ii) the training of members of the Armed Forces in the use and handling of military munitions, other ordnance, and weapons systems;

“(iii) general training and military preparedness; or

“(iv) any action or duty that the Secretary of Defense determines necessary to support the Department of Defense in its mission.

“(B) The term ‘military personnel’ means—

“(i) a member of the Armed Forces; and

“(ii) a civilian employee or contractor (including a subcontractor at any tier) of the—

“(I) Department of Defense (including a nonappropriated fund instrumentality of the Department); or
“(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas.”.