

AMENDMENT TO RULES COMMITTEE PRINT 118-

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OFFERED BY MR. BIGGS OF ARIZONA

At the end of subtitle A of title XVII, insert the following new section:

1 **SEC. ____ . EXCLUSIONS AND EXEMPTIONS FROM THE EN-**
2 **DANGERED SPECIES ACT OF 1973 FOR DE-**
3 **FENSE-RELATED OPERATIONS.**

4 (a) EXCLUSION OF MILITARY INSTITUTIONS AS
5 CRITICAL HABITAT.—Section 4(a)(3)(B) of the Endan-
6 gered Species Act of 1973 (16 U.S.C. 1533(a)(3)(B)) is
7 amended to read as follows:

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

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

15 “(II) any other lands, waters, or
16 geographical area that is otherwise
17 designated for use by the Secretary of
18 Defense including by any contractor

1 of the Department of Defense, if the
2 Secretary of Defense determines in
3 writing and submitted to the Sec-
4 retary of the Interior that such area is
5 necessary for military training, weap-
6 ons testing, or any other reason deter-
7 mined appropriate by such Secretary
8 of Defense.

9 “(ii) The Secretary of Defense shall
10 not be required to consult with the Sec-
11 retary of the Interior, under section
12 7(a)(2) of this Act with respect to agency
13 action, regardless of whether the area de-
14 scribed in clause (i) is subject to an inte-
15 grated natural resources management plan
16 prepared under section 101 of the Sikes
17 Act.”.

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

23 “(k) EXCLUSION FOR NATIONAL DEFENSE-RELATED
24 OPERATIONS.—

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

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

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

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

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

17 “(iii) general training and military
18 preparedness; or

19 “(iv) any action or duty that the Sec-
20 retary of Defense determines necessary to
21 support the Department of Defense in its
22 mission.

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

1 “(i) a member of the Armed Forces;

2 and

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

6 “(I) Department of Defense (in-
7 cluding a nonappropriated fund in-
8 strumentality of the Department); or

9 “(II) any other Federal agency,
10 or any provisional authority, to the
11 extent such employment relates to
12 supporting the mission of the Depart-
13 ment of Defense overseas.”.

