

AMENDMENT TO
RULES COMMITTEE PRINT 117-13
OFFERED BY MR. GOSAR OF ARIZONA

Add at the end of title LX the following:

1 **SEC. ____ . RESTORATION OF SEPARATION OF POWERS.**

2 (a) SEPARATION OF POWERS RESTORING RESCIS-
3 SIONS.—

4 (1) REPEAL OF WAR POWERS RESOLUTION.—

5 The War Powers Resolution (50 U.S.C. 1541 et
6 seq.) is repealed.

7 (2) TERMINATION OF STATES OF EMER-
8 GENCY.—

9 (A) IN GENERAL.—All powers and authori-
10 ties possessed by the President, any other offi-
11 cer or employee of the Federal Government, or
12 any executive agency (as defined in section 105
13 of title 5, United States Code) as a result of the
14 existence of any declaration of national emer-
15 gency in effect on the date of enactment of this
16 Act are terminated 90 days after such date.
17 Such termination shall not affect—

1 (i) any action taken or proceeding
2 pending not finally concluded or deter-
3 mined on such date;

4 (ii) any action or proceeding based on
5 any act committed prior to such date; or

6 (iii) any rights or duties that matured
7 or penalties that were incurred prior to
8 such date.

9 (B) DEFINITION.—For the purpose of this
10 paragraph, the term “national emergency”
11 means a general declaration of emergency made
12 by the President or any other officer or em-
13 ployee of the executive branch.

14 (3) TERMINATION OF AUTHORITY TO DECLARE
15 EMERGENCY.—To the extent that any Act of Con-
16 gress in effect on the date of enactment of this Act
17 grants to the President or any other officer or em-
18 ployee of the executive branch the power to declare
19 a national emergency, such power is hereby divested
20 to the Congress alone.

21 (b) REQUIREMENT OF STATEMENT OF AUTHORITY
22 FOR PRESIDENTIAL ORDERS.—

23 (1) STATEMENT OF AUTHORITY.—The Presi-
24 dent shall include with each Presidential order a
25 statement of the specific statutory or constitutional

1 provision which in fact grants the President the au-
2 thority claimed for such action.

3 (2) INVALIDITY OF NONCONFORMING OR-
4 DERS.—A Presidential order which does not include
5 the statement required by paragraph (1) is invalid,
6 to the extent such Presidential order is issued under
7 authority granted by a congressional enactment.

8 (c) EFFECT OF PRESIDENTIAL ORDERS.—

9 (1) LIMITED EFFECT OF PRESIDENTIAL OR-
10 DERS.—A Presidential order neither constitutes nor
11 has the force of law and is limited in its application
12 and effect to the executive branch.

13 (2) EXCEPTIONS.—Paragraph (1) does not
14 apply to—

15 (A) a reprieve or pardon for an offense
16 against the United States, except in cases of
17 impeachment;

18 (B) an order given to military personnel
19 pursuant to duties specifically related to actions
20 taken as Commander in Chief of the Armed
21 Forces; or

22 (C) a Presidential order citing the specific
23 congressional enactment relied upon for the au-
24 thority exercised in such order and—

25 (i) issued pursuant to such authority;

1 (ii) commensurate with the limit im-
2 posed by the plain language of such au-
3 thority; and

4 (iii) not issued pursuant to a ratified
5 or unratified treaty or bilateral or multilat-
6 eral agreement which—

7 (I) violates the ninth or tenth
8 amendments to the Constitution; or

9 (II) makes a delegation of power
10 to a foreign government or inter-
11 national body when no such delegating
12 authority exists under the Constitu-
13 tion.

14 (d) STANDING TO CHALLENGE PRESIDENTIAL OR-
15 DERS WHICH IMPACT SEPARATION OF POWERS INTEG-
16 RITY.— The following persons may bring an action in an
17 appropriate United States court to challenge the validity
18 of any Presidential order which exceeds the power granted
19 to the President by the relevant authorizing statute or the
20 Constitution:

21 (1) CONGRESS AND ITS MEMBERS.—The House
22 of Representatives, the Senate, any Senator, and
23 any Representative to the House of Representatives,
24 if the challenged Presidential order—

25 (A) infringes on any power of Congress;

1 (B) exceeds any power granted by a con-
2 gressional enactment; or

3 (C) violates subsection (b) because it does
4 not state the statutory authority which in fact
5 grants the President the power claimed for the
6 action taken in such Presidential order.

7 (2) STATE AND LOCAL GOVERNMENTS.—The
8 highest governmental official of any State, common-
9 wealth, district, territory, or possession of the
10 United States, or any political subdivision thereof, or
11 the designee of such person, if the challenged Presi-
12 dential order infringes on the powers afforded to the
13 States under the Constitution.

14 (3) AGGRIEVED PERSONS.—Any person ag-
15 grievied in a liberty or property interest adversely af-
16 fected directly by the challenged Presidential order.

17 (e) DEFINITION OF PRESIDENTIAL ORDER.— In this
18 section, the term “Presidential order” means—

19 (1) any Executive order, Presidential proclama-
20 tion, or Presidential directive; and

21 (2) any other Presidential or Executive action
22 by whatever name described purporting to have nor-
23 mative effect outside the executive branch which is

- 1 issued under the authority of the President or any
- 2 other officer or employee of the executive branch.

