

119<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 65

To amend the Endangered Species Act of 1973 to further restrict the Secretary of the Interior from designating certain lands used for national defense-related purposes as critical habitat for any species under that Act and to broaden exclusions and exemptions from that Act for such defense-related purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2025

Mr. BIGGS of Arizona (for himself and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To amend the Endangered Species Act of 1973 to further restrict the Secretary of the Interior from designating certain lands used for national defense-related purposes as critical habitat for any species under that Act and to broaden exclusions and exemptions from that Act for such defense-related purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Armed Forces Endan-  
5        gered Species Exemption Act”.

1 **SEC. 2. EXCLUSION OF MILITARY INSTITUTIONS AS CRIT-**  
2 **ICAL HABITAT.**

3 Section 4(a)(3)(B) of the Endangered Species Act of  
4 1973 (16 U.S.C. 1533(a)(3)(B)) is amended to read as  
5 follows:

6 “(i) The Secretary shall not designate as crit-  
7 ical habitat—

8 “(I) any military installation or a State-  
9 owned National Guard installation, or any por-  
10 tion thereof, as such terms are defined in sec-  
11 tion 100 of the Sikes Act (16 U.S.C. 670); or

12 “(II) any other lands, waters, or geo-  
13 graphical area not described in clause (i) that  
14 is otherwise designated for use by the Secretary  
15 of Defense including by any contractor of the  
16 Department of Defense, if the Secretary of De-  
17 fense determines in writing and submitted to  
18 the Secretary of the Interior that such area is  
19 necessary for military training, weapons testing,  
20 or any other reason determined appropriate by  
21 such Secretary of Defense.

22 “(ii) The Secretary of Defense shall not be re-  
23 quired to consult with the Secretary of the Interior,  
24 under section 7(a)(2) of this Act with respect to  
25 agency action, regardless of whether the area de-  
26 scribed in clause (i) is subject to an integrated nat-

1       ural resources management plan prepared under sec-  
2       tion 101 of the Sikes Act (16 U.S.C. 670a).”.

3   **SEC. 3. ADDITIONAL EXCLUSIONS AND EXEMPTIONS FROM**  
4                   **ENDANGERED SPECIES ACT OF 1973 FOR DE-**  
5                   **FENSE-RELATED OPERATIONS.**

6       Section 10 of the Endangered Species Act of 1973  
7   (16 U.S.C. 1539) is amended by adding at the end the  
8   following:

9       “(k) EXCLUSION FOR NATIONAL DEFENSE-RELATED  
10   OPERATIONS.—

11           “(1) EXCLUSIONS.—The prohibitions under sec-  
12   tion 9 shall not apply with respect to—

13                   “(A) the taking of any endangered species  
14                   or threatened species, or the importation or ex-  
15                   portation of any such species taken as prohib-  
16                   ited by such section, by military personnel en-  
17                   gaged in a national defense-related operation;

18                   “(B) damaging or destroying any threat-  
19                   ened or endangered species, or removing, cut-  
20                   ting, digging up, damaging, or destroying any  
21                   such species, by military personnel engaged in  
22                   a national defense-related operation; or

23                   “(C) an injury to or mortality of a threat-  
24                   ened or endangered species that results from,

1 but is not the purpose of, a national defense-re-  
2 lated operation,  
3 regardless of whether the operation is conducted on  
4 a military installation or other area described in sec-  
5 tion 4(a)(3)(B)(i).

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

8 “(A) the term ‘national defense-related op-  
9 eration’ 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 deems necessary to sup-  
21 port the Department of Defense in its mis-  
22 sion; and

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.”.

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