

**AMENDMENT TO RULES COMMITTEE PRINT 116–**

**57**

**OFFERED BY MR. BYRNE OF ALABAMA**

Add at the end of subtitle B of title VIII the following new section:

**1 SEC. 8\_\_\_\_. DOCUMENTATION PERTAINING TO COMMER-**  
**2 CIAL ITEM DETERMINATIONS.**

**3** Section 2380 of title 10, United States Code, is  
**4** amended by—

**5** (1) redesignating subsection (b) as subsection  
**6** (c); and

**7** (2) inserting after subsection (a) the following  
**8** new subsection:

**9** “(b) DETERMINATIONS REGARDING THE COMMER-  
**10** CIAL NATURE OF PRODUCTS OR SERVICES.—

**11** “(1) IN GENERAL.—A contracting officer of the  
**12** Department of Defense shall make a binding deter-  
**13** mination whether a particular product or service of-  
**14** fered by a contractor meets the definition of a com-  
**15** mercial product or commercial service. The con-  
**16** tracting officer may seek the advice of the cadre of  
**17** experts established pursuant to section 831(b)(2) of  
**18** the National Defense Authorization Act for Fiscal

1 Year 2013 (Public Law 112–239; 126 Stat. 1842;  
2 10 U.S.C. 2306a note), or request the cadre of ex-  
3 perts to make a determination that a product or  
4 service is a commercial product or commercial serv-  
5 ice.

6 “(2) MEMORANDUM.—Within 30 days after  
7 making a determination that a product or service is  
8 a commercial product or commercial service, the con-  
9 tracting officer shall submit a written memorandum  
10 summarizing the determination, consistent with the  
11 template in Appendix B of the Department of De-  
12 fense Guidebook for Acquiring Commercial Items  
13 (issued January 2018 and revised July 2019), to—

14 “(A) the Director of the Defense Contract  
15 Management Agency for inclusion in any data-  
16 base established to fulfill the requirements of  
17 subsection (a)(2); and

18 “(B) the contractor asserting the commer-  
19 cial nature of the product or service.”.

