

AMENDMENT TO RULES COMMITTEE PRINT 119–**8****OFFERED BY MR. NUNN OF IOWA**

At the appropriate place in subtitle A of title VIII,
insert the following:

1 **SEC. 8___. FINANCING FOR PROGRAMS WITH PRIORITY**
2 **RATINGS UNDER THE DEFENSE PRIORITIES**
3 **AND ALLOCATION SYSTEM.**

4 (a) **FINANCING COSTS.**—The Secretary of Defense
5 shall ensure that covered financing costs incurred by a
6 contractor through the performance of a covered contract
7 are allowable and allocable as a direct or an indirect cost
8 for such covered contract if such covered financing costs—

9 (1) are reasonable and consistent with pre-
10 vailing market rates for similar financing; and

11 (2) are incurred to pay a covered financing en-
12 tity.

13 (b) **AGREEMENTS WITH COVERED FINANCING ENTI-**
14 **TIES.**—Requirements of the Department of Defense Sup-
15 plement to the Federal Acquisition Regulation otherwise
16 applicable to a contract or subcontract described in sub-
17 section (a) shall not be incorporated into any agreement

1 with a covered financing entity relating to covered financ-
2 ing costs.

3 (c) AVAILABILITY OF FUNDS.—The Secretary of De-
4 fense shall ensure that with respect to a covered contract
5 for which covered financing costs are allowable and allo-
6 cable pursuant to subsection (a), any obligation of the
7 United States to make a payment under such covered con-
8 tract is subject to the availability of appropriations for
9 that purpose, and that total liability to the Government
10 for the termination of such covered contract shall be lim-
11 ited to the total amount of funding obligated at the time
12 of termination.

13 (d) DEFINITIONS.—In this section:

14 (1) The term “covered activity” means an activ-
15 ity of a prime contractor or subcontractor that sup-
16 ports a covered program, including an activity—

17 (A) to manage an inventory of completed
18 products or components produced for a covered
19 program;

20 (B) to improve inventory management of
21 products or components necessary for
22 sustainment or maintenance of a covered pro-
23 gram;

24 (C) to materially expand the capacity of
25 production or sustainment and maintenance of

1 a covered program through capital expendi-
2 tures; or

3 (D) for any other purpose identified by the
4 Secretary of Defense.

5 (2) The term “covered contract” means a con-
6 tract or subcontract entered into by the Secretary of
7 Defense pursuant to a use of the priorities and allo-
8 cations authorities under the Defense Production
9 Act of 1950 (50 U.S.C. 4501 et seq.), including
10 such a contract or subcontract for export, for per-
11 formance of a covered activity.

12 (3) The term “covered financing costs” means
13 interest on debt, bond discounts, or costs of financ-
14 ing and refinancing capital.

15 (4) The term “covered financing entity” means
16 an entity established pursuant to Federal or State
17 law that—

18 (A) as part of the regular business activi-
19 ties of the entity, extends credit, loans, or other
20 financing to other persons; and

21 (B) is not owned by, controlled by, or
22 under common control with the person receiving
23 such financing.

24 (5) The term “covered program” means any
25 program under title 10, United States Code, for the

1 production and sustainment of naval combatant sur-
2 face ships and submarines, air defense capabilities,
3 munitions, aircraft, land systems, combat vehicles,
4 or any other capability designated by the Secretary.

