

AMENDMENT TO RULES COMM. PRINT 116-57
OFFERED BY MR. ENGEL OF NEW YORK

Add at the end of subtitle G of title XII the following:

1 **SEC. 12 ___. ESTABLISHMENT OF NATIONAL COMMISSION**
2 **ON U.S. COUNTERTERRORISM POLICY.**

3 (a) ESTABLISHMENT.—There is established an inde-
4 pendent commission within the legislative branch to be
5 known as the “National Commission on U.S. Counterter-
6 rorism Policy” (in this section referred to as the “Commis-
7 sion”).

8 (b) PURPOSE.—The Commission shall assess United
9 States counterterrorism efforts, including the study areas
10 specified in subsection (c), and make recommendations
11 based on its findings.

12 (c) STUDY AREAS.—In carrying out subsection (b),
13 the Commission shall study the following:

14 (1) The evolution of threats to the United
15 States since September 11, 2001, from international
16 and domestic terrorism, including—

17 (A) an assessment of potential connections
18 between such threats, and the risks such
19 threats pose relative to other security threats to

1 the United States and United States national
2 interests; and

3 (B) the effects of United States counter-
4 terrorism objectives, priorities, capabilities, poli-
5 cies, programs, and activities on such threats.

6 (2) The applicability of major lessons learned
7 from United States counterterrorism objectives, pri-
8 orities, policies, programs, and activities since Sep-
9 tember 11, 2001, for ongoing and future counterter-
10 rorism objectives, priorities, policies, programs, and
11 activities.

12 (3) Ongoing United States counterterrorism ob-
13 jectives, priorities, capabilities, policies, programs,
14 and activities, including an assessment of the fol-
15 lowing:

16 (A) Whether such objectives, priorities, ca-
17 pabilities, policies, programs, and activities are
18 appropriately integrated, programmatically and
19 organizationally, into wider United States for-
20 eign and domestic policy.

21 (B) Whether counterterrorism resources
22 are appropriately balanced across the range of
23 counterterrorism programs and activities con-
24 ducted by the United States, and the actions
25 necessary to improve such balance if necessary.

1 (C) The potential constraints on counter-
2 terrorism objectives, priorities, capabilities, poli-
3 cies, programs, and activities resulting from the
4 United States' need to confront a growing num-
5 ber of geopolitical and security challenges, and
6 how to mitigate any terrorism-related risks that
7 might result.

8 (D) The potential new or emerging chal-
9 lenges or opportunities of conducting counter-
10 terrorism operations in contested environments
11 where strategic state competitors such as Rus-
12 sia, China, or Iran operate, and identification of
13 actions the United States Government should
14 take to mitigate potential risks and take advan-
15 tage of possible opportunities.

16 (E) The instruments of national power
17 used to advance counterterrorism objectives and
18 identification of new or modified instruments, if
19 appropriate.

20 (F) Any impacts of such counterterrorism
21 objectives, priorities, capabilities, policies, pro-
22 grams, and activities on civil rights and civil lib-
23 erties in the United States and internationally
24 recognized human rights and humanitarian
25 principles abroad.

1 (4) The legal authorities and policy frameworks
2 for counterterrorism programs and activities in the
3 United States and abroad, and whether such au-
4 thorities or frameworks require updating.

5 (5) The state of United States counterterrorism
6 partnerships, including—

7 (A) the impact of United States counter-
8 terrorism objectives, priorities, capabilities, poli-
9 cies, programs, and activities on the counterter-
10 rorism objectives, priorities, capabilities, poli-
11 cies, programs, and activities of partner coun-
12 tries; and

13 (B) the willingness, capacity, and capa-
14 bility of United States counterterrorism part-
15 ners to combat shared threats, and the impact
16 of security assistance and foreign assistance on
17 such willingness, capacity, and capability.

18 (6) Ongoing efforts by the executive branch to
19 measure the effectiveness of United States counter-
20 terrorism objectives, priorities, capabilities, policies,
21 programs, and activities through net assessments
22 and evaluations of lessons learned, including an as-
23 sessment of efforts to address factors that contribute
24 to terrorist recruitment and radicalization.

1 (7) Recommendations on how best to adapt
2 United States counterterrorism objectives, priorities,
3 capabilities, policies, programs, and activities on the
4 basis of the areas of study specified in this sub-
5 section and any other findings the Commission de-
6 termines relevant.

7 (d) COMPOSITION.—

8 (1) MEMBERS.—The Commission shall be com-
9 posed of 14 commissioners, to be appointed as fol-
10 lows:

11 (A) One commissioner appointed by the
12 Chairman, with the concurrence of the ranking
13 member, of each of the appropriate congress-
14 sional committees.

15 (B) A Chairperson, appointed by the
16 Speaker of the House of Representatives, with
17 the concurrence of the Minority Leader of the
18 House of Representatives.

19 (C) A Vice-Chairperson, appointed by the
20 Majority Leader of the Senate, with the concu-
21 rence of the Minority Leader of the Senate.

22 (2) QUALIFICATIONS.—Individuals appointed to
23 the Commission shall be United States persons with
24 relevant counterterrorism expertise and experience in
25 diplomacy, law enforcement, the Armed Forces, law,

1 public administration, Congress, intelligence, aca-
2 demia, human rights, civil rights, or civil liberties.
3 The leadership of the House of Representatives and
4 the Senate shall coordinate with the appropriate con-
5 gressional committees to ensure that Commission
6 membership represents a variety of expertise in such
7 fields. At least one of the commissioners shall pos-
8 sess a civil rights or civil liberties background in ad-
9 dition to relevant counterterrorism expertise, and
10 one commissioner shall possess an international
11 human rights background in addition to relevant
12 counterterrorism expertise.

13 (3) PROHIBITIONS.—An individual appointed to
14 the Commission may not be—

15 (A) a Member of Congress, including a
16 Delegate or Resident Commissioner;

17 (B) an employee or official of any other
18 branch of the Federal Government;

19 (C) an employee or official of any State,
20 territory, county, or municipality in the United
21 States; or

22 (D) a registered lobbyist.

23 (4) CONFLICTS OF INTEREST.—An individual
24 appointed to the Commission shall disclose any fi-
25 nancial gains from private sector employment con-

1 ducted in support of United States counterterrorism
2 objectives, priorities, capabilities, policies, programs,
3 or activities at any time since the September 11,
4 2001, attacks.

5 (5) DEADLINE FOR APPOINTMENT OF COMMIS-
6 SIONERS.—Individuals appointed to the Commission
7 shall be appointed not later than—

8 (A) 30 days after the date of the enact-
9 ment of this Act, or

10 (B) December 31, 2020,

11 whichever occurs first.

12 (6) PERIOD OF APPOINTMENT.—Each commis-
13 sioner and the Chairperson and Vice-Chairperson
14 shall be appointed for the life of the Commission.

15 (7) VACANCIES.—Any vacancy in the Commis-
16 sion shall not affect its powers and duties and shall
17 be filled in the same manner as the original appoint-
18 ment within 30 days of such vacancy occurring.

19 (8) COMPENSATION.—Commissioners and the
20 Chairperson and Vice-Chairperson shall serve with-
21 out pay.

22 (9) TRAVEL EXPENSES.—Commissioners and
23 the Chairperson and Vice-Chairperson shall receive
24 travel expenses, including per diem in lieu of subsist-
25 ence, in accordance with sections 5702 and 5703 of

1 title 5, United States Code, while away from their
2 homes or regular places of business in performance
3 of services for the Commission.

4 (e) MEETINGS.—

5 (1) INITIAL MEETING.—The initial meeting of
6 the Commission shall be held not later than 30 days
7 after the satisfaction of all of the following:

8 (A) The appointment of two-thirds of the
9 members of the Commission, including at least
10 one of the Chairperson or Vice-Chairperson.

11 (B) The transfer of funding under sub-
12 section (k).

13 (2) RESPONSIBILITY.—The Commission shall,
14 at its initial meeting, develop and implement a
15 schedule for completion of the review and assess-
16 ment under subsection (b) and report under sub-
17 section (m)(2).

18 (3) SUBSEQUENT MEETINGS.—The Commission
19 shall meet at the call the Chairperson or a majority
20 of commissioners.

21 (4) QUORUM.—Eight commissioners shall con-
22 stitute a quorum, and commissioners may vote by
23 proxy.

24 (f) CONSULTATION.—In conducting the review and
25 assessment and study required under this section, the

1 Commission shall consult with relevant experts in the Fed-
2 eral Government (including relevant Members of Congress
3 and congressional staff), academia, law, civil society, and
4 the private sector.

5 (g) POWERS OF THE COMMISSION.—

6 (1) HEARINGS AND EVIDENCE.—For the pur-
7 poses of carrying out this section, the Commission
8 may—

9 (A) hold classified or unclassified hearings,
10 take testimony, receive evidence, and administer
11 oaths; and

12 (B) subject to paragraph (3), require, by
13 subpoena authorized by majority vote of the
14 Commission and issued under the signature of
15 the Chairperson or any member designated by
16 a majority of the Commission, the attendance
17 and testimony of such witnesses and the pro-
18 duction of such books, records, correspondence,
19 memoranda, papers, and documents, as the
20 Commission may determine advisable.

21 (2) NOTIFICATION OF COMMITTEES.—If the
22 Commission is unable to obtain testimony or docu-
23 ments needed to conduct its work, the Commission
24 shall notify the appropriate congressional commit-
25 tees.

1 (3) SUBPOENA ENFORCEMENT.—

2 (A) IN GENERAL.—In the case of contu-
3 macy or failure to obey a subpoena issued
4 under paragraph (1)(B), the United States dis-
5 trict court for the judicial district in which the
6 subpoenaed person resides, is served, or may be
7 found, or where the subpoena is returnable,
8 may issue an order requiring such person to ap-
9 pear at any designated place to testify or to
10 produce documentary or other evidence. Any
11 failure to obey the order of the court may be
12 punished by the court as a contempt of that
13 court.

14 (B) ADDITIONAL ENFORCEMENT.—In the
15 case of any failure of any witness to comply
16 with any subpoena or to testify when sum-
17 moned under authority of this section, the Com-
18 mission may, by majority vote, certify a state-
19 ment of fact constituting such failure to the ap-
20 propriate United States attorney, who may
21 bring the matter before the grand jury for its
22 action, under the same statutory authority and
23 procedures as if the United States attorney had
24 received a certification under sections 102

1 through 104 of the Revised Statutes of the
2 United States (2 U.S.C. 192 through 194).

3 (4) LIMITATIONS ON SUBPOENA AUTHORITY.—

4 With respect to the subpoena authority under para-
5 graph (1)(B), the Commission—

6 (A) may only issue a subpoena to a mem-
7 ber of Federal, State, local, Tribal, or territorial
8 government;

9 (B) may reference unclassified documents
10 and information obtained through a subpoena
11 when conducting interviews to further the Com-
12 mission's objectives, and may include such doc-
13 uments and information in the final report, but
14 may not otherwise share, disclose, publish, or
15 transmit in any way any information obtained
16 through a subpoena to another Federal depart-
17 ment or agency, any agency of a State, local,
18 Tribal, or territorial government, or any inter-
19 national body; and

20 (C) shall comply with requirements for the
21 issuance of a subpoena issued by a United
22 States district court under the Federal Rules of
23 Civil Procedure.

24 (5) MEETINGS.—The Commission shall—

25 (A) hold public hearings and meetings;

1 (B) hold classified hearings or meetings if
2 necessary to discuss classified material or infor-
3 mation; and

4 (C) provide an opportunity for public com-
5 ment, including sharing of research and policy
6 analysis, through publication in the Federal
7 Register of a solicitation for public comments
8 during a period to last not fewer than 45 days.

9 (h) RESOURCES.—

10 (1) AUTHORITY TO USE THE UNITED STATES
11 MAILS.—The Commission may use the United States
12 mails in the same manner and under the same con-
13 ditions as other Federal agencies.

14 (2) DOCUMENTS, STATISTICAL DATA AND
15 OTHER SUCH INFORMATION.—Upon written request
16 by the Chairperson, Vice-Chairperson, or any com-
17 missioner designated by a majority of the Commis-
18 sion, an executive department, bureau, agency,
19 board, commission, office, independent establish-
20 ment, or instrumentality of the Federal Govern-
21 ment—

22 (A) shall provide reasonable access to doc-
23 uments, statistical data, and other such infor-
24 mation the Commission determines necessary to
25 carry out its duties; and

1 (B) shall, to the extent authorized by law,
2 furnish any information, suggestions, estimates,
3 and statistics the Commission determines nec-
4 essary to carry out its duties.

5 (3) GIFTS.—No member or staff of the Com-
6 mission may receive a gift or benefit by reason of
7 the service of such member or staff to the Commis-
8 sion.

9 (4) AUTHORITY TO CONTRACT.—

10 (A) IN GENERAL.—The Commission is au-
11 thorized to enter into contracts, leases, or other
12 legal agreements with Federal and State agen-
13 cies, Indian tribes, Tribal entities, private enti-
14 ties, and individuals for the conduct of activities
15 necessary to the discharge of its duties.

16 (B) TERMINATION.—A contract, lease, or
17 other legal agreement entered into by the Com-
18 mission under this paragraph may not extend
19 beyond the date of termination of the Commis-
20 sion.

21 (5) INAPPLICABILITY OF FACA.—The Federal
22 Advisory Committee Act (5 U.S.C. App.) shall not
23 apply to the activities of the Commission under this
24 section.

1 (6) OFFICE SPACE AND ADMINISTRATIVE SUP-
2 PORT.—The Architect of the Capitol shall make of-
3 fice space available for day-to-day activities of the
4 Commission and for scheduled meetings of the Com-
5 mission. Upon request, the Architect of the Capitol
6 shall provide, on a reimbursable basis, such adminis-
7 trative support as the Commission requests to carry
8 out its duties.

9 (7) ASSISTANCE FROM FEDERAL AGENCIES.—

10 (A) GENERAL SERVICES ADMINISTRA-
11 TION.—The Administrator of General Services
12 shall provide to the Commission on a reimburs-
13 able basis administrative support and other
14 services as the Commission requests to carry
15 out its duties.

16 (B) FEDERAL DEPARTMENTS AND AGEN-
17 CIES.—Federal departments and agencies may
18 provide to the Commission such services, funds,
19 facilities, staff, and other support services as
20 such departments and agencies consider advis-
21 able and as may be authorized by law.

22 (i) STAFF.—

23 (1) DIRECTOR.—The Chairperson, in consulta-
24 tion with the Vice-Chairperson, and in accordance

1 with rules agreed upon by the Commission, may ap-
2 point a staff director.

3 (2) STAFF.—With the approval of the Commis-
4 sion, the staff director may appoint such employees
5 as the staff director determines necessary to enable
6 the Commission to carry out its duties.

7 (3) STAFF QUALIFICATIONS.—The staff direc-
8 tor shall ensure employees of the Commission have
9 relevant counterterrorism expertise and experience,
10 including in areas such as diplomacy, law enforce-
11 ment, the Armed Forces, law, public administration,
12 Congress, intelligence, academia, human rights, civil
13 rights, or civil liberties.

14 (3) APPOINTMENTS AND COMPENSATION.—The
15 Commission may appoint and fix the compensation
16 of the staff director and other employees without re-
17 gard to the provisions of title 5, United States Code,
18 governing appointments in the competitive service,
19 and without regard to the provisions of chapter 51
20 and subchapter III of chapter 53 of such title relat-
21 ing to classification and General Schedule pay rates,
22 except that the rate of pay for the staff director may
23 not may exceed the equivalent of that payable to a
24 person occupying a position at level IV of the Execu-
25 tive Schedule and the rate of pay for any other em-

1 ployee of the Commission may not exceed the equiv-
2 alent of that payable to a person occupying a posi-
3 tion at level V of the Executive Schedule.

4 (4) EXPERTS AND CONSULTANTS.—With the
5 approval of the Chairperson, the staff director may
6 procure temporary and intermittent services under
7 section 3109(b) of title 5, United States Code.

8 (5) DETAIL OF GOVERNMENT EMPLOYEES.—
9 Upon the request of the Commission, the head of
10 any Federal agency may detail, without reimburse-
11 ment, any of the personnel of such agency to the
12 Commission to assist in carrying out its duties. Any
13 such detail shall not interrupt or otherwise affect the
14 civil service status or privileges of such personnel.

15 (6) VOLUNTEER SERVICES.—Notwithstanding
16 section 1342 of title 31, United States Code, the
17 Commission may accept and use voluntary and un-
18 compensated services as the Commission determines
19 necessary.

20 (j) SECURITY CLEARANCES FOR COMMISSION MEM-
21 BERS AND STAFF.—The appropriate Federal agencies or
22 departments shall cooperate with the Commission in expe-
23 ditiously providing to the commissioners, including the
24 Chairperson and Vice-Chairperson, and the staff director
25 and other employees, appropriate security clearances to

1 the extent possible pursuant to existing procedures and
2 requirements.

3 (k) FUNDING.—

4 (1) IN GENERAL.—Of the amounts authorized
5 to be appropriated for fiscal year 2021 by this Act,
6 \$4,000,000 shall be made available for transfer to
7 the Commission for purposes of the activities of the
8 Commission under this section.

9 (2) DURATION OF AVAILABILITY.—Amounts
10 made available to the Commission under paragraph
11 (1) shall remain available until the until the termi-
12 nation of the Commission.

13 (l) TERMINATION.—The Commission shall terminate
14 on the date that is 180 days after the date on which the
15 Commission submits the report under subsection (m)(2).

16 (m) BRIEFINGS AND REPORT.—

17 (1) BRIEFINGS.—The Chairperson, Vice-Chair-
18 person, and staff director of the Commission shall
19 provide quarterly briefings to the appropriate con-
20 gressional committees, of which not fewer than two
21 briefings shall be for Members of Congress.

22 (2) REPORT.—

23 (A) IN GENERAL.—Not later than 540
24 days after the initial meeting of the Commis-
25 sion under subsection (e), the Commission shall

1 submit to the appropriate congressional com-
2 mittees an unclassified report that includes the
3 following:

4 (i) The findings, conclusions, and rec-
5 ommendations of the Commission pursuant
6 to the review and assessment under sub-
7 section (b).

8 (ii) Summaries of the input and rec-
9 ommendations of each individual with
10 whom the Commission consulted in accord-
11 ance with subsection (f), attributed in ac-
12 cordance with the preference expressed by
13 such individual.

14 (B) CLASSIFIED ANNEX.—The report re-
15 quired under this subsection may include a clas-
16 sified annex.

17 (C) ADDENDUM.—Pursuant to subsection
18 (h)(3), the Commission shall publish as an ad-
19 dendum to the report under subsection (m)(2)
20 a list of all gifts received and the individual or
21 entity from which such gift was received.

22 (3) PUBLIC RELEASE.—Not later than seven
23 days after the date on which the Commission sub-
24 mits the report under this subsection, the Commis-
25 sion shall make publicly available such report, with

1 the exception of any classified annex under para-
2 graph (2)(B).

3 (n) DEFINITIONS.—In this section:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on Armed Services, the
8 Committee on Homeland Security, the Com-
9 mittee on Foreign Affairs, the Permanent Se-
10 lect Committee on Intelligence, the Committee
11 on the Judiciary, and the Committee on Finan-
12 cial Services of the House of Representatives;
13 and

14 (B) the Committee on Armed Services, the
15 Committee on Homeland Security and Govern-
16 mental Affairs, the Committee on Foreign Rela-
17 tions, the Select Committee on Intelligence, the
18 Committee on the Judiciary, and the Com-
19 mittee on Finance of the Senate.

20 (2) DOMESTIC TERRORISM.—The term “domes-
21 tic terrorism” has the meaning given such term in
22 section 2331 of title 18, United States Code.

23 (3) INDIAN TRIBE.—The term “Indian tribe”
24 has the meaning given such term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act of 1975 (25 U.S.C. 5304).

3 (4) INTERNATIONAL TERRORISM.—The term
4 “international terrorism” has the meaning given
5 such term in section 2331 of title 18, United States
6 Code.

7 (5) REGISTERED LOBBYIST.—The term “reg-
8 istered lobbyist” means a lobbyist described in sec-
9 tion 3 of the Lobbying Disclosure Act of 1995 (2
10 U.S.C. 1603).

11 (6) UNITED STATES PERSON.—The term
12 “United States person” has the meaning given that
13 term in section 101 of the Foreign Intelligence Sur-
14 veillance Act of 1978 (50 U.S.C. 1801).

