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:

SEC. 12. ESTABLISHMENT OF NATIONAL COMMISSION ON U.S. COUNTERTERRORISM POLICY.

(a) Establishment.—There is established an independent commission within the legislative branch to be known as the “National Commission on U.S. Counterterrorism Policy” (in this section referred to as the “Commission”).

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

(c) Study Areas.—In carrying out subsection (b), the Commission shall study the following:

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

(A) an assessment of potential connections between such threats, and the risks such threats pose relative to other security threats to
the United States and United States national interests; and

(B) the effects of United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities on such threats.

(2) The applicability of major lessons learned from United States counterterrorism objectives, priorities, policies, programs, and activities since September 11, 2001, for ongoing and future counterterrorism objectives, priorities, policies, programs, and activities.

(3) Ongoing United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities, including an assessment of the following:

(A) Whether such objectives, priorities, capabilities, policies, programs, and activities are appropriately integrated, programmatically and organizationally, into wider United States foreign and domestic policy.

(B) Whether counterterrorism resources are appropriately balanced across the range of counterterrorism programs and activities conducted by the United States, and the actions necessary to improve such balance if necessary.
(C) The potential constraints on counter-terrorism objectives, priorities, capabilities, policies, programs, and activities resulting from the United States’ need to confront a growing number of geopolitical and security challenges, and how to mitigate any terrorism-related risks that might result.

(D) The potential new or emerging challenges or opportunities of conducting counter-terrorism operations in contested environments where strategic state competitors such as Russia, China, or Iran operate, and identification of actions the United States Government should take to mitigate potential risks and take advantage of possible opportunities.

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

(F) Any impacts of such counterterrorism objectives, priorities, capabilities, policies, programs, and activities on civil rights and civil liberties in the United States and internationally recognized human rights and humanitarian principles abroad.
(4) The legal authorities and policy frameworks for counterterrorism programs and activities in the United States and abroad, and whether such authorities or frameworks require updating.

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

(A) the impact of United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities on the counterterrorism objectives, priorities, capabilities, policies, programs, and activities of partner countries; and

(B) the willingness, capacity, and capability of United States counterterrorism partners to combat shared threats, and the impact of security assistance and foreign assistance on such willingness, capacity, and capability.

(6) Ongoing efforts by the executive branch to measure the effectiveness of United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities through net assessments and evaluations of lessons learned, including an assessment of efforts to address factors that contribute to terrorist recruitment and radicalization.
(7) Recommendations on how best to adapt United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities on the basis of the areas of study specified in this subsection and any other findings the Commission determines relevant.

(d) COMPOSITION.—

(1) MEMBERS.—The Commission shall be composed of 14 commissioners, to be appointed as follows:

(A) One commissioner appointed by the Chairman, with the concurrence of the ranking member, of each of the appropriate congressional committees.

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

(C) A Vice-Chairperson, appointed by the Majority Leader of the Senate, with the concurrence of the Minority Leader of the Senate.

(2) QUALIFICATIONS.—Individuals appointed to the Commission shall be United States persons with relevant counterterrorism expertise and experience in diplomacy, law enforcement, the Armed Forces, law,
public administration, Congress, intelligence, academia, human rights, civil rights, or civil liberties. The leadership of the House of Representatives and the Senate shall coordinate with the appropriate congressional committees to ensure that Commission membership represents a variety of expertise in such fields. At least one of the commissioners shall possess a civil rights or civil liberties background in addition to relevant counterterrorism expertise, and one commissioner shall possess an international human rights background in addition to relevant counterterrorism expertise.

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

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

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

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

(D) a registered lobbyist.

(4) **CONFLICTS OF INTEREST.**—An individual appointed to the Commission shall disclose any financial gains from private sector employment con-
ducted in support of United States counterterrorism objectives, priorities, capabilities, policies, programs, or activities at any time since the September 11, 2001, attacks.

(5) **DEADLINE FOR APPOINTMENT OF COMMISSIONERS.**—Individuals appointed to the Commission shall be appointed not later than—

(A) 30 days after the date of the enactment of this Act, or

(B) December 31, 2020,

whichever occurs first.

(6) **PERIOD OF APPOINTMENT.**—Each commissioner and the Chairperson and Vice-Chairperson shall be appointed for the life of the Commission.

(7) **VACANCIES.**—Any vacancy in the Commission shall not affect its powers and duties and shall be filled in the same manner as the original appointment within 30 days of such vacancy occurring.

(8) **COMPENSATION.**—Commissioners and the Chairperson and Vice-Chairperson shall serve without pay.

(9) **TRAVEL EXPENSES.**—Commissioners and the Chairperson and Vice-Chairperson shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of
title 5, United States Code, while away from their homes or regular places of business in performance of services for the Commission.

(e) MEETINGS.—

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

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

(B) The transfer of funding under subsection (k).

(2) RESPONSIBILITY.—The Commission shall, at its initial meeting, develop and implement a schedule for completion of the review and assessment under subsection (b) and report under subsection (m)(2).

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

(4) QUORUM.—Eight commissioners shall constitute a quorum, and commissioners may vote by proxy.

(f) CONSULTATION.—In conducting the review and assessment and study required under this section, the
Commission shall consult with relevant experts in the Federal Government (including relevant Members of Congress and congressional staff), academia, law, civil society, and the private sector.

(g) POWERS OF THE COMMISSION.—

(1) HEARINGS AND EVIDENCE.—For the purposes of carrying out this section, the Commission may—

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

(B) subject to paragraph (3), require, by subpoena authorized by majority vote of the Commission and issued under the signature of the Chairperson or any member designated by a majority of the Commission, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission may determine advisable.

(2) NOTIFICATION OF COMMITTEES.—If the Commission is unable to obtain testimony or documents needed to conduct its work, the Commission shall notify the appropriate congressional committees.
(3) SUBPOENA ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102
through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(4) LIMITATIONS ON SUBPOENA AUTHORITY.—With respect to the subpoena authority under paragraph (1)(B), the Commission—

(A) may only issue a subpoena to a member of Federal, State, local, Tribal, or territorial government;

(B) may reference unclassified documents and information obtained through a subpoena when conducting interviews to further the Commission’s objectives, and may include such documents and information in the final report, but may not otherwise share, disclose, publish, or transmit in any way any information obtained through a subpoena to another Federal department or agency, any agency of a State, local, Tribal, or territorial government, or any international body; and

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

(5) MEETINGS.—The Commission shall—

(A) hold public hearings and meetings;
(B) hold classified hearings or meetings if necessary to discuss classified material or information; and

(C) provide an opportunity for public comment, including sharing of research and policy analysis, through publication in the Federal Register of a solicitation for public comments during a period to last not fewer than 45 days.

(h) RESOURCES.—

(1) AUTHORITY TO USE THE UNITED STATES MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(2) DOCUMENTS, STATISTICAL DATA AND OTHER SUCH INFORMATION.—Upon written request by the Chairperson, Vice-Chairperson, or any commissioner designated by a majority of the Commission, an executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government—

(A) shall provide reasonable access to documents, statistical data, and other such information the Commission determines necessary to carry out its duties; and
(B) shall, to the extent authorized by law, furnish any information, suggestions, estimates, and statistics the Commission determines necessary to carry out its duties.

(3) GIFTS.—No member or staff of the Commission may receive a gift or benefit by reason of the service of such member or staff to the Commission.

(4) AUTHORITY TO CONTRACT.—

(A) IN GENERAL.—The Commission is authorized to enter into contracts, leases, or other legal agreements with Federal and State agencies, Indian tribes, Tribal entities, private entities, and individuals for the conduct of activities necessary to the discharge of its duties.

(B) TERMINATION.—A contract, lease, or other legal agreement entered into by the Commission under this paragraph may not extend beyond the date of termination of the Commission.

(5) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this section.
(6) **Office Space and Administrative Support.**—The Architect of the Capitol shall make office space available for day-to-day activities of the Commission and for scheduled meetings of the Commission. Upon request, the Architect of the Capitol shall provide, on a reimbursable basis, such administrative support as the Commission requests to carry out its duties.

(7) **Assistance from Federal Agencies.**—

(A) **General Services Administration.**—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services as the Commission requests to carry out its duties.

(B) **Federal Departments and Agencies.**—Federal departments and agencies may provide to the Commission such services, funds, facilities, staff, and other support services as such departments and agencies consider advisable and as may be authorized by law.

(i) **Staff.**—

(1) **Director.**—The Chairperson, in consultation with the Vice-Chairperson, and in accordance
with rules agreed upon by the Commission, may ap-
point a staff director.

(2) **STAFF.**—With the approval of the Commiss-
ion, the staff director may appoint such employees
as the staff director determines necessary to enable
the Commission to carry out its duties.

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

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

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

(5) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of such personnel.

(6) **VOLUNTEER SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(j) **SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**—The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the commissioners, including the Chairperson and Vice-Chairperson, and the staff director and other employees, appropriate security clearances to
the extent possible pursuant to existing procedures and requirements.

(k) FUNDING.—

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

(2) DURATION OF AVAILABILITY.—Amounts made available to the Commission under paragraph (1) shall remain available until the termination of the Commission.

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

(m) BRIEFINGS AND REPORT.—

(1) BRIEFINGS.—The Chairperson, Vice-Chairperson, and staff director of the Commission shall provide quarterly briefings to the appropriate congressional committees, of which not fewer than two briefings shall be for Members of Congress.

(2) REPORT.—

(A) IN GENERAL.—Not later than 540 days after the initial meeting of the Commission under subsection (e), the Commission shall
submit to the appropriate congressional committees an unclassified report that includes the following:

(i) The findings, conclusions, and recommendations of the Commission pursuant to the review and assessment under subsection (b).

(ii) Summaries of the input and recommendations of each individual with whom the Commission consulted in accordance with subsection (f), attributed in accordance with the preference expressed by such individual.

(B) CLASSIFIED ANNEX.—The report required under this subsection may include a classified annex.

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

(3) PUBLIC RELEASE.—Not later than seven days after the date on which the Commission submits the report under this subsection, the Commission shall make publicly available such report, with
the exception of any classified annex under paragraph (2)(B).

(n) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Homeland Security, the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Foreign Relations, the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Finance of the Senate.

(2) DOMESTIC TERRORISM.—The term “domestic terrorism” has the meaning given such term in section 2331 of title 18, United States Code.

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

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


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