

**AMENDMENT TO**  
**RULES COMMITTEE PRINT 116-63**  
**OFFERED BY MR. LUJÁN OF NEW MEXICO**

Add at the end of title VIII the following:

1 **Subtitle D—Increasing and Mobi-**  
2 **lizing Partnerships to Achieve**  
3 **Commercialization of Tech-**  
4 **nologies for Energy**

5 **SEC. 8401. SHORT TITLE.**

6 This subtitle may be cited as the “Increasing and Mo-  
7 bilizing Partnerships to Achieve Commercialization of  
8 Technologies for Energy Act” or the “IMPACT for En-  
9 ergy Act”.

10 **SEC. 8402. DEFINITIONS.**

11 In this subtitle:

12 (1) **BOARD.**—The term “Board” means the  
13 Board of Directors described in section 8403(b)(1).

14 (2) **DEPARTMENT.**—The term “Department”  
15 means the Department of Energy.

16 (3) **EXECUTIVE DIRECTOR.**—The term “Execu-  
17 tive Director” means the Executive Director de-  
18 scribed in section 8403(e)(1).

1           (4) FOUNDATION.—The term “Foundation”  
2 means the Energy Technology Commercialization  
3 Foundation established under section 8403(a).

4           (5) NATIONAL LABORATORY.—The term “Na-  
5 tional Laboratory” has the meaning given the term  
6 in section 2 of the Energy Policy Act of 2005 (42  
7 U.S.C. 15801).

8           (6) SECRETARY.—The term “Secretary” means  
9 the Secretary of Energy.

10 **SEC. 8403. ENERGY TECHNOLOGY COMMERCIALIZATION**  
11 **FOUNDATION.**

12 (a) ESTABLISHMENT.—

13           (1) IN GENERAL.—Not later than 180 days  
14 after the date of enactment of this Act, the Sec-  
15 retary shall establish a nonprofit corporation to be  
16 known as the “Energy Technology Commercializa-  
17 tion Foundation”.

18           (2) MISSION.—The mission of the Foundation  
19 shall be—

20                   (A) to support the mission of the Depart-  
21 ment; and

22                   (B) to advance collaboration with energy  
23 researchers, institutions of higher education, in-  
24 dustry, and nonprofit and philanthropic organi-

1           zations to accelerate the commercialization of  
2           energy technologies.

3           (3) LIMITATION.—The Foundation shall not be  
4           an agency or instrumentality of the Federal Govern-  
5           ment.

6           (4) TAX-EXEMPT STATUS.—The Board shall  
7           take all necessary and appropriate steps to ensure  
8           that the Foundation receives a determination from  
9           the Internal Revenue Service that it is an organiza-  
10          tion that is described in section 501(c) of the Inter-  
11          nal Revenue Code of 1986, and exempt from tax-  
12          ation under section 501(a) of such Code.

13          (5) COLLABORATION WITH EXISTING ORGANI-  
14          ZATIONS.—The Secretary may collaborate with 1 or  
15          more organizations to establish the Foundation and  
16          carry out the activities of the Foundation.

17          (b) BOARD OF DIRECTORS.—

18                 (1) ESTABLISHMENT.—The Foundation shall  
19                 be governed by a Board of Directors.

20                 (2) COMPOSITION.—

21                         (A) IN GENERAL.—The Board shall be  
22                         composed of the members described in subpara-  
23                         graph (B).

24                         (B) BOARD MEMBERS.—

1 (i) INITIAL MEMBERS.—The Secretary  
2 shall—

3 (I) enter into a contract with the  
4 National Academies of Sciences, Engi-  
5 neering, and Medicine to develop a list  
6 of individuals to serve as members of  
7 the Board who are well-qualified and  
8 will meet the requirements of clauses  
9 (ii) and (iii); and

10 (II) appoint the initial members  
11 of the Board, in consultation with the  
12 National Academies of Sciences, Engi-  
13 neering, and Medicine, with the re-  
14 quirements of clauses (ii) and (iii).

15 (ii) REPRESENTATION.—The members  
16 of the Board shall reflect a broad cross-  
17 section of stakeholders from academia, in-  
18 dustry, nonprofit organizations, State or  
19 local governments, the investment commu-  
20 nity, the philanthropic community, and  
21 management and operating contractors of  
22 the National Laboratories.

23 (iii) EXPERIENCE.—The Secretary  
24 shall ensure that a majority of the mem-  
25 bers of the Board—

1 (I)(aa) has experience in the en-  
2 ergy sector;

3 (bb) has research experience in  
4 the energy field; or

5 (cc) has experience in technology  
6 commercialization or foundation oper-  
7 ations; and

8 (II) to the extent practicable,  
9 represents diverse regions and energy  
10 sectors.

11 (3) CHAIR AND VICE CHAIR.—

12 (A) IN GENERAL.—The Board shall des-  
13 ignate from among the members of the  
14 Board—

15 (i) an individual to serve as Chair of  
16 the Board; and

17 (ii) an individual to serve as Vice  
18 Chair of the Board.

19 (B) TERMS.—The term of service of the  
20 Chair and Vice Chair of the Board shall end on  
21 the earlier of—

22 (i) the date that is 3 years after the  
23 date on which the Chair or Vice Chair of  
24 the Board, as applicable, is designated for  
25 the position; and

1 (ii) the last day of the term of service  
2 of the member, as determined under para-  
3 graph (4)(A), who is designated to be  
4 Chair or Vice Chair of the Board, as appli-  
5 cable.

6 (C) REPRESENTATION.—The Chair and  
7 Vice Chair of the Board—

8 (i) shall not be representatives of the  
9 same area or entity, as applicable, under  
10 paragraph (2)(B)(ii); and

11 (ii) shall not be representatives of any  
12 area or entity, as applicable, represented  
13 by the immediately preceding Chair and  
14 Vice Chair of the Board.

15 (4) TERMS AND VACANCIES.—

16 (A) TERMS.—

17 (i) IN GENERAL.—Except as provided  
18 in clause (ii), the term of service of each  
19 member of the Board shall be 5 years.

20 (ii) INITIAL MEMBERS.—Of the initial  
21 members of the Board appointed under  
22 paragraph (2)(B)(i), half of the members  
23 shall serve for 4 years and half of the  
24 members shall serve for 5 years, as deter-  
25 mined by the Chair of the Board.

1 (B) VACANCIES.—Any vacancy in the  
2 membership of the Board—

3 (i) shall be filled in accordance with  
4 the bylaws of the Foundation by an indi-  
5 vidual capable of representing the same  
6 area or entity, as applicable, as rep-  
7 resented by the vacating board member  
8 under paragraph (2)(B)(ii);

9 (ii) shall not affect the power of the  
10 remaining members to execute the duties  
11 of the Board; and

12 (iii) shall be filled by an individual se-  
13 lected by the Board.

14 (5) MEETINGS; QUORUM.—

15 (A) INITIAL MEETING.—Not later than 60  
16 days after the Board is established, the Sec-  
17 retary shall convene a meeting of the members  
18 of the Board to incorporate the Foundation.

19 (B) QUORUM.—A majority of the members  
20 of the Board shall constitute a quorum for pur-  
21 poses of conducting the business of the Board.

22 (6) DUTIES.—The Board shall—

23 (A) establish bylaws for the Foundation in  
24 accordance with paragraph (7);

1 (B) provide overall direction for the activi-  
2 ties of the Foundation and establish priority ac-  
3 tivities;

4 (C) carry out any other necessary activities  
5 of the Foundation;

6 (D) evaluate the performance of the Exec-  
7 utive Director; and

8 (E) actively solicit and accept funds, gifts,  
9 grants, devises, or bequests of real or personal  
10 property to the Foundation, including from pri-  
11 vate entities.

12 (7) BYLAWS.—

13 (A) IN GENERAL.—The bylaws established  
14 under paragraph (6)(A) may include—

15 (i) policies for the selection of Board  
16 members, officers, employees, agents, and  
17 contractors of the Foundation;

18 (ii) policies, including ethical stand-  
19 ards, for—

20 (I) the acceptance, solicitation,  
21 and disposition of donations and  
22 grants to the Foundation, including  
23 appropriate limits on the ability of do-  
24 nors to designate, by stipulation or re-



1                   restriction, the use or recipient of do-  
2                   nated funds; and

3                   (II) the disposition of assets of  
4                   the Foundation;

5                   (iii) policies that subject all employ-  
6                   ees, fellows, trainees, and other agents of  
7                   the Foundation (including members of the  
8                   Board) to conflict of interest standards;  
9                   and

10                  (iv) the specific duties of the Execu-  
11                  tive Director.

12                  (B) REQUIREMENTS.—The Board shall en-  
13                  sure that the bylaws of the Foundation and the  
14                  activities carried out under those bylaws shall  
15                  not—

16                  (i) reflect unfavorably on the ability of  
17                  the Foundation to carry out activities in a  
18                  fair and objective manner; or

19                  (ii) compromise, or appear to com-  
20                  promise, the integrity of any governmental  
21                  agency or program, or any officer or em-  
22                  ployee employed by, or involved in, a gov-  
23                  ernmental agency or program.

24                  (8) COMPENSATION.—

1 (A) IN GENERAL.—No member of the  
2 Board shall receive compensation for serving on  
3 the Board.

4 (B) CERTAIN EXPENSES.—In accordance  
5 with the bylaws of the Foundation, members of  
6 the Board may be reimbursed for travel ex-  
7 penses, including per diem in lieu of subsist-  
8 ence, and other necessary expenses incurred in  
9 carrying out the duties of the Board.

10 (c) PURPOSE.—The purpose of the Foundation is to  
11 increase private and philanthropic sector investments that  
12 support efforts to create, develop, and commercialize inno-  
13 vative technologies that address crosscutting national en-  
14 ergy challenges by methods that include—

15 (1) fostering collaboration and partnerships  
16 with researchers from the Federal Government,  
17 State governments, institutions of higher education,  
18 federally funded research and development centers,  
19 industry, and nonprofit organizations for the re-  
20 search, development, or commercialization of trans-  
21 formative energy and associated technologies;

22 (2)(A) strengthening regional economic develop-  
23 ment through scientific and energy innovation; and

1 (B) disseminating lessons learned from that de-  
2 velopment to foster the creation and growth of new  
3 regional energy innovation clusters;

4 (3) promoting new product development that  
5 supports job creation;

6 (4) administering prize competitions to accel-  
7 erate private sector competition and investment; and

8 (5) supporting programs that advance tech-  
9 nologies from the prototype stage to a commercial  
10 stage.

11 (d) ACTIVITIES.—

12 (1) STUDIES, COMPETITIONS, AND PROJECTS.—

13 The Foundation may conduct and support studies,  
14 competitions, projects, and other activities that fur-  
15 ther the purpose of the Foundation described in sub-  
16 section (c).

17 (2) FELLOWSHIPS AND GRANTS.—

18 (A) IN GENERAL.—The Foundation may  
19 award fellowships and grants for activities re-  
20 lating to research, development, demonstration,  
21 maturation, or commercialization of energy and  
22 other Department-supported technologies.

23 (B) FORM OF AWARD.—A fellowship or  
24 grant under subparagraph (A) may consist of a  
25 stipend, health insurance benefits, funds for

1 travel, and funds for other appropriate ex-  
2 penses.

3 (C) SELECTION.—In selecting a recipient  
4 for a fellowship or grant under subparagraph  
5 (A), the Foundation—

6 (i) shall make the selection based on  
7 the technical and commercialization merits  
8 of the proposed project of the potential re-  
9 cipient; and

10 (ii) may consult with a potential re-  
11 cipient regarding the ability of the poten-  
12 tial recipient to carry out various projects  
13 that would further the purpose of the  
14 Foundation described in subsection (c).

15 (D) NATIONAL LABORATORIES.—A Na-  
16 tional Laboratory that applies for or accepts a  
17 grant under subparagraph (A) shall not be con-  
18 sidered to be engaging in a competitive process.

19 (3) ACCESSING FACILITIES AND EXPERTISE.—  
20 The Foundation may work with the Department—

21 (A) to leverage the capabilities and facili-  
22 ties of National Laboratories to commercialize  
23 technology; and

24 (B) to assist with resources, including  
25 through the development of internet websites

1           that provide information on the capabilities and  
2           facilities of each National Laboratory relating  
3           to the commercialization of technology.

4           (4) TRAINING AND EDUCATION.—The Founda-  
5           tion may support programs that provide commer-  
6           cialization training to researchers, scientists, and  
7           other relevant personnel at National Laboratories  
8           and institutions of higher education to help commer-  
9           cialize federally funded technology.

10          (5) MATURATION FUNDING.—The Foundation  
11          shall support programs that provide maturation  
12          funding to researchers to advance the technology of  
13          those researchers for the purpose of moving products  
14          from a prototype stage to a commercial stage.

15          (6) STAKEHOLDER ENGAGEMENT.—The Foun-  
16          dation shall convene, and may consult with, rep-  
17          resentatives from the Department, institutions of  
18          higher education, National Laboratories, the private  
19          sector, and commercialization organizations to de-  
20          velop programs for the purpose of the Foundation  
21          described in subsection (c) and to advance the activi-  
22          ties of the Foundation.

23          (7) INDIVIDUAL LABORATORY FOUNDATIONS  
24          PROGRAM.—

1 (A) DEFINITION OF INDIVIDUAL LABORA-  
2 TORY FOUNDATION.—In this paragraph, the  
3 term “Individual Laboratory Foundation”  
4 means a Laboratory Foundation established by  
5 a National Laboratory.

6 (B) SUPPORT.—The Foundation shall pro-  
7 vide support to and collaborate with Individual  
8 Laboratory Foundations.

9 (C) GUIDELINES AND TEMPLATES.—For  
10 the purpose of providing support under sub-  
11 paragraph (B), the Secretary shall establish  
12 suggested guidelines and templates for Indi-  
13 vidual Laboratory Foundations, including—

14 (i) a standard adaptable organiza-  
15 tional design for the responsible manage-  
16 ment of an Individual Laboratory Founda-  
17 tion;

18 (ii) standard and legally tenable by-  
19 laws and money-handling procedures for  
20 Individual Laboratory Foundations; and

21 (iii) a standard training curriculum to  
22 orient and expand the operating expertise  
23 of personnel employed by an Individual  
24 Laboratory Foundation.

1 (D) AFFILIATIONS.—Nothing in this para-  
2 graph requires—

3 (i) an existing Individual Laboratory  
4 Foundation to modify current practices or  
5 affiliate with the Foundation; or

6 (ii) an Individual Laboratory Founda-  
7 tion to be bound by charter or corporate  
8 bylaws as permanently affiliated with the  
9 Foundation.

10 (8) SUPPLEMENTAL PROGRAMS.—The Founda-  
11 tion may carry out supplemental programs—

12 (A) to conduct and support forums, meet-  
13 ings, conferences, courses, and training work-  
14 shops consistent with the purpose of the Foun-  
15 dation described in subsection (c);

16 (B) to support and encourage the under-  
17 standing and development of—

18 (i) data that promotes the translation  
19 of technologies from the research stage,  
20 through the development and maturation  
21 stage, and ending in the market stage; and

22 (ii) policies that make regulation more  
23 effective and efficient by leveraging the  
24 technology translation data described in

1 clause (i) for the regulation of relevant  
2 technology sectors;

3 (C) for writing, editing, printing, pub-  
4 lishing, and vending books and other materials  
5 relating to research carried out under the  
6 Foundation and the Department; and

7 (D) to conduct other activities to carry out  
8 and support the purpose of the Foundation de-  
9 scribed in subsection (c).

10 (9) EVALUATIONS.—The Foundation shall sup-  
11 port the development of an evaluation methodology,  
12 to be used as part of any program supported by the  
13 Foundation, that shall—

14 (A) consist of qualitative and quantitative  
15 metrics; and

16 (B) include periodic third party evaluation  
17 of those programs and other activities of the  
18 Foundation.

19 (10) COMMUNICATIONS.—The Foundation shall  
20 develop an expertise in communications to promote  
21 the work of grant and fellowship recipients under  
22 paragraph (2), the commercialization successes of  
23 the Foundation, opportunities for partnership with  
24 the Foundation, and other activities.

25 (e) ADMINISTRATION.—



1           (1) EXECUTIVE DIRECTOR.—The Board shall  
2           hire an Executive Director of the Foundation, who  
3           shall serve at the pleasure of the Board.

4           (2) ADMINISTRATIVE CONTROL.—No member  
5           of the Board, officer or employee of the Foundation  
6           or of any program established by the Foundation, or  
7           participant in a program established by the Founda-  
8           tion, shall exercise administrative control over any  
9           Federal employee.

10          (3) STRATEGIC PLAN.—Not later than 1 year  
11          after the date of enactment of this Act, the Founda-  
12          tion shall submit to the Committee on Energy and  
13          Natural Resources of the Senate and the Committee  
14          on Science, Space, and Technology of the House of  
15          Representatives a strategic plan that contains—

16                (A) a plan for the Foundation to become  
17                financially self-sustaining in fiscal year 2022  
18                and thereafter (except for the amounts provided  
19                each fiscal year under subsection (l)(1)(C));

20                (B) a forecast of major crosscutting energy  
21                challenge opportunities, including short- and  
22                long-term objectives, identified by the Board,  
23                with input from communities representing the  
24                entities and areas, as applicable, described in  
25                subsection (b)(2)(B)(ii);

1 (C) a description of the efforts that the  
2 Foundation will take to be transparent in the  
3 processes of the Foundation, including proc-  
4 esses relating to—

5 (i) grant awards, including selection,  
6 review, and notification;

7 (ii) communication of past, current,  
8 and future research priorities; and

9 (iii) solicitation of and response to  
10 public input on the opportunities identified  
11 under subparagraph (B); and

12 (D) a description of the financial goals and  
13 benchmarks of the Foundation for the following  
14 10 years.

15 (4) ANNUAL REPORT.—Not later than 1 year  
16 after the date on which the Foundation is estab-  
17 lished, and every 2 years thereafter, the Foundation  
18 shall submit to the Committee on Energy and Nat-  
19 ural Resources of the Senate, the Committee on  
20 Science, Space, and Technology of the House of  
21 Representatives, and the Secretary a report that, for  
22 the year covered by the report—

23 (A) describes the activities of the Founda-  
24 tion and the progress of the Foundation in fur-

1           thering the purpose of the Foundation de-  
2           scribed in subsection (c);

3           (B) provides a specific accounting of the  
4           source and use of all funds made available to  
5           the Foundation to carry out those activities;

6           (C) describes how the results of the activi-  
7           ties of the Foundation could be incorporated  
8           into the procurement processes of the General  
9           Services Administration; and

10          (D) includes a summary of each evaluation  
11          conducted using the evaluation methodology de-  
12          scribed in subsection (d)(9).

13          (5) EVALUATION BY COMPTROLLER GEN-  
14          ERAL.—Not later than 5 years after the date on  
15          which the Foundation is established, the Comptroller  
16          General of the United States shall submit to the  
17          Committee on Energy and Natural Resources of the  
18          Senate and the Committee on Science, Space, and  
19          Technology of the House of Representatives—

20                 (A) an evaluation of—

21                         (i) the extent to which the Foundation  
22                         is achieving the mission of the Foundation;

23                         and

24                         (ii) the operation of the Foundation;

25                         and

1 (B) any recommendations on how the  
2 Foundation may be improved.

3 (6) AUDITS.—The Foundation shall—

4 (A) provide for annual audits of the finan-  
5 cial condition of the Foundation; and

6 (B) make the audits, and all other records,  
7 documents, and papers of the Foundation,  
8 available to the Secretary and the Comptroller  
9 General of the United States for examination or  
10 audit.

11 (7) SEPARATE FUND ACCOUNTS.—The Board  
12 shall ensure that any funds received under sub-  
13 section (l)(1) are held in a separate account from  
14 any other funds received by the Foundation.

15 (8) INTEGRITY.—

16 (A) IN GENERAL.—To ensure integrity in  
17 the operations of the Foundation, the Board  
18 shall develop and enforce procedures relating to  
19 standards of conduct, financial disclosure state-  
20 ments, conflicts of interest (including recusal  
21 and waiver rules), audits, and any other mat-  
22 ters determined appropriate by the Board.

23 (B) FINANCIAL CONFLICTS OF INTER-  
24 EST.—Any individual who is an officer, em-  
25 ployee, or member of the Board is prohibited

1 from any participation in deliberations by the  
2 Foundation of a matter that would directly or  
3 predictably affect any financial interest of—

4 (i) the individual;

5 (ii) a relative (as defined in section  
6 109 of the Ethics in Government Act of  
7 1978 (5 U.S.C. App.)) of that individual;  
8 or

9 (iii) a business organization or other  
10 entity in which the individual has an inter-  
11 est, including an organization or other en-  
12 tity with which the individual is negoti-  
13 ating employment.

14 (9) INTELLECTUAL PROPERTY.—The Board  
15 shall adopt written standards to govern the owner-  
16 ship and licensing of any intellectual property rights  
17 developed by the Foundation or derived from the col-  
18 laborative efforts of the Foundation.

19 (10) LIABILITY.—The United States shall not  
20 be liable for any debts, defaults, acts, or omissions  
21 of the Foundation nor shall the full faith and credit  
22 of the United States extend to any obligations of the  
23 Foundation.

1           (11) NONAPPLICABILITY OF FACCA.—The Fed-  
2           eral Advisory Committee Act (5 U.S.C. App.) shall  
3           not apply to the Foundation.

4           (f) DEPARTMENT COLLABORATION.—

5           (1) NATIONAL LABORATORIES.—The Secretary  
6           shall collaborate with the Foundation to develop a  
7           process to ensure collaboration and coordination be-  
8           tween the Department, the Foundation, and Na-  
9           tional Laboratories—

10           (A) to streamline contracting processes be-  
11           tween National Laboratories and the Founda-  
12           tion, including by—

13           (i) streamlining the ability of the  
14           Foundation to transfer equipment and  
15           funds to National Laboratories;

16           (ii) standardizing contract mecha-  
17           nisms to be used by the Foundation; and

18           (iii) streamlining the ability of the  
19           Foundation to fund endowed positions at  
20           National Laboratories;

21           (B) to allow a National Laboratory or site  
22           of a National Laboratory—

23           (i) to accept and perform work for the  
24           Foundation, consistent with provided re-  
25           sources, notwithstanding any other provi-

1 sion of law governing the administration,  
2 mission, use, or operations of the National  
3 Laboratory or site, as applicable; and

4 (ii) to perform that work on a basis  
5 equal to other missions at the National  
6 Laboratory; and

7 (C) to permit the director of any National  
8 Laboratory or site of a National Laboratory to  
9 enter into a cooperative research and develop-  
10 ment agreement or negotiate a licensing agree-  
11 ment with the Foundation pursuant to section  
12 12 of the Stevenson-Wydler Technology Innova-  
13 tion Act of 1980 (15 U.S.C. 3710a).

14 (2) DEPARTMENT LIAISONS.—The Secretary  
15 shall appoint liaisons from across the Department to  
16 collaborate and coordinate with the Foundation.

17 (3) ADMINISTRATION.—The Secretary shall le-  
18 verage appropriate arrangements, contracts, and di-  
19 rectives to carry out the process developed under  
20 paragraph (1).

21 (g) NATIONAL SECURITY.—Nothing in this section  
22 exempts the Foundation from any national security policy  
23 of the Department.

24 (h) SUPPORT SERVICES.—The Secretary shall pro-  
25 vide facilities, utilities, and support services to the Foun-

1 dation if it is determined by the Secretary to be advan-  
2 tageous to the research programs of the Department.

3 (i) PREEMPTION OF AUTHORITY.—This section shall  
4 not preempt any authority or responsibility of the Sec-  
5 retary under any other provision of law.

6 (j) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There are authorized to be  
8 appropriated—

9 (A) to the Secretary, not less than  
10 \$1,500,000 for fiscal year 2021 to establish the  
11 Foundation;

12 (B) to the Foundation, not less than  
13 \$30,000,000 for fiscal year 2021 to carry out  
14 the activities of the Foundation; and

15 (C) to the Foundation, not less than  
16 \$3,000,000 for fiscal year 2022, and each fiscal  
17 year thereafter, for administrative and oper-  
18 ational costs.

19 (2) COST SHARE.—Funds made available under  
20 paragraph (1)(B) shall be required to be cost-shared  
21 by a partner of the Foundation other than the De-  
22 partment.

