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

Add at the end of title VIII the following:

Subtitle D—Increasing and Mobilizing Partnerships to Achieve Commercialization of Technologies for Energy

SEC. 8401. SHORT TITLE.
This subtitle may be cited as the “Increasing and Mobilizing Partnerships to Achieve Commercialization of Technologies for Energy Act” or the “IMPACT for Energy Act”.

SEC. 8402. DEFINITIONS.

In this subtitle:

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

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

(3) EXECUTIVE DIRECTOR.—The term “Executive Director” means the Executive Director described in section 8403(e)(1).
(4) Foundation.—The term “Foundation” means the Energy Technology Commercialization Foundation established under section 8403(a).

(5) National Laboratory.—The term “National Laboratory” has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

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

SEC. 8403. ENERGY TECHNOLOGY COMMERCIALIZATION FOUNDATION.

(a) Establishment.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a nonprofit corporation to be known as the “Energy Technology Commercialization Foundation”.

(2) Mission.—The mission of the Foundation shall be—

(A) to support the mission of the Department; and

(B) to advance collaboration with energy researchers, institutions of higher education, industry, and nonprofit and philanthropic organi-
izations to accelerate the commercialization of energy technologies.

(3) LIMITATION.—The Foundation shall not be an agency or instrumentality of the Federal Government.

(4) TAX-EXEMPT STATUS.—The Board shall take all necessary and appropriate steps to ensure that the Foundation receives a determination from the Internal Revenue Service that it is an organization that is described in section 501(c) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code.

(5) COLLABORATION WITH EXISTING ORGANIZATIONS.—The Secretary may collaborate with 1 or more organizations to establish the Foundation and carry out the activities of the Foundation.

(b) BOARD OF DIRECTORS.—

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

(2) COMPOSITION.—

(A) IN GENERAL.—The Board shall be composed of the members described in subparagraph (B).

(B) BOARD MEMBERS.—
(i) INITIAL MEMBERS.—The Secretary shall—

(I) enter into a contract with the National Academies of Sciences, Engineering, and Medicine to develop a list of individuals to serve as members of the Board who are well-qualified and will meet the requirements of clauses (ii) and (iii); and

(II) appoint the initial members of the Board, in consultation with the National Academies of Sciences, Engineering, and Medicine, with the requirements of clauses (ii) and (iii).

(ii) REPRESENTATION.—The members of the Board shall reflect a broad cross-section of stakeholders from academia, industry, nonprofit organizations, State or local governments, the investment community, the philanthropic community, and management and operating contractors of the National Laboratories.

(iii) EXPERIENCE.—The Secretary shall ensure that a majority of the members of the Board—
(I)(aa) has experience in the energy sector;

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

(ce) has experience in technology commercialization or foundation operations; and

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

(3) CHAIR AND VICE CHAIR.—

(A) IN GENERAL.—The Board shall designate from among the members of the Board—

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

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

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

(i) the date that is 3 years after the date on which the Chair or Vice Chair of the Board, as applicable, is designated for the position; and
(ii) the last day of the term of service of the member, as determined under paragraph (4)(A), who is designated to be Chair or Vice Chair of the Board, as applicable.

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

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

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

(4) TERMS AND VACANCIES.—

(A) TERMS.—

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

(ii) INITIAL MEMBERS.—Of the initial members of the Board appointed under paragraph (2)(B)(i), half of the members shall serve for 4 years and half of the members shall serve for 5 years, as determined by the Chair of the Board.
(B) VACANCIES.—Any vacancy in the membership of the Board—

(i) shall be filled in accordance with the bylaws of the Foundation by an individual capable of representing the same area or entity, as applicable, as represented by the vacating board member under paragraph (2)(B)(ii);

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

(iii) shall be filled by an individual selected by the Board.

(5) MEETINGS; QUORUM.—

(A) INITIAL MEETING.—Not later than 60 days after the Board is established, the Secretary shall convene a meeting of the members of the Board to incorporate the Foundation.

(B) QUORUM.—A majority of the members of the Board shall constitute a quorum for purposes of conducting the business of the Board.

(6) DUTIES.—The Board shall—

(A) establish bylaws for the Foundation in accordance with paragraph (7);
(B) provide overall direction for the activities of the Foundation and establish priority activities;

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

(D) evaluate the performance of the Executive Director; and

(E) actively solicit and accept funds, gifts, grants, devises, or bequests of real or personal property to the Foundation, including from private entities.

(7) Bylaws.—

(A) In general.—The bylaws established under paragraph (6)(A) may include—

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

(ii) policies, including ethical standards, for—

(I) the acceptance, solicitation, and disposition of donations and grants to the Foundation, including appropriate limits on the ability of donors to designate, by stipulation or re-
striction, the use or recipient of do-
nated funds; and

(II) the disposition of assets of
the Foundation;

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

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

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

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

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

(8) COMPENSATION.—
(A) In general.—No member of the
Board shall receive compensation for serving on
the Board.

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

(c) Purpose.—The purpose of the Foundation is to
increase private and philanthropic sector investments that
support efforts to create, develop, and commercialize inno-

vative technologies that address crosscutting national en-
ergy challenges by methods that include—

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

(2)(A) strengthening regional economic develop-
ment through scientific and energy innovation; and
(B) disseminating lessons learned from that development to foster the creation and growth of new regional energy innovation clusters;

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

(4) administering prize competitions to accelerate private sector competition and investment; and

(5) supporting programs that advance technologies from the prototype stage to a commercial stage.

(d) ACTIVITIES.—

(1) STUDIES, COMPETITIONS, AND PROJECTS.—
The Foundation may conduct and support studies, competitions, projects, and other activities that further the purpose of the Foundation described in subsection (c).

(2) FELLOWSHIPS AND GRANTS.—

(A) IN GENERAL.—The Foundation may award fellowships and grants for activities relating to research, development, demonstration, maturation, or commercialization of energy and other Department-supported technologies.

(B) FORM OF AWARD.—A fellowship or grant under subparagraph (A) may consist of a stipend, health insurance benefits, funds for
travel, and funds for other appropriate expenses.

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

(i) shall make the selection based on the technical and commercialization merits of the proposed project of the potential recipient; and

(ii) may consult with a potential recipient regarding the ability of the potential recipient to carry out various projects that would further the purpose of the Foundation described in subsection (c).

(D) NATIONAL LABORATORIES.—A National Laboratory that applies for or accepts a grant under subparagraph (A) shall not be considered to be engaging in a competitive process.

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

(A) to leverage the capabilities and facilities of National Laboratories to commercialize technology; and

(B) to assist with resources, including through the development of internet websites
that provide information on the capabilities and facilities of each National Laboratory relating to the commercialization of technology.

(4) **Training and Education.**—The Foundation may support programs that provide commercialization training to researchers, scientists, and other relevant personnel at National Laboratories and institutions of higher education to help commercialize federally funded technology.

(5) **Maturation Funding.**—The Foundation shall support programs that provide maturation funding to researchers to advance the technology of those researchers for the purpose of moving products from a prototype stage to a commercial stage.

(6) **Stakeholder Engagement.**—The Foundation shall convene, and may consult with, representatives from the Department, institutions of higher education, National Laboratories, the private sector, and commercialization organizations to develop programs for the purpose of the Foundation described in subsection (c) and to advance the activities of the Foundation.

(7) **Individual Laboratory Foundations Program.**—
(A) DEFINITION OF INDIVIDUAL LABORATORY FOUNDATION.—In this paragraph, the term “Individual Laboratory Foundation” means a Laboratory Foundation established by a National Laboratory.

(B) SUPPORT.—The Foundation shall provide support to and collaborate with Individual Laboratory Foundations.

(C) GUIDELINES AND TEMPLATES.—For the purpose of providing support under subparagraph (B), the Secretary shall establish suggested guidelines and templates for Individual Laboratory Foundations, including—

   (i) a standard adaptable organizational design for the responsible management of an Individual Laboratory Foundation;

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

   (iii) a standard training curriculum to orient and expand the operating expertise of personnel employed by an Individual Laboratory Foundation.
(D) AFFILIATIONS.—Nothing in this paragraph requires—

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

(ii) an Individual Laboratory Foundation to be bound by charter or corporate bylaws as permanently affiliated with the Foundation.

(8) SUPPLEMENTAL PROGRAMS.—The Foundation may carry out supplemental programs—

(A) to conduct and support forums, meetings, conferences, courses, and training workshops consistent with the purpose of the Foundation described in subsection (c);

(B) to support and encourage the understanding and development of—

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

(ii) policies that make regulation more effective and efficient by leveraging the technology translation data described in
clause (i) for the regulation of relevant technology sectors;

(C) for writing, editing, printing, publishing, and vending books and other materials relating to research carried out under the Foundation and the Department; and

(D) to conduct other activities to carry out and support the purpose of the Foundation described in subsection (e).

(9) EVALUATIONS.—The Foundation shall support the development of an evaluation methodology, to be used as part of any program supported by the Foundation, that shall—

(A) consist of qualitative and quantitative metrics; and

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

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

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

(2) **ADMINISTRATIVE CONTROL.**—No member of the Board, officer or employee of the Foundation or of any program established by the Foundation, or participant in a program established by the Foundation, shall exercise administrative control over any Federal employee.

(3) **STRATEGIC PLAN.**—Not later than 1 year after the date of enactment of this Act, the Foundation shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan that contains—

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

(B) a forecast of major crosscutting energy challenge opportunities, including short- and long-term objectives, identified by the Board, with input from communities representing the entities and areas, as applicable, described in subsection (b)(2)(B)(ii);
(C) a description of the efforts that the Foundation will take to be transparent in the processes of the Foundation, including processes relating to—

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

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

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

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

(4) ANNUAL REPORT.—Not later than 1 year after the date on which the Foundation is established, and every 2 years thereafter, the Foundation shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Secretary a report that, for the year covered by the report—

(A) describes the activities of the Foundation and the progress of the Foundation in fur-
thering the purpose of the Foundation described in subsection (e);

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

(C) describes how the results of the activities of the Foundation could be incorporated into the procurement processes of the General Services Administration; and

(D) includes a summary of each evaluation conducted using the evaluation methodology described in subsection (d)(9).

(5) EVALUATION BY COMPTROLLER GENERAL.—Not later than 5 years after the date on which the Foundation is established, the Comptroller General of the United States shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives—

(A) an evaluation of—

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

and

(ii) the operation of the Foundation; and
(B) any recommendations on how the Foundation may be improved.

(6) AUDITS.—The Foundation shall—

(A) provide for annual audits of the financial condition of the Foundation; and

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

(7) SEPARATE FUND ACCOUNTS.—The Board shall ensure that any funds received under subsection (l)(1) are held in a separate account from any other funds received by the Foundation.

(8) INTEGRITY.—

(A) IN GENERAL.—To ensure integrity in the operations of the Foundation, the Board shall develop and enforce procedures relating to standards of conduct, financial disclosure statements, conflicts of interest (including recusal and waiver rules), audits, and any other matters determined appropriate by the Board.

(B) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board is prohibited
from any participation in deliberations by the Foundation of a matter that would directly or predictably affect any financial interest of—

(i) the individual;

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

(iii) a business organization or other entity in which the individual has an interest, including an organization or other entity with which the individual is negotiating employment.

(9) INTELLECTUAL PROPERTY.—The Board shall adopt written standards to govern the ownership and licensing of any intellectual property rights developed by the Foundation or derived from the collaborative efforts of the Foundation.

(10) LIABILITY.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligations of the Foundation.
(11) **Nonapplicability of FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Foundation.

(f) **Department Collaboration.**—

(1) **National Laboratories.**—The Secretary shall collaborate with the Foundation to develop a process to ensure collaboration and coordination between the Department, the Foundation, and National Laboratories—

(A) to streamline contracting processes between National Laboratories and the Foundation, including by—

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

(ii) standardizing contract mechanisms to be used by the Foundation; and

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

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

(i) to accept and perform work for the Foundation, consistent with provided resources, notwithstanding any other provi-
sion of law governing the administration,
mission, use, or operations of the National
Laboratory or site, as applicable; and
(ii) to perform that work on a basis
equal to other missions at the National
Laboratory; and
(C) to permit the director of any National
Laboratory or site of a National Laboratory to
enter into a cooperative research and develop-
ment agreement or negotiate a licensing agree-
ment with the Foundation pursuant to section
12 of the Stevenson-Wydler Technology Innova-
(2) DEPARTMENT LIAISONS.—The Secretary
shall appoint liaisons from across the Department to
collaborate and coordinate with the Foundation.
(3) ADMINISTRATION.—The Secretary shall le-
verage appropriate arrangements, contracts, and di-
rectives to carry out the process developed under
paragraph (1).
(g) NATIONAL SECURITY.—Nothing in this section
exempts the Foundation from any national security policy
of the Department.
(h) SUPPORT SERVICES.—The Secretary shall pro-
vide facilities, utilities, and support services to the Foun-
dation if it is determined by the Secretary to be advan-
tageous to the research programs of the Department.

(i) Preemption of Authority.—This section shall
not preempt any authority or responsibility of the Sec-
etary under any other provision of law.

(j) Authorization of Appropriations.—

(1) In general.—There are authorized to be
appropriated—

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

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

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

(2) Cost share.—Funds made available under
paragraph (1)(B) shall be required to be cost-shared
by a partner of the Foundation other than the De-
partment.