

117TH CONGRESS
2D SESSION

S. 5134

To establish the United States Foundation for International Conservation to promote long-term management of protected and conserved areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2022

Mr. COONS (for himself, Mr. GRAHAM, Mr. BOOZMAN, Mr. WHITEHOUSE, Mr. HEINRICH, Mr. BURR, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To establish the United States Foundation for International Conservation to promote long-term management of protected and conserved areas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Founda-
5 tion for International Conservation Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Appropriations of
5 the Senate;

6 (B) the Committee on Foreign Relations of
7 the Senate;

8 (C) the Committee on Appropriations of
9 the House of Representatives; and

10 (D) the Committee on Foreign Affairs of
11 the House of Representatives.

12 (2) BOARD.—The term “Board” means the
13 Board of Directors established under section 4 (a).

14 (3) DIRECTOR.—The term “Director” means—

15 (A) an initial member of the Board ap-
16 pointed pursuant to section 4(a)(2)(C); or

17 (B) a member of the Board selected to fill
18 a vacancy pursuant to section 4(a)(3)(B).

19 (4) ELIGIBLE COUNTRY.—The term “eligible
20 country” means any of the countries described in
21 section 7(b).

22 (5) ELIGIBLE PROJECT.—The term “eligible
23 project” means any of the projects described in sec-
24 tion 7(a)(2).

1 (6) EXECUTIVE DIRECTOR.—The term “Execu-
 2 tive Director” means the Executive Director of the
 3 Foundation hired pursuant to section 4(b).

4 (7) FOUNDATION.—The term “Foundation”
 5 means the United States Foundation for Inter-
 6 national Conservation established under section 3(a).

7 (8) SECRETARY.—The term “Secretary” means
 8 the Secretary of State.

9 **SEC. 3. UNITED STATES FOUNDATION FOR INTERNATIONAL**
 10 **CONSERVATION.**

11 (a) ESTABLISHMENT.—

12 (1) IN GENERAL.—Not later than 180 days
 13 after the date of the enactment of this Act, the Sec-
 14 retary shall establish the United States Foundation
 15 for International Conservation.

16 (2) INDEPENDENCE.—The Foundation is not
 17 an agency or instrumentality of the United States
 18 Government.

19 (3) TAX-EXEMPT STATUS.—The Board shall
 20 take all necessary and appropriate steps to ensure
 21 that the Foundation is an organization described in
 22 subsection (c) of section 501 of the Internal Revenue
 23 Code of 1986, which exempts the organization from
 24 taxation under subsection (a) of such section.

1 (b) PURPOSES.—The purposes of the Foundation
2 are—

3 (1) to promote effective, long-term management
4 of protected and conserved areas and their contig-
5 uous buffer zones in eligible countries;

6 (2) to advocate for, incentivize, accept, and ad-
7 minister governmental and nongovernmental funds,
8 including donations from the private sector, to in-
9 crease the availability and predictability of financing
10 for long-term management of protected and con-
11 served areas;

12 (3) to close critical gaps in public international
13 conservation efforts by—

14 (A) increasing private sector investment,
15 including investments from philanthropic enti-
16 ties; and

17 (B) collaborating with partners providing
18 bilateral and multilateral financing to support
19 enhanced coordination;

20 (4) to identify and financially support imple-
21 mentation-ready projects—

22 (A) that promote long-term management
23 of protected and conserved areas and their con-
24 tiguous buffer zones in eligible countries, in-
25 cluding supporting the management of terres-

trial, coastal, freshwater, and marine protected areas, parks, community conservancies, indigenous reserves, conservation easements, and biological reserves; and

(B) that provide effective area-based conservation measures, consistent with internationally recognized best practices and standards for environmental and social safeguards; and

(5) to coordinate with, and otherwise support and assist, foreign governments, private sector entities, local communities, Indigenous Peoples, and other stakeholders in undertaking biodiversity conservation activities—

(A) to achieve sustainable biodiversity conservation outcomes; and

(B) to improve local security, governance, food security, and economic opportunities.

SEC. 4. GOVERNANCE OF THE FOUNDATION.

(a) BOARD OF DIRECTORS.—

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

(2) COMPOSITION.—

(A) IN GENERAL.—The Board shall be composed of—

1 (i) the ex-officio nonvoting Directors
 2 described in subparagraph (B); and

3 (ii) the voting Directors appointed
 4 pursuant to subparagraph (C).

5 (B) EX-OFFICIO DIRECTORS.—The ex-offi-
 6 cio Directors shall be the following individuals
 7 or designees of such individuals:

8 (i) The Secretary of State.

9 (ii) The Administrator of the United
 10 States Agency for International Develop-
 11 ment.

12 (iii) The Secretary of the Interior.

13 (iv) The Chief of the United States
 14 Forest Service.

15 (v) The Administrator of the National
 16 Oceanic and Atmospheric Administration.

17 (C) INITIAL MEMBERS.—The Secretary, in
 18 consultation with the other ex-officio Directors,
 19 shall appoint as Directors of the Board—

20 (i) 4 private-sector committed donors;

21 and

22 (ii) 5 independent experts who rep-
 23 resent diverse points of view, to the max-
 24 imum extent practicable.

(D) QUALIFICATIONS.—Each independent expert appointed pursuant to subparagraph (C)—

(i) shall be knowledgeable and experienced in matters relating to—

(I) international development;

(II) protected area management and the conservation of global biodiversity, fish and wildlife, ecosystem restoration, adaptation, and resilience; and

(III) grantmaking in support of international conservation.

(E) CHAIRPERSON.—The Board shall elect, from among its Directors, a Chairperson, who shall serve for a 2-year term.

(3) TERMS; VACANCIES.—

(A) TERMS.—

(i) IN GENERAL.—The term of service of each appointed Director shall be not more than 5 years.

(ii) INITIAL APPOINTED DIRECTORS.—Of the initial Directors appointed pursuant to paragraph (2)(C)—

1 (I) 5 Directors, including at least
 2 private-sector committed donors,
 3 shall serve for 4 years; and

4 (II) 4 Directors shall serve for 5
 5 years, as determined by the Chair-
 6 person of the Board.

7 (B) VACANCIES.—Any vacancy in the
 8 membership of the appointed Directors of the
 9 Board—

10 (i) shall be filled in accordance with
 11 the bylaws of the Foundation by a private-
 12 sector committed donor or an independent
 13 expert who meets the qualifications under
 14 subparagraph (C)(ii)(A), as applicable, as
 15 represented by the vacating Director;

16 (ii) shall not affect the power of the
 17 remaining appointed Directors to execute
 18 the duties of the Board; and

19 (iii) shall be filled by an individual se-
 20 lected by the Board.

21 (4) QUORUM.—A majority of the current mem-
 22 bership of the Board shall constitute a quorum for
 23 the transaction of Foundation business.

24 (5) MEETINGS.—

1 (A) IN GENERAL.—The Board shall meet
2 at the call of the Chairperson not less fre-
3 quently than annually.

4 (B) INITIAL MEETING.—Not later than 60
5 days after the Board is established pursuant to
6 section 3(a), the Secretary shall convene a
7 meeting of the ex-officio Directors and the ap-
8 pointed Directors of the Board to incorporate
9 the Foundation.

10 (C) REMOVAL.—Any Director who misses
11 3 consecutive regularly scheduled meetings may
12 be removed from the Board.

13 (6) REIMBURSEMENT OF EXPENSES.—Directors
14 of the Board shall serve without pay, but may be re-
15 imbursement for the actual and necessary traveling and
16 subsistence expenses incurred in the performance of
17 the duties of the Foundation.

18 (7) NOT FEDERAL EMPLOYEES.—Appointment
19 as a Director of the Board shall not constitute em-
20 ployment by, or the holding of an office of, the
21 United States for purposes of any Federal law.

22 (8) DUTIES.—The Board shall—

23 (A) establish bylaws for the Foundation in
24 accordance with paragraph (9);

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) not less frequently than annually, con-
 9 sult and coordinate with stakeholders qualified
 10 to provide advice, assistance, and information
 11 regarding effective protected and conserved
 12 area management.

13 (9) BYLAWS.—

14 (A) IN GENERAL.—The bylaws established
 15 pursuant to paragraph (8)(A) may include—

16 (i) policies for the selection of Direc-
 17 tors of the Board and officers, employees,
 18 agents, and contractors of the Foundation;

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

21 (I) the acceptance, solicitation,
 22 and disposition of donations and
 23 grants to the Foundation; and

24 (II) the disposition of assets of
 25 the Foundation;

1 (iii) policies that subject all employ-
2 ees, fellows, trainees, and other agents of
3 the Foundation (including ex-officio Direc-
4 tors and appointed Directors of the Board)
5 to conflict of interest standards; and

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

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

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

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

20 (b) EXECUTIVE DIRECTOR.—The Board shall hire an
21 Executive Director of the Foundation, who shall serve, at
22 the pleasure of the Board, as the chief executive officer
23 of the Foundation.

24 (c) FOUNDATION STAFF.—Officers and employees of
25 the Foundation—

1 (1) may not be employees of, or hold any office
2 in, the United States Government; and

3 (2) shall be appointed without regard to the
4 provisions of—

5 (A) title 5, United States Code, governing
6 appointments in the competitive service; and

7 (B) chapter 51 and subchapter III of chap-
8 ter 53 of such title, relating to classification
9 and General Schedule pay rates.

10 (d) LIMITATION AND CONFLICTS OF INTERESTS.—

11 (1) POLITICAL PARTICIPATION.—The Founda-
12 tion may not participate or intervene in any political
13 campaign on behalf of any candidate for public of-
14 fice in any country.

15 (2) FINANCIAL INTERESTS.—Any Director of
16 the Board or officer or employee of the Foundation
17 is prohibited from participating, directly or indi-
18 rectly, in the consideration or determination of any
19 question before the Foundation affecting—

20 (A) the financial interests of such Director,
21 officer, or employee; and

22 (B) the interests of any corporation, part-
23 nership, entity, or organization in which such
24 Director, officer, or employee has any fiduciary

1 obligation or direct or indirect financial inter-
2 est.

3 **SEC. 5. CORPORATE POWERS AND OBLIGATIONS OF THE**
4 **FOUNDATION.**

5 (a) GENERAL AUTHORITY.—

6 (1) IN GENERAL.—The Foundation—

7 (A) shall have perpetual succession unless
8 dissolved by an Act of Congress;

9 (B) may conduct business throughout the
10 States, territories, and possessions of the
11 United States and in foreign countries;

12 (C) shall have its principal offices in the
13 Washington, DC, metropolitan area; and

14 (D) shall continuously maintain a des-
15 ignated agent in Washington, DC, who is au-
16 thorized to accept notice or service of process
17 on behalf of the Foundation.

18 (2) NOTICE AND SERVICE OF PROCESS.—The
19 serving of notice to, or service of process upon, the
20 agent referred to in paragraph (1)(D), or mailed to
21 the business address of such agent, shall be deemed
22 as service upon, or notice to, the Foundation.

23 (3) SEAL.—The Foundation shall have an offi-
24 cial seal, which shall be selected by the Board and
25 judicially noticed.

1 (b) AUTHORITIES.—In addition to powers explicitly
2 authorized under this Act, the Foundation, in order to
3 carry out the purposes described in section 3(b), shall have
4 the usual powers of a corporation headquartered in Wash-
5 ington, DC, including the authority—

6 (1) to accept, receive, solicit, hold, administer,
7 and use any gift, devise, or bequest, either absolutely
8 or in trust, or real or personal property or any in-
9 come derived from such gift or property, or other in-
10 terest in such gift or property;

11 (2) to acquire by donation, gift, devise, pur-
12 chase, or exchange any real or personal property or
13 interest in such property;

14 (3) unless otherwise required by the instrument
15 of transfer, to sell, donate, lease, invest, reinvest, re-
16 tain, or otherwise dispose of any property or income
17 derived from such property;

18 (4) to borrow money and issue bonds, deben-
19 tures, or other debt instruments;

20 (5) to complain and defend itself in any court
21 of competent jurisdiction (except that the Directors
22 of the Board shall not be personally liable, except for
23 gross negligence);

24 (6) to enter into contracts or other arrange-
25 ments with public agencies, private organizations,

1 and persons and to make such payments as may be
2 necessary to carry out the purposes of such con-
3 tracts or arrangements; and

4 (7) to award grants for eligible projects, in ac-
5 cordance with section 7.

6 (c) PROPERTY INTERESTS.—

7 (1) INTEREST IN REAL PROPERTY.—In this
8 subsection, an interest in real property includes—

9 (A) mineral and water rights;

10 (B) rights of way; and

11 (C) easements appurtenant or in gross.

12 (2) IN GENERAL.—The Foundation may ac-
13 quire, hold, and dispose of lands, waters, and other
14 interests in real property by donation, gift, devise,
15 purchase, or exchange.

16 (3) LIMITS TO PROPERTY RIGHTS.—A gift, de-
17 vise, or bequest may be accepted by the Foundation
18 even though it is encumbered, restricted, or subject
19 to beneficial interests of private persons if any cur-
20 rent or future interest therein is for the benefit of
21 the Foundation.

22 (4) TAX EXEMPTION.—

23 (A) IN GENERAL.—The Foundation, any
24 income or property received or owned by the
25 Foundation, and all transactions relating to

1 such income or property shall be exempt from
2 all Federal, State, and local taxation.

3 (B) EXEMPT ORGANIZATIONS.—Contribu-
4 tions, gifts, and other transfers made to or for
5 the use of the Foundation shall be treated as
6 contributions, gifts, or transfers to an organiza-
7 tion exempt from taxation under section
8 501(c)(3) of the Internal Revenue Code of
9 1986.

10 (d) FEDERAL FUNDS.—

11 (1) IN GENERAL.—The Foundation may—

12 (A) hold Federal funds made available, but
13 not immediately disbursed; and

14 (B) use any interest or other investment
15 income earned on such Federal funds to carry
16 out the purposes of the Foundation under this
17 Act.

18 (2) LIMITATION.—Investments made pursuant
19 to paragraph (1)(B) may only be made in—

20 (A) interest-bearing obligations of the
21 United States; or

22 (B) obligations guaranteed as to both prin-
23 cipal and interest by the United States.

1 (e) LIMITATION OF PUBLIC LIABILITY.—The United
 2 States shall not be liable for any debts, defaults, acts, or
 3 omissions of the Foundation.

4 **SEC. 6. SAFEGUARDS AND ACCOUNTABILITY.**

5 (a) SAFEGUARDS.—The Foundation shall develop,
 6 and incorporate into any agreement for support provided
 7 by the Foundation, appropriate safeguards, policies, and
 8 guidelines, consistent with internationally recognized best
 9 practices and standards for environmental and social safe-
 10 guards.

11 (b) INDEPENDENT ACCOUNTABILITY MECHANISM.—

12 (1) IN GENERAL.—The Foundation shall estab-
 13 lish a transparent and independent accountability
 14 mechanism, which shall provide—

15 (A) a compliance review function that as-
 16 sesses whether Foundation-supported projects
 17 adhere to the requirements described in sub-
 18 section (a);

19 (B) a dispute resolution function for re-
 20 solving concerns between complainants and
 21 project implementers regarding the impacts of
 22 specific Foundation-supported projects with re-
 23 spect to such standards; and

1 (C) an advisory function that reports to
 2 the Foundation on projects, policies, and prac-
 3 tices.

4 (2) DUTIES.—The accountability mechanism
 5 shall—

6 (A) report annually to the Board and to
 7 the appropriate congressional committees re-
 8 garding the Foundation’s compliance with inter-
 9 nationally recognized best practices and stand-
 10 ards in accordance with paragraph (1)(A);

11 (B)(i) have permanent staff to conduct
 12 compliance reviews and dispute resolutions; or

13 (ii) maintain a roster of experts to serve
 14 such roles, to the extent needed; and

15 (C) hold a public comment period lasting
 16 not fewer than 60 days regarding the initial de-
 17 sign of the accountability mechanism.

18 **SEC. 7. PROJECTS AND GRANTS.**

19 (a) PROJECT FUNDING REQUIREMENTS.—

20 (1) IN GENERAL.—The Foundation shall—

21 (A) fund eligible projects that support its
 22 mission to provide long-term funding for the ef-
 23 fective management of protected and conserved
 24 areas and their contiguous buffer zones in eligi-
 25 ble countries; and

1 (B) recognize the importance of a land-
2 scape or seascape approach to conservation that
3 includes buffer zones, wildlife dispersal and cor-
4 ridor areas, and other effective area-based con-
5 servation measures.

6 (2) ELIGIBLE PROJECTS.—Eligible projects
7 shall include projects that—

8 (A) focus on supporting—

9 (i) long-term management of pro-
10 tected or conserved areas and their contig-
11 uous buffer zones in countries described in
12 subsection (b), including terrestrial, coast-
13 al, and marine-protected or conserved
14 areas, parks, community conservancies, in-
15 digenous reserves, conservation easements,
16 and biological reserves; and

17 (ii) other effective area-based con-
18 servation measures;

19 (B) are cost-matched from sources other
20 than the United States Government;

21 (C) have host country and local population
22 support, as evidenced by a long-term binding
23 memorandum of understanding signed by the
24 host government that respects free, prior, and
25 informed consent of affected communities;

1 (D) incorporate a set of key performance
2 indicators;

3 (E) demonstrate robust local community
4 engagement, with the completion of appropriate
5 environmental and social due diligence, includ-
6 ing—

7 (i) free, prior, and informed consent
8 of Indigenous Peoples and consultation
9 with relevant local communities;

10 (ii) equitable governance structures;
11 and

12 (iii) effective grievance mechanisms;

13 (F) create economic opportunities for local
14 communities, through activities such as—

15 (i) equity and profit-sharing;

16 (ii) employment activities; and

17 (iii) other economic growth activities;

18 (G) provide stable baseline funding for the
19 effective management of the protected or con-
20 served area project;

21 (H) are implementation-ready; and

22 (I) where possible, demonstrate a plan to
23 strengthen the capacity of, and transfer skills
24 to, local institutions to manage the protected or

1 conserved area before or after grant funding is
2 exhausted.

3 (b) ELIGIBLE COUNTRIES.—

4 (1) IN GENERAL.—Before awarding any grants
5 or entering into any project agreements for a given
6 fiscal year, the Board shall conduct a review of
7 countries in which the Foundation shall be eligible
8 to fund projects to determine which countries—

9 (A) are low-income, lower middle-income,
10 or upper-middle-income economies (as defined
11 by the International Bank for Reconstruction
12 and Development and the International Devel-
13 opment Association;

14 (B) have—

15 (i) a high degree of biological diver-
16 sity; or

17 (ii) species or ecosystems of signifi-
18 cant importance; and

19 (C) have demonstrated a commitment to
20 conservation through actions, such as protecting
21 lands and waters through the gazettelement of
22 national parks, community conservancies, ma-
23 rine reserves and protected areas, forest re-
24 serves, and other legally recognized forms of
25 place-based conservation.

1 (2) IDENTIFICATION OF ELIGIBLE COUN-
2 TRIES.—Not later than 5 days after the date on
3 which the Board determines which countries are eli-
4 gible countries for a given fiscal year, the Executive
5 Director shall—

6 (A) submit a report to the appropriate con-
7 gressional committees that includes—

8 (i) a list of all such eligible countries;
9 and

10 (ii) a justification for such eligibility
11 determinations; and

12 (B) publish the information contained in
13 the report described in paragraph (A) in the
14 Federal Register.

15 (c) GRANTMAKING.—

16 (1) IN GENERAL.—In order to maximize its
17 program effects, the Foundation should—

18 (A) seek to coordinate with other inter-
19 national public and private donors to the extent
20 possible;

21 (B) seek additional financial and non-
22 financial contributions and commitments for its
23 projects from host governments; and

24 (C) strive to generate a partnership men-
25 tality among all participants, including public

1 and private funders, host governments, local
2 protected areas authorities, and private and
3 nongovernmental organization partners.

4 (2) GRANT CRITERIA.—Foundation grants—

5 (A) shall fund the management of well-de-
6 fined protected or conserved areas and the sys-
7 tems of such conservation areas in eligible
8 countries;

9 (B) should provide adequate baseline fund-
10 ing for at least 10 years, without replacing or
11 duplicating existing baseline funding, for each
12 protected and conserved area and the system
13 that supports that area in an amount sufficient
14 to maintain the effective management of the
15 area over the long term;

16 (C) should, during the grant period, dem-
17 onstrate progress in achieving clearly identified
18 key performance indicators (as defined in the
19 grant agreement), which may include—

20 (i) the protection of biological diver-
21 sity;

22 (ii) the protection of native flora and
23 habitats, such as trees, forests, grasslands,
24 mangroves, coral reefs, and sea grass;

1 (iii) community-based economic
 2 growth indicators, such as improved land
 3 tenure, increases in beneficiaries partici-
 4 pating in economic growth activities, and
 5 sufficient income from conservation activi-
 6 ties being directed to communities in
 7 project areas;

8 (iv) improved management of the pro-
 9 tected or conserved area covered by the
 10 project, as documented through the sub-
 11 mission of strategic plans or annual re-
 12 ports to the Foundation; and

13 (v) the identification of additional rev-
 14 enue sources or sustainable financing
 15 mechanisms to meet the recurring costs of
 16 management of the protected or conserved
 17 areas; and

18 (D) may be terminated if the Board deter-
 19 mines that the project is not meeting applicable
 20 requirements under this Act or making progress
 21 in achieving the key performance indicators de-
 22 fined in the grant agreement.

23 **SEC. 8. ANNUAL REPORT.**

24 Not later than 360 days after the date of the enact-
 25 ment of this Act, and annually thereafter while the Foun-

1 dation continues to function, the Executive Director of the
 2 Foundation shall submit a report to the appropriate con-
 3 gressional committees that describes—

4 (1) the goals of the Foundation;

5 (2) the programs, projects, and activities sup-
 6 ported by the Foundation;

7 (3) private and governmental contributions to
 8 the Foundation; and

9 (4) the standardized criteria utilized to deter-
 10 mine the programs and activities supported by the
 11 Foundation, including baselines, targets, desired out-
 12 comes, measurable goals, and extent to which those
 13 goals are being achieved for each project.

14 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) ADMINISTRATIVE EXPENSES.—There are author-
 16 ized to be appropriated, for each of the fiscal years 2023
 17 through 2032, such sums as may be necessary for the ad-
 18 ministrative expenses of the Foundation.

19 (b) PROGRAM FUNDS.—

20 (1) AUTHORIZATION.—There are authorized to
 21 be appropriated \$100,000,000 for each of the fiscal
 22 years 2023 through 2032 to carry out section 7.

23 (2) COST MATCHING REQUIREMENT.—Amounts
 24 appropriated pursuant to paragraph (1) may only be
 25 made available to grantees to the extent such grant-

1 ees secure funding for an eligible project from
2 sources other than the United States Government in
3 an amount that is not less than the amount received
4 in grants for such project pursuant to section 7.

○