

117TH CONGRESS
1ST SESSION

S. 1359

To establish the Foundation for Energy Security and Innovation, and for
other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Mr. COONS (for himself, Mr. GRAHAM, and Mr. LUJÁN) introduced the fol-
lowing bill; which was read twice and referred to the Committee on En-
ergy and Natural Resources

A BILL

To establish the Foundation for Energy Security and
Innovation, 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 “Partnerships for En-
5 ergy Security and Innovation Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) BOARD.—The term “Board” means the
9 Board of Directors described in section 3(b)(1).

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

3 (3) EXECUTIVE DIRECTOR.—The term “Execu-
4 tive Director” means the Executive Director de-
5 scribed in section 3(e)(1).

6 (4) FOUNDATION.—The term “Foundation”
7 means the Foundation for Energy Security and In-
8 novation established under section (3)(a).

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

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

15 **SEC. 3. FOUNDATION FOR ENERGY SECURITY AND INNOVA-**
16 **TION.**

17 (a) ESTABLISHMENT.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Sec-
20 retary shall establish a nonprofit corporation to be
21 known as the “Foundation for Energy Security and
22 Innovation”.

23 (2) MISSION.—The mission of the Foundation
24 shall be—

1 (A) to support the mission of the Depart-
2 ment; and

3 (B) to advance collaboration with energy
4 researchers, institutions of higher education, in-
5 dustry, and nonprofit and philanthropic organi-
6 zations to accelerate the commercialization of
7 energy technologies.

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

11 (4) TAX-EXEMPT STATUS.—The Board shall
12 take all necessary and appropriate steps to ensure
13 that the Foundation is an organization that is de-
14 scribed in section 501(c) of the Internal Revenue
15 Code of 1986 and exempt from taxation under sec-
16 tion 501(a) of that Code.

17 (5) COLLABORATION WITH EXISTING ORGANI-
18 ZATIONS.—The Secretary may collaborate with 1 or
19 more organizations to establish the Foundation and
20 carry out the activities of the Foundation.

21 (b) BOARD OF DIRECTORS.—

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

24 (2) COMPOSITION.—

(A) IN GENERAL.—The Board shall be composed of the ex officio nonvoting members described in subparagraph (B) and the appointed voting members described in subparagraph (C).

(B) EX OFFICIO MEMBERS.—The ex officio members of the Board shall be the following individuals or designees of those individuals:

(i) The Secretary.

(ii) The Under Secretary for Science and Energy.

(iii) The Under Secretary for Nuclear Security.

(iv) The Chief Commercialization Officer.

(C) APPOINTED MEMBERS.—

(i) INITIAL MEMBERS.—The Secretary and the other ex officio members of the Board shall—

(I) seek to enter into an agreement 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 re-

1 quirements of clauses (ii) and (iii);
2 and

3 (II) appoint the initial members
4 of the Board from that list, if applica-
5 ble, in consultation with the National
6 Academies of Sciences, Engineering,
7 and Medicine.

8 (ii) REPRESENTATION.—The ap-
9 pointed members of the Board shall reflect
10 a broad cross-section of stakeholders from
11 academia, industry, nonprofit organiza-
12 tions, State or local governments, the in-
13 vestment community, the philanthropic
14 community, and management and oper-
15 ating contractors of the National Labora-
16 tories.

17 (iii) EXPERIENCE.—The Secretary
18 shall ensure that a majority of the ap-
19 pointed members of the Board—

20 (I)(aa) has experience in the en-
21 ergy sector;

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

1 (cc) has experience in technology
 2 commercialization or foundation oper-
 3 ations; and

4 (II) to the extent practicable,
 5 represents diverse regions, sectors,
 6 and communities.

7 (3) CHAIR AND VICE CHAIR.—

8 (A) IN GENERAL.—The Board shall des-
 9 ignate from among the members of the
 10 Board—

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

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

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

18 (i) the date that is 3 years after the
 19 date on which the Chair or Vice Chair of
 20 the Board, as applicable, is designated for
 21 the position; and

22 (ii) the last day of the term of service
 23 of the member, as determined under para-
 24 graph (4)(A), who is designated to be

1 Chair or Vice Chair of the Board, as appli-
 2 cable.

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

5 (i) shall not be representatives of the
 6 same area of subject matter expertise, or
 7 entity, as applicable, under paragraph
 8 (2)(C)(ii); and

9 (ii) shall not be representatives of any
 10 area of subject matter expertise, or entity,
 11 as applicable, represented by the imme-
 12 diately preceding Chair and Vice Chair of
 13 the Board.

14 (4) TERMS AND VACANCIES.—

15 (A) TERMS.—

16 (i) IN GENERAL.—The term of service
 17 of each appointed member of the Board
 18 shall be not more than 5 years.

19 (ii) INITIAL APPOINTED MEMBERS.—
 20 Of the initial members of the Board ap-
 21 pointed under paragraph (2)(C)(i), half of
 22 the members shall serve for 4 years and
 23 half of the members shall serve for 5 years,
 24 as determined by the Chair of the Board.

(B) VACANCIES.—Any vacancy in the membership of the appointed members 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)(C)(ii);

(ii) shall not affect the power of the remaining appointed 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 ex officio and appointed members of the Board to incorporate the Foundation.

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

(6) DUTIES.—The Board shall—

1 (A) establish bylaws for the Foundation in
2 accordance with paragraph (7);

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

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

8 (D) evaluate the performance of the Exec-
9 utive Director; and

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

14 (7) BYLAWS.—

15 (A) IN GENERAL.—The bylaws established
16 under paragraph (6)(A) may include—

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

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

22 (I) the acceptance, solicitation,
23 and disposition of donations and
24 grants to the Foundation, including
25 appropriate limits on the ability of do-

nors to designate, by stipulation or restriction, the use or recipient of donated funds; and

(II) the disposition of assets of the Foundation;

(iii) policies that subject all employees, fellows, trainees, and other agents of the Foundation (including ex officio and appointed members of the Board) to conflict of interest standards; and

(iv) the specific duties of the Executive Director.

(B) REQUIREMENTS.—The Board shall ensure 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 compromise, the integrity of any governmental agency or program, or any officer or employee employed by, or involved in, a governmental agency or program.

(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) PURPOSES.—The purposes of the Foundation
11 are—

12 (1) to support the Department in carrying out
13 the mission of the Department to ensure the security
14 and prosperity of the United States by addressing
15 energy, environmental, and nuclear challenges
16 through transformative science and technology solu-
17 tions; and

18 (2) to increase private and philanthropic sector
19 investments that support efforts to create, charac-
20 terize, develop, test, validate, and deploy or commer-
21 cialize innovative technologies that address cross-
22 cutting national energy challenges by methods that
23 include—

24 (A) fostering collaboration and partner-
25 ships with researchers from the Federal Gov-

ernment, State governments, institutions of higher education, federally funded research and development centers, industry, and nonprofit organizations for the research, development, or commercialization of transformative energy and associated technologies;

(B) strengthening and sharing best practices relating to regional economic development through scientific and energy innovation, including in partnership with an Individual Laboratory-Associated Foundation (as defined in subsection (d)(7)(A));

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

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

(E) supporting programs that advance technology maturation, especially where there may be gaps in Federal or private funding in advancing a technology to deployment or commercialization from the prototype stage to a commercial stage; and

1 (F) facilitating access to Department fa-
2 cilities, equipment, and human expertise to as-
3 sist in tackling national challenges.

4 (d) ACTIVITIES.—

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

6 The Foundation may conduct and support studies,
7 competitions, projects, and other activities that fur-
8 ther the purposes of the Foundation described in
9 subsection (c).

10 (2) FELLOWSHIPS AND GRANTS.—

11 (A) IN GENERAL.—The Foundation may
12 award fellowships and grants for activities re-
13 lating to research, development, demonstration,
14 maturation, or commercialization of energy and
15 other Department-supported technologies.

16 (B) FORM OF AWARD.—A fellowship or
17 grant under subparagraph (A) may consist of a
18 stipend, health insurance benefits, funds for
19 travel, and funds for other appropriate ex-
20 penses.

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

24 (i) shall make the selection based on
25 the technical and commercialization merits

1 of the proposed project of the potential re-
 2 cipient; and

3 (ii) may consult with a potential re-
 4 cipient regarding the ability of the poten-
 5 tial recipient to carry out various projects
 6 that would further the purposes of the
 7 Foundation described in subsection (c).

8 (D) NATIONAL LABORATORIES.—A Na-
 9 tional Laboratory that applies for or accepts a
 10 grant under subparagraph (A) shall not be con-
 11 sidered to be engaging in a competitive process.

12 (3) ACCESSING FACILITIES AND EXPERTISE.—

13 The Foundation may work with the Department—

14 (A) to leverage the capabilities and facili-
 15 ties of National Laboratories to commercialize
 16 technology; and

17 (B) to assist with resources, including by
 18 providing information on the assets of each Na-
 19 tional Laboratory that may enable the deploy-
 20 ment and commercialization of technology.

21 (4) TRAINING AND EDUCATION.—The Founda-
 22 tion may support programs that provide training to
 23 researchers, scientists, and other relevant personnel
 24 at National Laboratories and institutions of higher

1 education to help demonstrate, deploy, and commer-
 2 cialize federally funded technology.

3 (5) MATURATION FUNDING.—The Foundation
 4 shall support programs that provide maturation
 5 funding to researchers to advance the technology of
 6 those researchers for the purpose of moving products
 7 from a prototype stage to a commercial stage.

8 (6) STAKEHOLDER ENGAGEMENT.—The Foun-
 9 dation shall convene, and may consult with, rep-
 10 resentatives from the Department, institutions of
 11 higher education, National Laboratories, the private
 12 sector, and commercialization organizations to de-
 13 velop programs for the purposes of the Foundation
 14 described in subsection (c) and to advance the activi-
 15 ties of the Foundation.

16 (7) INDIVIDUAL AND FEDERAL LABORATORY-
 17 ASSOCIATED FOUNDATIONS.—

18 (A) DEFINITIONS.—In this paragraph:

19 (i) COVERED FOUNDATION.—The
 20 term “covered foundation” means each of
 21 the following:

22 (I) An Individual Laboratory-As-
 23 sociated Foundation.

1 (II) a Federal Laboratory-Associ-
2 ated Foundation established pursuant
3 to section 4(a).

4 (ii) INDIVIDUAL LABORATORY-ASSOCI-
5 ATED FOUNDATION.—The term “Indi-
6 vidual Laboratory-Associated Foundation”
7 means a Laboratory Foundation estab-
8 lished by an operating contractor of a Na-
9 tional Laboratory.

10 (B) SUPPORT.—The Foundation shall pro-
11 vide support to and collaborate with covered
12 foundations.

13 (C) GUIDELINES AND TEMPLATES.—For
14 the purpose of providing support under sub-
15 paragraph (B), the Secretary shall establish
16 suggested guidelines and templates for covered
17 foundations, including—

18 (i) a standard adaptable organiza-
19 tional design for responsible management;

20 (ii) standard and legally tenable by-
21 laws and money-handling procedures; and

22 (iii) a standard training curriculum to
23 orient and expand the operating expertise
24 of personnel employed by covered founda-
25 tions.

(D) AFFILIATIONS.—Nothing in this paragraph requires—

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

(ii) a covered foundation to be bound by charter or corporate bylaws as permanently affiliated with the Foundation.

(8) FOR-PROFIT SUBSIDIARIES.—

(A) IN GENERAL.—The Foundation may establish 1 or more for-profit subsidiaries, including an impact investment fund—

(i) to stimulate economic development activities relating to the purposes of the Foundation described in subsection (c); and

(ii) to attract for-profit investment partners for technology translation and commercialization activities.

(B) AUTHORITIES OF THE FOR-PROFIT SUBSIDIARY.—

(i) IN GENERAL.—Subject to clause (ii), a for-profit subsidiary established under subparagraph (A) may—

1 (I) enter into a partnership with
 2 an economic development corporation,
 3 including an incubator, accelerator, or
 4 small business investment company;

5 (II) pay for the cost of building
 6 and administering a facility, including
 7 a microlab or incubator, to support
 8 the activities of the Foundation de-
 9 scribed in this subsection; and

10 (III) provide funding to a start-
 11 up.

12 (ii) COST RECOVERY REQUIRE-
 13 MENTS.—A for-profit subsidiary estab-
 14 lished under subparagraph (A) shall—

15 (I) ensure that the Foundation
 16 owns any intellectual property rights
 17 generated through activities funded by
 18 the for-profit subsidiary, if appro-
 19 priate; and

20 (II) own an equity stake in any
 21 startup invested in by the for-profit
 22 subsidiary.

23 (9) SUPPLEMENTAL PROGRAMS.—The Founda-
 24 tion may carry out supplemental programs—

1 (A) to conduct and support forums, meet-
2 ings, conferences, courses, and training work-
3 shops consistent with the purposes of the Foun-
4 dation described in subsection (c);

5 (B) to support and encourage the under-
6 standing and development of—

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

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

16 (C) for writing, editing, printing, pub-
17 lishing, and vending books and other materials
18 relating to research carried out under the
19 Foundation and the Department; and

20 (D) to conduct other activities to carry out
21 and support the purposes of the Foundation de-
22 scribed in subsection (c).

23 (10) EVALUATIONS.—The Foundation shall
24 support the development of an evaluation method-

1 ology, to be used as part of any program supported
 2 by the Foundation, that shall—

3 (A) consist of qualitative and quantitative
 4 metrics; and

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

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

14 (12) SOLICITATION AND USE OF FUNDS.—The
 15 Foundation may solicit and accept gifts, grants, and
 16 other donations, establish accounts, and invest and
 17 expend funds in support of the activities and pro-
 18 grams of the Foundation.

19 (e) ADMINISTRATION.—

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

23 (2) ADMINISTRATIVE CONTROL.—No member
 24 of the Board, officer or employee of the Foundation
 25 or of any program established by the Foundation, or

1 participant in a program established by the Founda-
2 tion, shall exercise administrative control over any
3 Federal employee.

4 (3) STRATEGIC PLAN.—Not later than 1 year
5 after the date of enactment of this Act, the Founda-
6 tion shall submit to the Committee on Energy and
7 Natural Resources of the Senate and the Committee
8 on Science, Space, and Technology of the House of
9 Representatives a strategic plan that contains—

10 (A) a plan for the Foundation to become
11 financially self-sustaining in fiscal year 2023
12 and thereafter (except for the amounts provided
13 each fiscal year under subsection (l)(1)(C));

14 (B) a forecast of major crosscutting energy
15 challenge opportunities, including short- and
16 long-term objectives, identified by the Board,
17 with input from communities representing the
18 entities and areas of subject matter expertise,
19 as applicable, described in subsection
20 (b)(2)(C)(ii);

21 (C) a description of the efforts that the
22 Foundation will take to be transparent in the
23 processes of the Foundation, including proc-
24 esses relating to—

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

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

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

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

11 (E) a description of the efforts undertaken
12 by the Foundation to ensure maximum
13 complementarity and minimum redundancy
14 with investments made by the Department.

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-

thering the purposes of the Foundation described in subsection (c);

(B) provides a specific accounting of the source and use of all funds made available to the Foundation to carry out those activities to ensure transparency in the alignment of Department missions and policies with national security;

(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)(10).

(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—

1 (i) the extent to which the Foundation
 2 is achieving the mission of the Foundation;
 3 and

4 (ii) the operation of the Foundation;
 5 and

6 (B) any recommendations on how the
 7 Foundation may be improved.

8 (6) AUDITS.—The Foundation shall—

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

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

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

20 (8) INTEGRITY.—

21 (A) IN GENERAL.—To ensure integrity in
 22 the operations of the Foundation, the Board
 23 shall develop and enforce procedures relating to
 24 standards of conduct, financial disclosure state-
 25 ments, 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—

(A) developed by the Foundation through activities funded by a for-profit subsidiary established under subsection (d)(8); or

1 (B) otherwise derived from the collabo-
2 rative efforts of the Foundation.

3 (10) LIABILITY.—

4 (A) IN GENERAL.—The United States
5 shall not be liable for any debts, defaults, acts,
6 or omissions of—

7 (i) the Foundation;

8 (ii) a Federal entity with respect to an
9 agreement of that Federal entity with the
10 Foundation; or

11 (iii) an Individual Laboratory-Associ-
12 ated Foundation (as defined in subsection
13 (d)(7)(A)) with respect to an agreement of
14 that Federal entity with the Foundation.

15 (B) FULL FAITH AND CREDIT.—The full
16 faith and credit of the United States shall not
17 extend to any obligations of the Foundation.

18 (11) NONAPPLICABILITY OF FACA.—The Fed-
19 eral Advisory Committee Act (5 U.S.C. App.) shall
20 not apply to the Foundation.

21 (f) DEPARTMENT COLLABORATION.—

22 (1) NATIONAL LABORATORIES.—The Secretary
23 shall collaborate with the Foundation to develop a
24 process to ensure collaboration and coordination be-

1 tween the Department, the Foundation, and Na-
2 tional Laboratories—

3 (A) to streamline contracting processes be-
4 tween National Laboratories and the Founda-
5 tion, including by—

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

9 (ii) standardizing contract mecha-
10 nisms to be used by the Foundation in en-
11 gaging with National Laboratories; and

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

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

17 (i) to accept and perform work for the
18 Foundation, consistent with provided re-
19 sources, notwithstanding any other provi-
20 sion of law governing the administration,
21 mission, use, or operations of the National
22 Laboratory or site, as applicable; and

23 (ii) to perform that work on a basis
24 equal to other missions at the National
25 Laboratory; and

1 (C) to permit the director of any National
2 Laboratory or site of a National Laboratory to
3 enter into a cooperative research and develop-
4 ment agreement or negotiate a licensing agree-
5 ment with the Foundation pursuant to section
6 12 of the Stevenson-Wydler Technology Innova-
7 tion Act of 1980 (15 U.S.C. 3710a).

8 (2) DEPARTMENT LIAISONS.—The Secretary
9 shall appoint liaisons from across the Department to
10 collaborate and coordinate with the Foundation, in-
11 cluding not less than 1 liaison from the Office of
12 Technology Transitions, who shall ensure that the
13 Foundation works in conjunction with the Tech-
14 nology Commercialization Fund of the Department.

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

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

22 (h) SUPPORT SERVICES.—The Secretary shall pro-
23 vide facilities, utilities, and support services to the Foun-
24 dation if it is determined by the Secretary to be advan-
25 tageous to the research programs of the Department.

1 (i) ANTI-DEFICIENCY ACT.—Subsection (a)(1) of
 2 section 1341 of title 31, United States Code (commonly
 3 referred to as the “Anti-Deficiency Act”), shall not apply
 4 to any Federal officer or employee carrying out any activ-
 5 ity of the Foundation using funds of the Foundation.

6 (j) PREEMPTION OF AUTHORITY.—This section shall
 7 not preempt any authority or responsibility of the Sec-
 8 retary under any other provision of law.

9 (k) TRANSFER FUNDS.—The Foundation may trans-
 10 fer funds to the Department, which shall be subject to all
 11 applicable Federal limitations relating to federally funded
 12 research.

13 (l) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—There are authorized to be
 15 appropriated—

16 (A) to the Secretary, not less than
 17 \$1,500,000 for fiscal year 2022 to establish the
 18 Foundation;

19 (B) to the Foundation, not less than
 20 \$30,000,000 for fiscal year 2023 to carry out
 21 the activities of the Foundation; and

22 (C) to the Foundation, not less than
 23 \$3,000,000 for fiscal year 2024, and each fiscal
 24 year thereafter, for administrative and oper-
 25 ational costs.

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

5 **SEC. 4. NATIONAL ENERGY TECHNOLOGY LABORATORY-AS-**
 6 **SOCIATED FOUNDATION.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—Notwithstanding any other
 9 provision of law, the National Energy Technology
 10 Laboratory may establish, or enter into an agree-
 11 ment with a nonprofit organization to establish, a
 12 Federal Laboratory-Associated Foundation (referred
 13 to in this section as a “Laboratory Foundation”) to
 14 support the mission of the National Energy Tech-
 15 nology Laboratory.

16 (2) NOT AGENCY OR INSTRUMENTALITY.—A
 17 Laboratory Foundation shall not be an agency or in-
 18 strumentality of the Federal Government.

19 (3) GOVERNANCE STRUCTURE.—A Laboratory
 20 Foundation established under paragraph (1) shall
 21 have a separate governance structure from, and shall
 22 be managed independently of, the National Energy
 23 Technology Laboratory.

24 (b) ACTIVITIES.—Activities of a Laboratory Founda-
 25 tion may include—

1 (1) conducting support studies, competitions,
2 projects, research, and other activities that further
3 the purpose of the Laboratory Foundation;

4 (2) carrying out programs to foster collabora-
5 tion and partnership among researchers from the
6 Federal Government, State governments, institutions
7 of higher education, federally funded research and
8 development centers, and industry and nonprofit or-
9 ganizations relating to the research, development,
10 and commercialization of federally supported tech-
11 nologies;

12 (3) carrying out programs to leverage tech-
13 nologies to support new product development that
14 supports regional economic development;

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

17 (5) providing fellowships and grants to research
18 and development personnel at, or affiliated with, fed-
19 erally funded centers, in accordance with subsection
20 (c);

21 (6) carrying out programs—

22 (A) that allow scientists from foreign coun-
23 tries to serve in research capacities in the
24 United States or other countries in association

1 with the National Energy Technology Labora-
2 tory;

3 (B) that provide opportunities for employ-
4 ees of the National Energy Technology Labora-
5 tory to serve in research capacities in foreign
6 countries;

7 (C) to conduct studies, projects, or re-
8 search in collaboration with national and inter-
9 national nonprofit and for-profit organizations,
10 which may include the provision of stipends,
11 travel, and other support for personnel;

12 (D)(i) to hold forums, meetings, con-
13 ferences, courses, and training workshops that
14 may include undergraduate, graduate, post-
15 graduate, and post-doctoral accredited courses;
16 and

17 (ii) for the accreditation of those courses
18 by the Laboratory Foundation at the State and
19 national level for college degrees or continuing
20 education credits;

21 (E) to support and encourage teachers and
22 students of science at all levels of education;

23 (F) to promote an understanding of
24 science amongst the general public;

1 (G) for writing, editing, printing, pub-
 2 lishing, and vending of relevant books and other
 3 materials; and

4 (H) for the conduct of other activities to
 5 carry out and support the purpose of the Lab-
 6 oratory Foundation; and

7 (7) receiving, administering, soliciting, accept-
 8 ing, and using funds, gifts, devises, or bequests, ei-
 9 ther absolutely or in trust of real or personal prop-
 10 erty or any income therefrom, or other interest or
 11 equity therein for the benefit of, or in connection
 12 with, the mission of the applicable Federal labora-
 13 tory, in accordance with subsection (d).

14 (c) FELLOWSHIPS AND GRANTS.—

15 (1) SELECTION.—Recipients of fellowships and
 16 grants described in subsection (b)(5) shall be se-
 17 lected—

18 (A) by the donors of a Laboratory Founda-
 19 tion and a Laboratory Foundation;

20 (B) subject to the agreement of the head
 21 of the agency the mission of which is supported
 22 by a Laboratory Foundation; and

23 (C) in the case of a fellowship, based on
 24 the recommendation of the employees of the

1 National Energy Technology Laboratory at
2 which the fellow would serve.

3 (2) EXPENSES.—Fellowships and grants de-
4 scribed in subsection (b)(5) may include stipends,
5 travel, health insurance, benefits, and other appro-
6 priate expenses.

7 (d) GIFTS.—An amount of funds, a gift, a devise, or
8 a bequest described in subsection (b)(7) may be accepted
9 by a Laboratory Foundation regardless of whether it is
10 encumbered, restricted, or subject to a beneficial interest
11 of a private person if any current or future interest of
12 the funds, gift, devise, or bequest is for the benefit of the
13 research and development activities of the National En-
14 ergy Technology Laboratory.

15 (e) OWNERSHIP BY FEDERAL GOVERNMENT.—A
16 contribution, gift, or any other transfer made to or for
17 the use of a Laboratory Foundation shall be regarded as
18 a contribution, gift, or transfer to or for the use of the
19 Federal Government.

20 (f) LIABILITY.—The United States shall not be liable
21 for any debts, defaults, acts, or omissions of a Laboratory
22 Foundation.

23 (g) TRANSFER OF FUNDS.—Notwithstanding any
24 other provision of law, a Laboratory Foundation may
25 transfer funds to the National Energy Technology Labora-

1 tory and the National Energy Technology Laboratory may
2 accept that transfer of funds.

3 (h) OTHER LAWS.—This section shall not alter or su-
4 persede any other provision of law governing the authority,
5 scope, establishment, or use of nonprofit organizations by
6 a Federal agency.

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