

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To promote the strengthening of the private sector in Bosnia and Herzegovina.

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IN THE SENATE OF THE UNITED STATES

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Mrs. SHAHEEN (for herself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on

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## A BILL

To promote the strengthening of the private sector in Bosnia and Herzegovina.

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 “Bosnia and  
5 Herzegovina-American Enterprise Fund Act”.

6 **SEC. 2. PURPOSE AND FINDINGS.**

7 (a) PURPOSE.—The purpose of this Act is to support  
8 economic opportunity and political progress in Bosnia and  
9 Herzegovina through the creation of an enterprise fund

1 that will provide financial investment and technical assist-  
2 ance to small and medium-sized enterprises.

3 (b) FINDINGS.—Congress makes the following find-  
4 ings:

5 (1) The United States has a strong interest in  
6 ensuring the gains in stability and reconciliation  
7 made since the end of the Bosnian War in 1995 are  
8 not overtaken by difficult economic conditions.

9 (2) In 2014, protests broke out across Bosnia  
10 and Herzegovina as a result of widespread frustra-  
11 tion among the populace regarding the economy,  
12 which is currently experiencing an unemployment  
13 rate of more than 40 percent.

14 (3)(A) A crucial element for economic progress  
15 in Bosnia and Herzegovina is robust growth among  
16 small and medium-sized enterprises (SME's), which  
17 have struggled to access necessary financing.

18 (B) Although the private sector credit-to-GDP  
19 ratio in Bosnia and Herzegovina grew from 25 per-  
20 cent in 2001 to over 65 percent in 2008, it has  
21 failed to grow in the 7 years since, and is signifi-  
22 cantly less than the average for advanced economies.

23 (C) Bank lending, which grew similarly rapidly  
24 before 2008, has grown barely more than 1 percent  
25 per year since then.

1           (D) International financial institutions and for-  
2           eign-owned private investment funds active in Bos-  
3           nia and Herzegovina have provided growth finance  
4           for larger companies and infrastructure project fi-  
5           nancing, but have not substantially invested in  
6           SME's.

7           (4)(A) Bosnia and Herzegovina's demographic,  
8           income and geographic characteristics are promising  
9           for SME growth.

10          (B) Bosnia and Herzegovina is a market of al-  
11          most 4,000,000 people, whose per capita income has  
12          grown by almost 50 percent in less than a decade,  
13          and substantial growth remains in order to achieve  
14          income parity with its Balkan neighbor economies.

15          (C) Bosnia and Herzegovina currently imports  
16          almost \$10,000,000,000 of goods per year, a sub-  
17          stantial portion of which could be substituted for by  
18          domestic SME production.

19          (5) To help foster and support the fledgling pri-  
20          vate sector in Central and Eastern Europe after the  
21          fall of the Berlin Wall, Congress, through enactment  
22          of the Support for East European Democracy  
23          (SEED) Act of 1989 (22 U.S.C. 5401 et seq.) and  
24          the FREEDOM Support Act (22 U.S.C. 5801 et  
25          seq.), authorized nearly \$1,200,000,000 for the

1 United States Agency for International Development  
2 (USAID) to establish 10 new investment funds (col-  
3 lectively known as the “Enterprise Funds”) to both  
4 support economic development objectives and realize  
5 substantial financial returns.

6 (6) The Enterprise Funds—

7 (A) channeled approximately  
8 \$10,000,000,000 of public and private funding  
9 into more than 500 enterprises in 19 countries;

10 (B) leveraged \$6,900,000,000 in private  
11 investment capital from outside the United  
12 States Government;

13 (C) provided substantial development cap-  
14 ital where supply was limited;

15 (D) created or sustained more than  
16 300,000 jobs through investment and develop-  
17 ment activities;

18 (E) funded \$80,000,000 in technical as-  
19 sistance to strengthen the private sector; and

20 (F) are expected to recoup 177 percent of  
21 the original USAID funding.

22 (7) Enterprise funds established in partnership  
23 with United States partners, such as Poland, Hun-  
24 gary, Albania, Russia, and other European coun-

1 tries, have proven beneficial to the economies of such  
2 countries.

3 (8) Creating a similar fund in close partnership  
4 with the people of Bosnia and Herzegovina would  
5 help sustain and expand economic reform efforts in  
6 Bosnia and Herzegovina and empower entrepreneurs  
7 to create urgently needed employment opportunities.

8 (9) Establishing an enterprise fund for Bosnia  
9 and Herzegovina would—

10 (A) help improve financial institutions  
11 within the country;

12 (B) provide debt, equity, and other invest-  
13 ment vehicles for commercially viable SMEs;  
14 and

15 (C) make the investment environment  
16 more attractive to domestic and international  
17 investors.

18 **SEC. 3. PURPOSES OF BOSNIA AND HERZEGOVINA-AMER-**

19 **ICAN ENTERPRISE FUND.**

20 The purposes of the Bosnia and Herzegovina-Amer-  
21 ican Enterprise Fund are—

22 (1) to promote the private sector in Bosnia and  
23 Herzegovina, while considering the development im-  
24 pact of investments and profitability of those invest-  
25 ments, particularly in small- and medium-sized en-

1       terprises, and joint ventures with participants from  
2       the United States and Bosnia and Herzegovina;

3               (2) to promote policies and practices conducive  
4       to strengthening the private sector in Bosnia and  
5       Herzegovina through measures including loans,  
6       microloans, equity investments, insurance, guaran-  
7       tees, grants, feasibility studies, technical assistance,  
8       training for businesses receiving investment capital,  
9       and other measures;

10              (3) to promote good corporate governance and  
11       transparency in Bosnia and Herzegovina, foster  
12       competition, catalyze productivity improvements in  
13       existing businesses, and strengthen local capital  
14       markets; and

15              (4) to promote security through job creation in  
16       the private sector in Bosnia and Herzegovina and to  
17       further the creation of a middle class in Bosnia and  
18       Herzegovina.

19 **SEC. 4. BOSNIA AND HERZEGOVINA-AMERICAN ENTER-**  
20 **PRISE FUND.**

21       (a) DESIGNATION.—The President is authorized to  
22       designate a private, nonprofit organization (to be known  
23       as the Bosnia and Herzegovina-American Enterprise  
24       Fund) to receive funds and support made available under  
25       this Act after determining that such organization has been

1 designated for the purposes specified in section 3. The  
2 President should make such designation only after con-  
3 sultation with the leadership of each House of Congress.

4 (b) BOARD OF DIRECTORS.—

5 (1) APPOINTMENT.—The Bosnia and  
6 Herzegovina-American Enterprise Fund shall be  
7 governed by a Board of Directors, which shall be  
8 comprised of 6 private citizens of the United States  
9 appointed by the President of the United States in  
10 consultation with the Administrator of the United  
11 States Agency for International Development. The  
12 Board is authorized to appoint up to 3 additional  
13 members who are citizens of Bosnia and  
14 Herzegovina if agreed to unanimously by all mem-  
15 bers of the Board.

16 (2) QUALIFICATIONS.—Members of the Board  
17 of Directors shall be selected from among people  
18 who have had successful business careers and dem-  
19 onstrated experience and expertise in international  
20 and particularly emerging markets investment activi-  
21 ties, such as private equity or venture capital invest-  
22 ment, banking, finance, strategic business con-  
23 sulting, or entrepreneurial business creation, and  
24 backgrounds in priority business sectors of the  
25 Fund.

1           (3) UNITED STATES GOVERNMENT LIAISON TO  
2 THE BOARD.—The President shall appoint the  
3 United States Ambassador to Bosnia and  
4 Herzegovina, or the Ambassador’s designee, as a li-  
5 aison to the Board.

6           (4) NON-GOVERNMENT LIAISONS TO THE  
7 BOARD.—

8           (A) AUTHORITY TO APPOINT.—Upon the  
9 recommendation of the Board of Directors, the  
10 President may appoint up to 2 additional liai-  
11 sons to the Board of Directors in addition to  
12 the members specified in paragraphs (1) and  
13 (3), of which not more than 1 may be a non-  
14 citizen of the United States.

15           (B) NGO COMMUNITY.—One of the addi-  
16 tional liaisons to the Board should be from the  
17 nongovernmental organization community, with  
18 significant prior experience in development and  
19 an understanding of development policy prior-  
20 ities for Bosnia and Herzegovina.

21           (C) TECHNICAL EXPERTISE.—One of the  
22 additional liaisons to the Board should have ex-  
23 tensive demonstrated industry, sector, or tech-  
24 nical experience and expertise in a priority in-  
25 vestment sector for the Fund.

1 (c) GRANTS.—

2 (1) IN GENERAL.—There is authorized to be  
3 appropriated for the Department of State for fiscal  
4 year 2016 \$30,000,000—

5 (A) to carry out the purposes set forth in  
6 section 3 through the Bosnia and Herzegovina-  
7 American Enterprise Fund; and

8 (B) to pay for the administrative expenses  
9 of the Bosnia and Herzegovina-American En-  
10 terprise Fund.

11 (2) ELIGIBLE PROGRAMS AND PROJECTS.—  
12 Grants awarded under this section may only be used  
13 for programs and projects that support the purposes  
14 set forth in section 3.

15 (3) COMPLIANCE REQUIREMENTS.—

16 (A) IN GENERAL.—Grants may not be  
17 awarded to the Bosnia and Herzegovina-Amer-  
18 ican Enterprise Fund under this section unless  
19 the Fund agrees to comply with the require-  
20 ments under this section.

21 (B) GRANT AGREEMENT.—The grant  
22 agreement between the United States Agency  
23 for International Development and the Bosnia  
24 and Herzegovina-American Enterprise Fund  
25 shall state that the Fund shall end its reinvest-

1           ment cycle not later than December 31, 2030,  
2           unless the Secretary of State, in consultation  
3           with the Administrator of the United States  
4           Agency for International Development, and  
5           after consultation with the appropriate congress-  
6           sional committees, determines that the Fund  
7           should be extended.

8           (C) PREVENTION OF MONEY LAUNDERING  
9           AND TERRORIST FINANCING.—The grant agree-  
10          ment between the United States Agency for  
11          International Development and the Bosnia and  
12          Herzegovina-American Enterprise Fund shall  
13          state that the Fund shall comply with proce-  
14          dures specified by the Secretary of State to en-  
15          sure that grant funds are not provided by the  
16          Fund to or through any individual, private or  
17          government entity, or educational institution  
18          that advocates, plans, sponsors, engages in, or  
19          has engaged in, money laundering or terrorist  
20          activity or, with respect to a private entity or  
21          educational institution, that has as a principal  
22          officer of the entity's governing board or gov-  
23          erning board of trustees any individual that has  
24          been determined to be involved in or advocating  
25          money laundering or terrorist activity or deter-

1           mined to be a member of a designated foreign  
2           terrorist organization.

3                   (D) DISPOSITION OF ASSETS.—The assets  
4           of the Bosnia and Herzegovina-American En-  
5           terprise Fund at the time the Fund is dissolved  
6           shall be returned to the General Fund of the  
7           United States Treasury and used to reduce the  
8           debt of the United States in a manner agreed  
9           upon by USAID and the Board of Directors for  
10          the Fund, except for those assets used to des-  
11          ignate a legacy foundation which is appro-  
12          priately resourced to the needs of Bosnia and  
13          Herzegovina.

14          (d) NOTIFICATION.—

15                   (1) IN GENERAL.—Not later than 15 days be-  
16          fore designating an organization to operate as the  
17          Bosnia and Herzegovina-American Enterprise Fund  
18          pursuant to subsection (a), the President shall pro-  
19          vide the information described in paragraph (2) to  
20          the Chairman and Ranking Member of the appro-  
21          priate congressional committees.

22                   (2) INFORMATION.—The information described  
23          in this paragraph is—

24                           (A) the identity of the organization to be  
25          designated to operate as the Bosnia and

1 Herzegovina-American Enterprise Fund pursu-  
2 ant to subsection (a);

3 (B) the name and qualifications of the in-  
4 dividual who will serve as Chairman of the  
5 Board of Directors; and

6 (C) the amount of the grant intended to  
7 fund the Bosnia and Herzegovina-American En-  
8 terprise Fund over the lifetime of the fund.

9 (e) PUBLIC DISCLOSURE.—Not later than 1 year  
10 after the entry into force of the initial grant agreement  
11 under this section, and annually thereafter, the Fund shall  
12 prepare and make available to the public on an Internet  
13 Web site administered by the Fund a report on the Fund's  
14 activities during the previous year, including—

15 (1) a description of each investment or project  
16 supported by the Fund, including each type of as-  
17 sistance provided in accordance with section 3(2);

18 (2) the amounts invested by the Fund in each  
19 company or project;

20 (3) the amounts of additional private invest-  
21 ments made in each company or project; and

22 (4) the amounts of any profits or losses realized  
23 by the Fund in connection with each such company  
24 or project.

1 **SEC. 5. REPORTS.**

2 (a) ADMINISTRATIVE EXPENSES.—Not later than 1  
3 year after the date of the enactment of this Act, and annu-  
4 ally thereafter until the Fund is dissolved, the Fund shall  
5 submit to the appropriate congressional committees a re-  
6 port detailing the administrative expenses of the Fund, in-  
7 cluding any employee incentive compensation arrange-  
8 ments implemented by the Fund which are not considered  
9 to be industry standard.

10 (b) GAO REPORT.—Not later than 3 years after the  
11 date of the enactment of this Act, and every 3 years there-  
12 after until the Fund is dissolved, the Comptroller General  
13 of the United States shall submit to the appropriate con-  
14 gressional committees a report assessing the activities of  
15 the Fund in achieving the stated goals of promoting pri-  
16 vate sector investment and employment in Bosnia and  
17 Herzegovina and identifying those institutional or regu-  
18 latory constraints that inhibit a more effective application  
19 of Fund resources.

20 (c) USAID REPORTS.—Not later than July 1, 2022,  
21 and July 1, 2030, the Administrator of the United States  
22 Agency for International Development shall submit a re-  
23 port to the appropriate congressional committees assessing  
24 the performance of the Bosnia and Herzegovina-American  
25 Enterprise Fund with respect to the purposes set forth  
26 in section 3.

1 (d) APPROPRIATE CONGRESSIONAL COMMITTEES  
2 DEFINED.—In this section, the term “appropriate con-  
3 gressional committees” means—

4 (1) the Committee on Foreign Relations and  
5 the Committee on Appropriations of the Senate; and

6 (2) the Committee on Foreign Affairs and the  
7 Committee on Appropriations of the House of Rep-  
8 resentatives.

9 **SEC. 6. OPERATION PROVISIONS.**

10 (a) APPLICABLE PROVISIONS.—Subsections (d)(5),  
11 (g), (h), (i), (k), (l), (m), (n), (o), and (p) of section 201  
12 of the Support for East European Democracy (SEED)  
13 Act of 1989 (22 U.S.C. 5421) shall apply with respect  
14 to the Bosnia and Herzegovina-American Enterprise Fund  
15 in the same manner as such provisions apply to Enterprise  
16 Funds designated pursuant to subsection (d) of such sec-  
17 tion.

18 (b) REINVESTMENT.—Returns on investments of the  
19 Bosnia and Herzegovina-American Enterprise Fund and  
20 other payments to the Fund may be reinvested in projects  
21 carried out by the Fund without further appropriation by  
22 Congress.

23 **SEC. 7. BEST PRACTICES AND PROCEDURES.**

24 To the maximum extent practicable, the Board of Di-  
25 rectors of the Bosnia and Herzegovina-American Enter-

1 prise Fund should adopt the best practices and procedures  
2 used by Enterprise Funds, including those for which fund-  
3 ing has been made available pursuant to section 201 of  
4 the Support for East European Democracy (SEED) Act  
5 of 1989 (22 U.S.C. 5421).

6 **SEC. 8. EXPERIENCE OF OTHER ENTERPRISE FUNDS.**

7 In implementing this Act, the President shall ensure  
8 that the Articles of Incorporation of the Bosnia and  
9 Herzegovina-American Enterprise Fund (including provi-  
10 sions specifying the responsibilities of the Board of Direc-  
11 tors of the Fund), the terms of United States Government  
12 grant agreements with the Fund, and United States Gov-  
13 ernment oversight of the Fund are, to the maximum ex-  
14 tent practicable, consistent with the Articles of Incorpora-  
15 tion of, the terms of grant agreements with, and the over-  
16 sight of the Enterprise Funds designated pursuant to sec-  
17 tion 201 of the Support for East European Democracy  
18 (SEED) Act of 1989 (22 U.S.C. 5421) and comparable  
19 provisions of law.