

118TH CONGRESS
1ST SESSION

S. 599

To establish the Foundation for Digital Equity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2023

Mr. LUJÁN (for himself, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. BLUMENTHAL, Mr. HEINRICH, Mr. MARKEY, Mr. MERKLEY, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish the Foundation for Digital Equity, 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 “Digital Equity Foun-
5 dation Act of 2023”.

6 **SEC. 2. FOUNDATION FOR DIGITAL EQUITY.**

7 (a) DEFINITIONS.—In this section:

8 (1) ASSISTANT SECRETARY.—The term “Assist-
9 ant Secretary” means the Assistant Secretary of
10 Commerce for Communications and Information.

1 (2) BOARD.—The term “Board” means the
2 Board of Directors described in subsection (d)(1).

3 (3) BUSINESS INCUBATOR.—The term “busi-
4 ness incubator” has the meaning given the term in
5 section 3 of the Native American Business Incuba-
6 tors Program Act (25 U.S.C. 5802).

7 (4) COMMISSION.—The term “Commission”
8 means the Federal Communications Commission.

9 (5) COMMITTEE.—The term “Committee”
10 means the Committee for the Establishment of the
11 Foundation for Digital Equity established under
12 subsection (b).

13 (6) COMMUNITY ANCHOR INSTITUTION; COV-
14 ERED POPULATIONS; DIGITAL EQUITY; DIGITAL LIT-
15 ERACY.—The terms “community anchor institu-
16 tion”, “covered populations”, “digital equity”, and
17 “digital literacy” have the meanings given those
18 terms in section 60302 of the Digital Equity Act of
19 2021 (47 U.S.C. 1721).

20 (7) DEPARTMENT.—The term “Department”
21 means the Department of Commerce.

22 (8) DIGITAL INCLUSION.—The term “digital in-
23 clusion”—

24 (A) means the activities that are necessary
25 to ensure that all individuals in the United

1 States have access to, and the use of, affordable
2 information and communication technologies,
3 such as—

4 (i) reliable fixed and wireless
5 broadband;

6 (ii) internet-enabled devices that meet
7 the needs of the user for telehealth, remote
8 work, remote schooling, or other purposes;
9 and

10 (iii) applications and online content
11 designed to enable and encourage self-suf-
12 ficiency, participation, and collaboration;
13 and

14 (B) includes—

15 (i) obtaining access to digital literacy
16 training;

17 (ii) the provision of quality technical
18 support; and

19 (iii) obtaining basic awareness of
20 measures to ensure online privacy and cy-
21 bersecurity.

22 (9) EXECUTIVE DIRECTOR.—The term “Execu-
23 tive Director” means the Executive Director of the
24 Foundation described in subsection (f)(1).

1 (10) FOUNDATION.—The term “Foundation”
2 means the Foundation for Digital Equity established
3 under this section.

4 (11) INSTITUTION OF HIGHER EDUCATION.—
5 The term “institution of higher education” means—

6 (A) an institution of higher education, as
7 that term is defined in section 101 of the High-
8 er Education Act of 1965 (20 U.S.C. 1001); or

9 (B) a postsecondary vocational institution,
10 as that term is defined in section 102(c) of the
11 Higher Education Act of 1965 (20 U.S.C.
12 1002(c)).

13 (12) MINORITY-SERVING INSTITUTION.—The
14 term “Minority-serving institution” means an insti-
15 tution described in any of paragraphs (1) through
16 (7) of section 371(a) of the Higher Education Act
17 of 1965 (20 U.S.C. 1067q(a)).

18 (13) NTIA.—The term “NTIA” means the Na-
19 tional Telecommunications and Information Admin-
20 istration.

21 (14) OLDER INDIVIDUAL.—The term “older in-
22 dividual” has the meaning given the term in section
23 102 of the Older Americans Act of 1965 (42 U.S.C.
24 3002).

1 (15) SECRETARY.—The term “Secretary”
2 means the Secretary of Commerce.

3 (16) SMALL BUSINESS INVESTMENT COM-
4 PANY.—The term “small business investment com-
5 pany” has the meaning given the term in section
6 103 of the Small Business Investment Act of 1958
7 (15 U.S.C. 662).

8 (17) STARTUP.—The term “startup” has the
9 meaning given the term “start-up business” in sec-
10 tion 362(f)(5)(C) of the Energy Policy and Con-
11 servation Act (42 U.S.C. 6322(f)(5)(C)).

12 (18) TRIBAL BROADBAND CONNECTIVITY PRO-
13 GRAM.—The term “Tribal Broadband Connectivity
14 Program” means the program implemented pursu-
15 ant to section 905(c) of division N of the Consoli-
16 dated Appropriations Act, 2021 (47 U.S.C. 1305
17 note).

18 (b) COMMITTEE FOR THE ESTABLISHMENT OF THE
19 FOUNDATION FOR DIGITAL EQUITY.—

20 (1) IN GENERAL.—Not later than 90 days after
21 the date of enactment of this Act, the Secretary
22 shall establish the Committee for the Establishment
23 of the Foundation for Digital Equity.

24 (2) MEMBERS.—The Committee shall be com-
25 posed of 5 members—

1 (A) who shall be appointed by the officials
2 described in subsection (d)(2)(B)(i);

3 (B) each of whom shall be a voting mem-
4 ber of the Committee;

5 (C) not fewer than 3 of whom shall have
6 broad and general experience in matters relat-
7 ing to digital equity, digital inclusion, or digital
8 literacy; and

9 (D) not less than 1 of whom shall have
10 broad and general experience in working with
11 private nonprofit organizations.

12 (3) FUNCTIONS.—The functions of the Com-
13 mittee shall be as follows:

14 (A) To carry out such activities as may be
15 necessary to establish a nonprofit corporation to
16 be known as the “Foundation for Digital Eq-
17 uity”, and to incorporate the Foundation under
18 the laws of a State, including by—

19 (i) serving as the incorporators for the
20 Foundation; and

21 (ii) ensuring that the articles of incor-
22 poration for the Foundation require that
23 the Foundation is operated in accordance
24 with the requirements of this section.

1 (B) To ensure that the Foundation quali-
2 fies for and (during the period in which the
3 Committee is in existence) maintains the status
4 described in subsection (c)(3).

5 (C) To provide for the initial operation of
6 the Foundation, including by ensuring that the
7 Foundation has adequate facilities, equipment,
8 and staff.

9 (D) To appoint initial voting members of
10 the Board who satisfy the requirements under
11 subsection (d)(2)(C) and have such other quali-
12 fications as the Committee determines appro-
13 priate with respect to those members.

14 (4) CHAIR.—The Committee shall, from among
15 the members of the Committee, designate a member
16 of the Committee to serve as Chair of the Com-
17 mittee.

18 (5) TERM.—

19 (A) IN GENERAL.—Each member of the
20 Committee shall serve for the duration of the
21 Committee.

22 (B) VACANCIES.—

23 (i) NO EFFECT ON AUTHORITY.—A
24 vacancy in the membership of the Com-
25 mittee shall not affect the authority of the

1 Committee to carry out the functions of
2 the Committee.

3 (ii) REPLACEMENT.—If a member of
4 the Committee does not serve for the dura-
5 tion of the Committee, the individual ap-
6 pointed to fill that vacancy shall be ap-
7 pointed by the ex officio members of the
8 Board for the remainder of the applicable
9 term.

10 (6) COMPENSATION.—A member of the Com-
11 mittee—

12 (A) shall not receive compensation for
13 service on the Committee; and

14 (B) may be reimbursed for travel, subsist-
15 ence, and other necessary expenses incurred in
16 carrying out the functions of the Committee.

17 (7) TERMINATION.—The Committee shall—

18 (A) complete the functions of the com-
19 mittee described in paragraph (3) not later
20 than 180 days after the date on which the Sec-
21 retary establishes the Committee under para-
22 graph (1); and

23 (B) terminate on the date that is 30 days
24 after the date on which the Secretary deter-

1 mines that the Committee has completed the
2 functions described in paragraph (3).

3 (c) GENERAL PRINCIPLES OF THE FOUNDATION.—

4 (1) MISSION.—The mission of the Foundation
5 shall be—

6 (A) to supplement, but not supplant, the
7 work of the NTIA and the Commission in pro-
8 moting the benefits of technological develop-
9 ment in the United States, and of high-capac-
10 ity, affordable broadband connectivity in par-
11 ticular, for all users of telecommunications and
12 information facilities;

13 (B) to raise, leverage, or match funding
14 from other entities, including philanthropic or-
15 ganizations, the private sector, and State and
16 local governments, to promote digital literacy,
17 digital inclusion, and digital equity for commu-
18 nities with low rates of adoption of broadband;

19 (C) to develop programs and partnerships
20 to—

21 (i) spur greater rates of adoption of
22 broadband among covered populations;

23 (ii) collaborate with State, local, and
24 Tribal governments, Minority-serving insti-
25 tutions, other anchor institutions, and

1 stakeholders in the communications, edu-
2 cation, business, and technology fields;

3 (iii) publicize and incentivize the
4 adoption of evidence-based programs;

5 (iv) convene organizations and part-
6 nerships with related goals and interests to
7 establish problem-solving processes;

8 (v) strengthen and share best prac-
9 tices relating to—

10 (I) projects promoting digital in-
11 clusion, digital literacy, and digital eq-
12 uity; and

13 (II) regional economic develop-
14 ment;

15 (vi) support job creation and work-
16 force development; and

17 (vii) support the goals of the Tribal
18 Broadband Connectivity Program; and

19 (D) to promote equitable access to, and the
20 adoption of, broadband technologies and digital
21 applications that support accessibility, tele-
22 health, distance learning, and online access to
23 governmental benefits and services, including by
24 preventing, detecting, and remedying digital
25 discrimination.

1 (2) LIMITATION.—The Foundation shall not be
2 an agency or instrumentality of the Federal Govern-
3 ment or any State or local government.

4 (3) TAX-EXEMPT STATUS.—The Board shall
5 take all necessary and appropriate steps to ensure
6 that the Foundation is an organization that is de-
7 scribed in section 501(c) of the Internal Revenue
8 Code of 1986 and exempt from taxation under sec-
9 tion 501(a) of that Code.

10 (d) BOARD OF DIRECTORS.—

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

13 (2) COMPOSITION.—

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

18 (B) EX OFFICIO MEMBERS.—

19 (i) MEMBERS.—The ex officio mem-
20 bers of the Board shall be the following in-
21 dividuals (or designees of those individ-
22 uals):

23 (I) The Secretary.

24 (II) The Assistant Secretary.

1 (III) The Chairman of the Com-
2 mission.

3 (IV) The Secretary of the Treas-
4 ury.

5 (V) The Under Secretary of Agri-
6 culture for Rural Development.

7 (VI) The Director of the Insti-
8 tute of Museum and Library Services.

9 (ii) NONVOTING MEMBERS.—The ex
10 officio members of the Board shall be non-
11 voting members of the Board.

12 (C) APPOINTED MEMBERS.—

13 (i) REPRESENTATION.—The ap-
14 pointed members of the Board shall reflect
15 a broad cross-section of stakeholders from
16 academia, industry, nonprofit and civil
17 rights organizations, community-based
18 practitioners of efforts to promote digital
19 inclusion, State or local governments, local
20 school districts and libraries, other commu-
21 nity anchor institutions, and the philan-
22 thropic community.

23 (ii) EXPERIENCE.—Each appointed
24 member of the Board shall—

25 (I) have—

- 1 (aa) experience promoting
 2 digital equity, digital inclusion,
 3 and digital literacy;
- 4 (bb) experience in the tech-
 5 nology sector;
- 6 (cc) experience in the tele-
 7 communications and broadband
 8 sector;
- 9 (dd) direct experience work-
 10 ing with covered populations; or
- 11 (ee) research experience in
 12 foundation operations; and
- 13 (II) to the extent practicable,
 14 represent diverse regions, sectors, and
 15 the communities corresponding to the
 16 covered populations that are the focus
 17 of the activities of the Foundation.

18 (3) CHAIR AND VICE CHAIR.—

19 (A) IN GENERAL.—The Board shall des-
 20 ignate, from among the appointed members of
 21 the Board—

- 22 (i) an individual to serve as Chair of
 23 the Board; and
- 24 (ii) an individual to serve as Vice
 25 Chair of the Board.

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

4 (i) the date that is 3 years after the
5 date on which the Chair or Vice Chair of
6 the Board, as applicable, is designated for
7 the position; and

8 (ii) the last day of the term of service
9 of the member, as determined under para-
10 graph (4)(A), who is designated to be
11 Chair or Vice Chair of the Board, as appli-
12 cable.

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

15 (i) shall not be representatives of the
16 same area of subject matter expertise, or
17 entity, as applicable, under paragraph
18 (2)(C)(ii); and

19 (ii) shall not be representatives of any
20 area of subject matter expertise, or entity,
21 as applicable, represented by the imme-
22 diately preceding Chair and Vice Chair of
23 the Board.

24 (4) TERMS AND VACANCIES.—

25 (A) TERMS.—

1 (i) IN GENERAL.—The term of service
2 of each appointed member of the Board
3 shall be not more than 5 years.

4 (ii) INITIAL APPOINTED MEMBERS.—
5 Of the initial members of the Board ap-
6 pointed under subsection (b)(3)(D), $\frac{1}{2}$ of
7 the members shall serve for 4 years and $\frac{1}{2}$
8 of the members shall serve for 5 years, as
9 determined by the Chair of the Board.

10 (B) VACANCIES.—Any vacancy in the
11 membership of the appointed members of the
12 Board—

13 (i) shall be filled by a majority vote of
14 the appointed members of the Board in ac-
15 cordance with the bylaws of the Founda-
16 tion;

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

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

22 (5) MEETINGS; QUORUM.—

23 (A) INITIAL MEETING.—Not later than 60
24 days after the date on which all of the members
25 of the Board have been appointed, the Sec-

1 retary shall convene a meeting of the ex officio
2 and appointed members of the Board to estab-
3 lish the bylaws of the Foundation in accordance
4 with paragraph (7).

5 (B) QUORUM.—A majority of the ap-
6 pointed members of the Board shall constitute
7 a quorum for purposes of conducting the busi-
8 ness of the Board.

9 (6) DUTIES.—The Board shall—

10 (A) provide overall direction for the activi-
11 ties of the Foundation and establish priority ac-
12 tivities;

13 (B) provide guidance to the Executive Di-
14 rector such that the Executive Director may
15 carry out any other necessary activities of the
16 Foundation;

17 (C) evaluate the performance of the Execu-
18 tive Director; and

19 (D) actively solicit and accept funds, gifts,
20 grants, devises, or bequests of real or personal
21 property to the Foundation, including from pri-
22 vate entities.

23 (7) BYLAWS.—

24 (A) IN GENERAL.—The bylaws established
25 under paragraph (5)(A) may include—

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

4 (ii) policies, including ethical stand-
5 ards, for—

6 (I) the acceptance, solicitation,
7 and disposition of donations and
8 grants to the Foundation, including
9 appropriate limits on the ability of do-
10 nors to designate, by stipulation or re-
11 striction, the use or recipient of do-
12 nated funds; and

13 (II) the disposition of assets of
14 the Foundation;

15 (iii) policies that subject all employ-
16 ees, fellows, trainees, contractors, consult-
17 ants, and other agents of the Foundation
18 (including ex officio and appointed mem-
19 bers of the Board) to conflict of interest
20 standards; and

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

23 (B) REQUIREMENTS.—The Board shall en-
24 sure that the bylaws of the Foundation and the

1 activities carried out under those bylaws shall
2 not—

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

6 (ii) compromise, or appear to com-
7 promise, the integrity of any Federal agen-
8 cy or program, or any officer or employee
9 employed by, or involved in, such an agen-
10 cy or program.

11 (C) AMENDMENTS TO BYLAWS.—The As-
12 sistant Secretary, by rule in accordance with
13 section 553 of title 5, United States Code, may
14 abrogate, add to, or modify the bylaws of the
15 Foundation in a manner that the Assistant Sec-
16 retary determines necessary or appropriate to—

17 (i) ensure the fair administration of
18 the Foundation;

19 (ii) conform those bylaws to other ap-
20 plicable rules issued by the Assistant Sec-
21 retary; or

22 (iii) otherwise further the purposes of
23 this section.

24 (8) COMPENSATION.—

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

4 (B) REIMBURSEMENT OF CERTAIN EX-
5 PENSES.—In accordance with the bylaws of the
6 Foundation, members of the Board may be re-
7 imbursed for travel expenses, including per
8 diem in lieu of subsistence, and other necessary
9 expenses incurred in carrying out the duties of
10 the Board.

11 (e) ACTIVITIES.—

12 (1) STUDIES, COMPETITIONS, AND PROJECTS.—
13 The Foundation may conduct and support studies,
14 competitions, projects, and other activities that fur-
15 ther the mission of the Foundation described in sub-
16 section (c)(1).

17 (2) GRANTS.—

18 (A) IN GENERAL.—The Foundation may
19 award grants for activities relating to digital eq-
20 uity, digital inclusion, or digital literacy.

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

24 (i) shall make the selection based on
25 the comparative merits of—

1 (I) the proposed project of the
2 potential recipient;

3 (II) the impact of the project de-
4 scribed in subclause (I) on promoting
5 digital equity in local communities;
6 and

7 (III) the alignment of the project
8 described in subclause (I) with—

9 (aa) the overall goals of the
10 Foundation relating to diversity
11 on the basis of geography;

12 (bb) the type of need ad-
13 dressed by the project; and

14 (cc) other factors specified
15 in the strategic plan and grant
16 guidelines of the Foundation; and

17 (ii) may consult with a potential re-
18 cipient regarding the ability of the poten-
19 tial recipient to carry out various projects
20 that would further the mission of the
21 Foundation described in subsection (c)(1).

22 (3) ACCESSING FACILITIES AND EXPERTISE.—

23 The Foundation may work with the Secretary and
24 the Commission—

1 (A) to leverage the capabilities and facili-
2 ties of the Department and the Commission;
3 and

4 (B) to assist with resources, including by
5 providing information on assets of the Depart-
6 ment and the Commission that may enable the
7 promotion of digital equity, digital inclusion, or
8 digital literacy.

9 (4) TRAINING AND EDUCATION.—The Founda-
10 tion may support programs that provide training to
11 researchers, scientists, and other relevant personnel
12 at the Department, the Commission, and institutions
13 of higher education to help promote digital equity,
14 digital inclusion, and digital literacy.

15 (5) STAKEHOLDER ENGAGEMENT.—The Foun-
16 dation shall convene, and may consult with, rep-
17 resentatives from the Department, the Commission,
18 institutions of higher education, the private sector,
19 public interest stakeholders, and commercialization
20 organizations to develop programs for the mission of
21 the Foundation described in subsection (c)(1) and to
22 advance the activities of the Foundation.

23 (6) FOR-PROFIT SUBSIDIARIES.—

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

4 (i) to stimulate economic development
5 activities relating to the mission of the
6 Foundation described in subsection (c)(1);
7 and

8 (ii) to attract for-profit investment
9 partners for digital equity, digital inclu-
10 sion, and digital literacy activities.

11 (B) AUTHORITIES OF THE FOR-PROFIT
12 SUBSIDIARY.—A for-profit subsidiary estab-
13 lished under subparagraph (A) may—

14 (i) enter into a partnership with an
15 economic development corporation, includ-
16 ing a business incubator or a small busi-
17 ness investment company;

18 (ii) pay for the cost of building and
19 administering a facility, including a busi-
20 ness incubator, to support the activities of
21 the Foundation described in this sub-
22 section; and

23 (iii) provide funding to a startup.

24 (7) SUPPLEMENTAL PROGRAMS.—The Founda-
25 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 mission of the Foun-
4 dation described in subsection (c)(1);

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

7 (i) data collection that provides clarity
8 with respect to inequities and community
9 needs in order to promote digital equity,
10 digital inclusion, and digital literacy; and

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

16 (C) for writing, editing, printing, pub-
17 lishing, and selling books and other materials
18 relating to efforts carried out by the Founda-
19 tion, the Department, or the Commission; and

20 (D) to conduct other activities to carry out
21 and support the mission of the Foundation de-
22 scribed in subsection (c)(1).

23 (8) EVALUATIONS.—The Foundation shall sup-
24 port the development of an evaluation methodology,

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

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

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

8 (C) be made publicly available.

9 (9) COMMUNICATIONS.—The Foundation shall
10 develop an expertise in communications to—

11 (A) disseminate awareness of funding op-
12 portunities among community-based organiza-
13 tions that serve covered populations; and

14 (B) promote the work of grant recipients
15 under paragraph (2), the successes of the
16 Foundation, opportunities for partnership with
17 the Foundation, and other activities.

18 (10) TRIBAL BROADBAND CONNECTIVITY
19 GRANTS.—The Foundation may support a grant
20 made under the Tribal Broadband Connectivity Pro-
21 gram if there are not adequate appropriations to
22 support such a grant.

23 (f) ADMINISTRATION.—

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

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

10 (3) STRATEGIC PLAN.—Not later than 1 year
11 after the date of enactment of this Act, the Founda-
12 tion shall submit to the Committee on Commerce,
13 Science, and Transportation of the Senate and the
14 Committee on Energy and Commerce of the House
15 of Representatives a strategic plan that, incor-
16 porating the input of the community advisory com-
17 mittee convened under subsection (g)(1), contains—

18 (A) a description of the initial focus areas
19 of, and primary purposes for, each program,
20 grant, or award opportunity that the Founda-
21 tion plans to implement during the 2-year pe-
22 riod beginning on the date on which the stra-
23 tegic plan is submitted;

24 (B) a description of the efforts that the
25 Foundation will take to be transparent in the

1 processes of the Foundation, including proc-
2 esses relating to—

3 (i) grant awards, including selection,
4 review, and notification with respect to
5 those awards; and

6 (ii) communication of past, current,
7 and future digital equity priorities;

8 (C) a description of the financial goals and
9 benchmarks of the Foundation for the 10-year
10 period beginning on the date on which the re-
11 port is submitted; and

12 (D) a description of the efforts undertaken
13 by the Foundation to ensure maximum
14 complementarity and minimum redundancy
15 with investments made by the Secretary and
16 the Commission.

17 (4) RECURRING REPORT.—Not later than 1
18 year after the date on which the Foundation is es-
19 tablished, and once every 2 years thereafter, the
20 Foundation shall make publicly available, and shall
21 submit to the Committee on Commerce, Science, and
22 Transportation of the Senate, the Committee on
23 Commerce and Energy of the House of Representa-
24 tives, and the Secretary, a report that, for the period
25 covered by the report—

1 (A) describes the activities of the Founda-
2 tion and the progress of the Foundation in fur-
3 thering the mission of the Foundation described
4 in subsection (e)(1);

5 (B) provides a specific accounting of the
6 source and use of all funds made available to
7 the Foundation to carry out the activities de-
8 scribed in subparagraph (A) to ensure trans-
9 parency in the alignment of the missions of the
10 Department and the Commission; and

11 (C) includes a summary of each evaluation
12 regarding the decision to award a grant, as de-
13 termined in accordance with the requirements
14 of subsection (e)(2)(B).

15 (5) EVALUATION BY COMPTROLLER GEN-
16 ERAL.—Not later than 5 years after the date on
17 which the Foundation is established, and once every
18 5 years thereafter, the Comptroller General of the
19 United States shall submit to the Committee on
20 Commerce, Science, and Transportation of the Sen-
21 ate and the Committee on Energy and Commerce of
22 the House of Representatives—

23 (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 regarding how
7 the Foundation may be improved.

8 (6) AUDITS.—The Foundation shall—

9 (A) provide for annual audits of the condi-
10 tion 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) INTEGRITY.—

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

24 (B) FINANCIAL CONFLICTS OF INTER-
25 EST.—An individual who is an officer, em-

1 employee, or member of the Board may not par-
 2 ticipate in deliberations by the Foundation re-
 3 garding a matter that would directly or predict-
 4 ably affect any financial interest of—

5 (i) the individual;

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

9 or

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

15 (8) INTELLECTUAL PROPERTY.—The Board
 16 shall adopt written standards to govern the owner-
 17 ship and licensing of any intellectual property
 18 rights—

19 (A) developed by the Foundation through
 20 activities funded by a for-profit subsidiary es-
 21 tablished under subsection (e)(6); or

22 (B) otherwise derived from the collabo-
 23 rative efforts of the Foundation.

24 (9) LIABILITY.—

1 (A) IN GENERAL.—The United States
2 shall not be liable for any debt, default, act, or
3 omission of—

4 (i) the Foundation; or

5 (ii) a Federal entity with respect to an
6 agreement of that Federal entity with the
7 Foundation.

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

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

14 (g) COMMUNITY ADVISORY COMMITTEE AND RE-
15 PORT.—

16 (1) COMPOSITION.—

17 (A) IN GENERAL.—Not later 90 days after
18 the date on which the Foundation is estab-
19 lished, the Board shall convene an advisory
20 committee comprised of community members
21 from covered populations and experts with expe-
22 rience providing essential products and service
23 to covered populations.

24 (B) STAKEHOLDERS REPRESENTED.—To
25 the extent practicable, the Board shall ensure

1 that members appointed to the advisory com-
2 mittee under subparagraph (A) represent di-
3 verse regions, sectors, and communities, includ-
4 ing not less than 1 member who is affiliated
5 with, or has experience working with, all of the
6 following:

7 (i) Digital inclusion practitioners.

8 (ii) Rural-focused programs.

9 (iii) Members of Indigenous commu-
10 nities.

11 (iv) Civil rights advocates.

12 (v) Consumer advocates.

13 (vi) Libraries.

14 (vii) School systems or education tech-
15 nology specialists.

16 (viii) Accessibility advocates or ex-
17 perts.

18 (ix) Retired or older individuals.

19 (x) Private sector internet service pro-
20 viders.

21 (xi) Other relevant groups with expe-
22 rience addressing the access, adoption, and
23 affordability of broadband services.

24 (2) ANNUAL REPORT.—Not later than 2 years
25 after the date on which the Foundation is estab-

1 lished, and annually thereafter, the Board shall di-
2 rect the community advisory committee convened
3 under paragraph (1) to submit to the Board a writ-
4 ten report that includes recommended changes, if
5 any, to the Foundation and any other matter the
6 Board considers appropriate.

7 (3) REIMBURSEMENT FOR CERTAIN EX-
8 PENSES.—In accordance with the bylaws of the
9 Foundation, members of the community advisory
10 committee convened under paragraph (1) may be re-
11 imburged for travel expenses, including per diem in
12 lieu of subsistence, and other necessary expenses in-
13 curred in carrying out the functions of that advisory
14 committee.

15 (h) SUPPORT SERVICES.—The Secretary shall pro-
16 vide facilities, utilities, and support services to the Foun-
17 dation if the Secretary determines that the provision of
18 those items is advantageous to the programs of the De-
19 partment.

20 (i) ANTI-DEFICIENCY ACT.—Section 1341(a)(1) of
21 title 31, United States Code (commonly referred to as the
22 “Anti-Deficiency Act”), shall not apply to any Federal of-
23 ficer or employee carrying out any activity of the Founda-
24 tion using funds of the Foundation.

1 (j) NO PREEMPTION OF AUTHORITY.—This section
2 shall not preempt any authority or responsibility of the
3 Secretary under any other provision of law.

4 (k) TRANSFER FUNDS.—The Foundation may trans-
5 fer funds to the Department, which shall be subject to all
6 applicable Federal limitations relating to federally funded
7 research.

8 (l) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as may be
10 necessary—

11 (1) to the Secretary for fiscal year 2023 to es-
12 tablish the Committee;

13 (2) to the Foundation for fiscal year 2024 to
14 carry out the activities of the Foundation; and

15 (3) to the Foundation for fiscal year 2025, and
16 each fiscal year thereafter, for administrative and
17 operational costs.

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