

117TH CONGRESS  
2D SESSION

# S. 4865

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2022

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

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## 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 2022”.

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 HOUSEHOLD; COVERED POPULATIONS.—The  
15 terms “community anchor institution”, “covered  
16 household”, and “covered populations” have the  
17 meanings given those terms in section 60302 of the  
18 Digital Equity Act of 2021 (47 U.S.C. 1721).

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

21           (8) DIGITAL EQUITY.—The term “digital eq-  
22 uity” means the condition in which individuals and  
23 communities have the information technology capac-  
24 ity that is needed for full participation in the society  
25 and economy of the United States.

1           (9) DIGITAL INCLUSION.—The term “digital in-  
2       clusion”—

3           (A) means the activities that are necessary  
4       to ensure that all individuals in the United  
5       States have access to, and the use of, affordable  
6       information and communication technologies,  
7       such as—

8           (i) reliable fixed and wireless  
9       broadband;

10          (ii) internet-enabled devices that meet  
11       the needs of the user for telehealth, remote  
12       work, remote schooling, or other purposes;  
13       and

14          (iii) applications and online content  
15       designed to enable and encourage self-suf-  
16       ficiency, participation, and collaboration;  
17       and

18       (B) includes—

19          (i) obtaining access to digital literacy  
20       training;

21          (ii) the provision of quality technical  
22       support; and

23          (iii) obtaining basic awareness of  
24       measures to ensure online privacy and cy-  
25       bersecurity.

1           (10) DIGITAL LITERACY.—The term “digital lit-  
 2           eracy” means the skills associated with using tech-  
 3           nology to enable users to find, evaluate, organize,  
 4           create, and communicate information.

5           (11) EXECUTIVE DIRECTOR.—The term “Exec-  
 6           utive Director” means the Executive Director of the  
 7           Foundation described in subsection (f)(1).

8           (12) FOUNDATION.—The term “Foundation”  
 9           means the Foundation for Digital Equity established  
 10          under subsection (c).

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

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

16               (B) a postsecondary vocational institution,  
 17               as that term is defined in section 102(c) of the  
 18               Higher Education Act of 1965 (20 U.S.C.  
 19               1002(c)).

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

1           (15) NTIA.—The term “NTIA” means the Na-  
2           tional Telecommunications and Information Admin-  
3           istration.

4           (16) OLDER INDIVIDUAL.—The term “older in-  
5           dividual” has the meaning given the term in section  
6           101 of the Older Americans Act of 1965 (42 U.S.C.  
7           3001).

8           (17) SECRETARY.—The term “Secretary”  
9           means the Secretary of Commerce.

10          (18) SMALL BUSINESS INVESTMENT COM-  
11          PANY.—The term “small business investment com-  
12          pany” has the meaning given the term in section  
13          103 of the Small Business Investment Act of 1958  
14          (15 U.S.C. 662).

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

19          (20) TRIBAL BROADBAND CONNECTIVITY PRO-  
20          GRAM.—The term “Tribal Broadband Connectivity  
21          Program” means the program established pursuant  
22          to section 905(c) of division N of the Consolidated  
23          Appropriations Act, 2021 (47 U.S.C. 1305 note).

24          (b) COMMITTEE FOR THE ESTABLISHMENT OF THE  
25          FOUNDATION FOR DIGITAL EQUITY.—

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

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

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

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

11                  (C) not fewer than 3 of whom shall have  
12                  broad and general experience in matters relat-  
13                  ing to digital equity, digital inclusion, or digital  
14                  literacy; and

15                  (D) not less than 1 of whom shall have  
16                  broad and general experience in working with  
17                  private nonprofit organizations.

18           (3) FUNCTIONS.—The functions of the Com-  
19           mittee are as follows:

20                   (A) To carry out such activities as may be  
21                   necessary to incorporate the Foundation under  
22                   the laws of a State, including by—

23                           (i) serving as the incorporators for the  
24                           Foundation; and

1 (ii) ensuring that the articles of incor-  
2 poration for the Foundation require that  
3 the Foundation is operated in accordance  
4 with the requirements of this section.

5 (B) To ensure that the Foundation quali-  
6 fies for and (during the period in which the  
7 Committee is in existence) maintains the status  
8 described in subsection (c)(4).

9 (C) To provide for the initial operation of  
10 the Foundation, including by ensuring that the  
11 Foundation has adequate facilities, equipment,  
12 and staff.

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

18 (4) CHAIR.—The Committee shall, from among  
19 the members of the Committee, designate a member  
20 of the Committee to serve as Chair of the Com-  
21 mittee.

22 (5) TERM.—

23 (A) IN GENERAL.—Each member of the  
24 Committee shall serve for the duration of the  
25 Committee.

1 (B) VACANCIES.—

2 (i) NO EFFECT ON AUTHORITY.—A  
3 vacancy in the membership of the Com-  
4 mittee shall not affect the authority of the  
5 Committee to carry out the functions of  
6 the Committee.

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

14 (6) COMPENSATION.—A member of the Com-  
15 mittee—

16 (A) shall not receive compensation for  
17 service on the Committee; and

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

21 (7) TERMINATION.—The Committee shall—

22 (A) complete the functions of the com-  
23 mittee described in paragraph (3) not later  
24 than 180 days after the date on which the Sec-

1           retary establishes the Committee under para-  
2           graph (1); and

3           (B) terminate on the date that is 30 days  
4           after the date on which the Secretary deter-  
5           mines that the Committee has completed the  
6           functions described in paragraph (3).

7       (c) ESTABLISHMENT.—

8           (1) IN GENERAL.—Not later than 180 days  
9           after the date of enactment of this Act, the Sec-  
10          retary shall establish a nonprofit corporation to be  
11          known as the “Foundation for Digital Equity”.

12          (2) MISSION.—The mission of the Foundation  
13          shall be—

14               (A) to supplement, but not supplant, the  
15               work of the NTIA and the Commission in pro-  
16               moting the benefits of technological develop-  
17               ment in the United States, and of high-capac-  
18               ity, affordable broadband connectivity in par-  
19               ticular, for all users of telecommunications and  
20               information facilities;

21               (B) to raise, leverage, or match funding  
22               from other entities, including philanthropic or-  
23               ganizations, the private sector, and State and  
24               local governments, to promote digital literacy,

digital inclusion, and digital equity for communities with low rates of adoption of broadband;

(C) to develop programs and partnerships to—

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

(ii) collaborate with State, local, and Tribal governments, Minority-serving institutions, other anchor institutions, and stakeholders in the communications, education, business, and technology fields;

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

(iv) convene organizations and partnerships with related goals and interests to establish problem-solving processes;

(v) strengthen and share best practices relating to—

(I) projects promoting digital inclusion, digital literacy, and digital equity; and

(II) regional economic development;

(vi) support job creation and workforce development; and

1 (vii) support the goals of the Tribal  
2 Broadband Connectivity Program; and

3 (D) to promote equitable access to, and the  
4 adoption of, broadband technologies and digital  
5 applications that support accessibility, tele-  
6 health, distance learning, and online access to  
7 governmental benefits and services, including by  
8 preventing, detecting, and remedying digital  
9 discrimination.

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

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

19 (d) BOARD OF DIRECTORS.—

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

22 (2) COMPOSITION.—

23 (A) IN GENERAL.—The Board shall be  
24 composed of the ex officio members described in

1           subparagraph (B) and the appointed voting  
2           members described in subparagraph (C).

3           (B) EX OFFICIO MEMBERS.—

4           (i) MEMBERS.—The ex officio mem-  
5           bers of the Board shall be the following in-  
6           dividuals (or designees of those individ-  
7           uals):

8                   (I) The Secretary.

9                   (II) The Assistant Secretary.

10                  (III) The Chairman of the Com-  
11                  mission.

12                  (IV) The Secretary of the Treas-  
13                  ury.

14                  (V) The Under Secretary of Agri-  
15                  culture for Rural Development.

16           (ii) NONVOTING MEMBERS.—The ex  
17           officio members of the Board shall be non-  
18           voting members of the Board.

19           (C) APPOINTED MEMBERS.—

20           (i) REPRESENTATION.—The ap-  
21           pointed members of the Board shall reflect  
22           a broad cross-section of stakeholders from  
23           academia, industry, nonprofit and civil  
24           rights organizations, community-based  
25           practitioners of efforts to promote digital

1 inclusion, State or local governments, local  
 2 school districts and libraries, other commu-  
 3 nity anchor institutions, and the philan-  
 4 thropic community.

5 (ii) EXPERIENCE.—Each appointed  
 6 member of the Board shall—

7 (I)(aa) have experience pro-  
 8 moting digital equity, digital inclusion,  
 9 and digital literacy;

10 (bb) have experience in the tech-  
 11 nology sector;

12 (cc) have experience in the tele-  
 13 communications and broadband sec-  
 14 tor;

15 (dd) have direct experience work-  
 16 ing with covered populations; or

17 (ee) have research experience in  
 18 foundation operations; and

19 (II) to the extent practicable,  
 20 represent diverse regions, sectors, and  
 21 the communities corresponding to the  
 22 covered populations that are the focus  
 23 of the activities of the Foundation.

24 (3) CHAIR AND VICE CHAIR.—

1 (A) IN GENERAL.—The Board shall des-  
2 ignate, from among the appointed members of  
3 the Board—

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

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

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

11 (i) the date that is 3 years after the  
12 date on which the Chair or Vice Chair of  
13 the Board, as applicable, is designated for  
14 the position; and

15 (ii) the last day of the term of service  
16 of the member, as determined under para-  
17 graph (4)(A), who is designated to be  
18 Chair or Vice Chair of the Board, as appli-  
19 cable.

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

22 (i) shall not be representatives of the  
23 same area of subject matter expertise, or  
24 entity, as applicable, under paragraph  
25 (2)(C)(ii); and

1 (ii) shall not be representatives of any  
 2 area of subject matter expertise, or entity,  
 3 as applicable, represented by the imme-  
 4 diately preceding Chair and Vice Chair of  
 5 the Board.

6 (4) TERMS AND VACANCIES.—

7 (A) TERMS.—

8 (i) IN GENERAL.—The term of service  
 9 of each appointed member of the Board  
 10 shall be not more than 5 years.

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

17 (B) VACANCIES.—Any vacancy in the  
 18 membership of the appointed members of the  
 19 Board—

20 (i) shall be filled by a majority vote of  
 21 the appointed members of the Board in ac-  
 22 cordance with the bylaws of the Founda-  
 23 tion;

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

4 (iii) shall be filled by an individual se-  
 5 lected by the Board.

6 (5) MEETINGS; QUORUM.—

7 (A) INITIAL MEETING.—Not later than 60  
 8 days after the date on which all of the members  
 9 of the Board have been appointed, the Sec-  
 10 retary shall convene a meeting of the ex officio  
 11 and appointed members of the Board to estab-  
 12 lish the bylaws of the Foundation in accordance  
 13 with paragraph (7).

14 (B) QUORUM.—A majority of the ap-  
 15 pointed members of the Board shall constitute  
 16 a quorum for purposes of conducting the busi-  
 17 ness of the Board.

18 (6) DUTIES.—The Board shall—

19 (A) provide overall direction for the activi-  
 20 ties of the Foundation and establish priority ac-  
 21 tivities;

22 (B) provide guidance to the Executive Di-  
 23 rector such that the Executive Director may  
 24 carry out any other necessary activities of the  
 25 Foundation;

1 (C) evaluate the performance of the Execu-  
2 tive Director; and

3 (D) actively solicit and accept funds, gifts,  
4 grants, devises, or bequests of real or personal  
5 property to the Foundation, including from pri-  
6 vate entities.

7 (7) BYLAWS.—

8 (A) IN GENERAL.—The bylaws established  
9 under paragraph (5)(A) may include—

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

13 (ii) policies, including ethical stand-  
14 ards, for—

15 (I) the acceptance, solicitation,  
16 and disposition of donations and  
17 grants to the Foundation, including  
18 appropriate limits on the ability of do-  
19 nors to designate, by stipulation or re-  
20 striction, the use or recipient of do-  
21 nated funds; and

22 (II) the disposition of assets of  
23 the Foundation;

24 (iii) policies that subject all employ-  
25 ees, fellows, trainees, contractors, consult-

ants, and other agents of the Foundation  
(including ex officio and appointed mem-  
bers of the Board) to conflict of interest  
standards; and

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

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

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

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

(8) COMPENSATION.—

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

(B) REIMBURSEMENT OF CERTAIN EX-  
PENSES.—In accordance with the bylaws of the  
Foundation, members of the Board may be re-

1           imbursed for travel expenses, including per  
 2           diem in lieu of subsistence, and other necessary  
 3           expenses incurred in carrying out the duties of  
 4           the Board.

5       (e) ACTIVITIES.—

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

7       The Foundation may conduct and support studies,  
 8       competitions, projects, and other activities that fur-  
 9       ther the mission of the Foundation described in sub-  
 10      section (c)(2).

11       (2) GRANTS.—

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

15           (B) SELECTION.—In selecting a recipient  
 16       for a grant awarded under subparagraph (A),  
 17       the Foundation—

18           (i) shall make the selection based on  
 19       the comparative merits of—

20           (I) the proposed project of the  
 21       potential recipient;

22           (II) the impact of the project de-  
 23       scribed in subclause (I) on promoting  
 24       digital equity in local communities;  
 25       and

1 (III) the alignment of the project  
2 described in subclause (I) with—

3 (aa) the overall goals of the  
4 Foundation relating to diversity  
5 on the basis of geography;

6 (bb) the type of need ad-  
7 dressed by the project; and

8 (cc) other factors specified  
9 in the strategic plan and grant  
10 guidelines of the Foundation; and

11 (ii) may consult with a potential re-  
12 cipient regarding the ability of the poten-  
13 tial recipient to carry out various projects  
14 that would further the mission of the  
15 Foundation described in subsection (c)(2).

16 (3) ACCESSING FACILITIES AND EXPERTISE.—

17 The Foundation may work with the Secretary and  
18 the Commission—

19 (A) to leverage the capabilities and facili-  
20 ties of the Department and the Commission;  
21 and

22 (B) to assist with resources, including by  
23 providing information on assets of the Depart-  
24 ment and the Commission that may enable the

1           promotion of digital equity, digital inclusion, or  
2           digital literacy.

3           (4) TRAINING AND EDUCATION.—The Founda-  
4           tion may support programs that provide training to  
5           researchers, scientists, and other relevant personnel  
6           at the Department, the Commission, and institutions  
7           of higher education to help promote digital equity,  
8           digital inclusion, and digital literacy.

9           (5) STAKEHOLDER ENGAGEMENT.—The Foun-  
10          dation shall convene, and may consult with, rep-  
11          resentatives from the Department, the Commission,  
12          institutions of higher education, the private sector,  
13          public interest stakeholders, and commercialization  
14          organizations to develop programs for the mission of  
15          the Foundation described in subsection (c)(2) and to  
16          advance the activities of the Foundation.

17          (6) FOR-PROFIT SUBSIDIARIES.—

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

21                   (i) to stimulate economic development  
22                   activities relating to the mission of the  
23                   Foundation described in subsection (c)(2);  
24                   and

1 (ii) to attract for-profit investment  
 2 partners for digital equity, digital inclu-  
 3 sion, and digital literacy activities.

4 (B) AUTHORITIES OF THE FOR-PROFIT  
 5 SUBSIDIARY.—A for-profit subsidiary estab-  
 6 lished under subparagraph (A) may—

7 (i) enter into a partnership with an  
 8 economic development corporation, includ-  
 9 ing a business incubator or small business  
 10 investment company;

11 (ii) pay for the cost of building and  
 12 administering a facility, including a busi-  
 13 ness incubator, to support the activities of  
 14 the Foundation described in this sub-  
 15 section; and

16 (iii) provide funding to a startup.

17 (7) SUPPLEMENTAL PROGRAMS.—The Founda-  
 18 tion may carry out supplemental programs—

19 (A) to conduct and support forums, meet-  
 20 ings, conferences, courses, and training work-  
 21 shops consistent with the mission of the Foun-  
 22 dation described in subsection (c)(2);

23 (B) to support and encourage the under-  
 24 standing and development of—

1 (i) data collection that provides clarity  
 2 with respect to inequities and community  
 3 needs in order to promote digital equity,  
 4 digital inclusion, and digital literacy; and

5 (ii) policies that make regulation more  
 6 effective and efficient by leveraging the  
 7 data collection efforts described in clause  
 8 (i) for the regulation of relevant technology  
 9 sectors;

10 (C) for writing, editing, printing, pub-  
 11 lishing, and selling books and other materials  
 12 relating to efforts carried out by the Founda-  
 13 tion, the Department, or the Commission; and

14 (D) to conduct other activities to carry out  
 15 and support the mission of the Foundation de-  
 16 scribed in subsection (c)(2).

17 (8) EVALUATIONS.—The Foundation shall sup-  
 18 port the development of an evaluation methodology,  
 19 to be used as part of any program supported by the  
 20 Foundation, that shall—

21 (A) consist of qualitative and quantitative  
 22 metrics;

23 (B) include periodic third-party evaluation  
 24 of the programs and other activities of the  
 25 Foundation; and

1 (C) be made publicly available.

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

4 (A) disseminate awareness of funding op-  
5 portunities among community-based organiza-  
6 tions that serve covered populations; and

7 (B) promote the work of grant and fellow-  
8 ship recipients under paragraph (2), the suc-  
9 cesses of the Foundation, opportunities for  
10 partnership with the Foundation, and other ac-  
11 tivities.

12 (10) TRIBAL BROADBAND CONNECTIVITY  
13 GRANTS.—The Foundation may support a grant  
14 made under the Tribal Broadband Connectivity Pro-  
15 gram if there are not adequate appropriations to  
16 support such a grant.

17 (f) ADMINISTRATION.—

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

21 (2) ADMINISTRATIVE CONTROL.—No member  
22 of the Board, any officer or employee of the Founda-  
23 tion, any officer or employee of any program estab-  
24 lished by the Foundation, or any participant in a

1 program established by the Foundation may exercise  
2 administrative control over any Federal employee.

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

11 (A) a description of the initial focus areas  
12 of, and primary purposes for, each program,  
13 grant, or award opportunity that the Founda-  
14 tion plans to implement during the 2-year pe-  
15 riod beginning on the date on which the stra-  
16 tegic plan is submitted;

17 (B) a description of the efforts that the  
18 Foundation will take to be transparent in the  
19 processes of the Foundation, including proc-  
20 esses relating to—

21 (i) grant awards, including selection,  
22 review, and notification with respect to  
23 those awards; and

24 (ii) communication of past, current,  
25 and future digital equity priorities;

1 (C) a description of the financial goals and  
2 benchmarks of the Foundation for the 10-year  
3 period beginning on the date on which the re-  
4 port is submitted; and

5 (D) a description of the efforts undertaken  
6 by the Foundation to ensure maximum  
7 complementarity and minimum redundancy  
8 with investments made by the Secretary and  
9 the Commission.

10 (4) RECURRING REPORT.—Not later than 1  
11 year after the date on which the Foundation is es-  
12 tablished, and once every 2 years thereafter, the  
13 Foundation shall make publicly available, and shall  
14 submit to the Committee on Commerce, Science, and  
15 Transportation of the Senate, the Committee on En-  
16 ergy and Commerce of the House of Representa-  
17 tives, and the Secretary, a report that, for the period  
18 covered by the report—

19 (A) describes the activities of the Founda-  
20 tion and the progress of the Foundation in fur-  
21 thering the mission of the Foundation described  
22 in subsection (c)(2);

23 (B) provides a specific accounting of the  
24 source and use of all funds made available to  
25 the Foundation to carry out the activities de-

scribed in subparagraph (A) to ensure transparency in the alignment of the missions of the Department and the Commission; and

(C) includes a summary of each evaluation regarding the decision to award a grant that is conducted under the requirements of subsection (e)(2)(B).

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

(A) an evaluation of—

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

and

(ii) the operation of the Foundation;

and

(B) any recommendations regarding how the Foundation may be improved.

(6) AUDITS.—The Foundation shall—

1 (A) provide for annual audits of the condi-  
 2 tion of the Foundation; and

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

8 (7) INTEGRITY.—

9 (A) IN GENERAL.—To ensure integrity in  
 10 the operations of the Foundation, the Board  
 11 shall develop and enforce procedures relating to  
 12 standards of conduct, financial disclosure state-  
 13 ments, conflicts of interest (including recusal  
 14 and waiver rules), audits, and any other mat-  
 15 ters determined appropriate by the Board.

16 (B) FINANCIAL CONFLICTS OF INTER-  
 17 EST.—An individual who is an officer, em-  
 18 ployee, or member of the Board may not par-  
 19 ticipate in deliberations by the Foundation re-  
 20 garding a matter that would directly or predict-  
 21 ably affect any financial interest of—

22 (i) the individual;

23 (ii) a relative (as defined in section  
 24 109 of the Ethics in Government Act of

1                   1978 (5 U.S.C. App.)) of that individual;  
 2                   or

3                   (iii) a business organization or other  
 4                   entity in which the individual has an inter-  
 5                   est, including an organization or other en-  
 6                   tity with which the individual is negoti-  
 7                   ating employment.

8                   (8) INTELLECTUAL PROPERTY.—The Board  
 9                   shall adopt written standards to govern the owner-  
 10                  ship and licensing of any intellectual property  
 11                  rights—

12                  (A) developed by the Foundation through  
 13                  activities funded by a for-profit subsidiary es-  
 14                  tablished under subsection (e)(6); or

15                  (B) otherwise derived from the collabo-  
 16                  rative efforts of the Foundation.

17                  (9) LIABILITY.—

18                  (A) IN GENERAL.—The United States  
 19                  shall not be liable for any debt, default, act, or  
 20                  omission of—

21                  (i) the Foundation; or

22                  (ii) a Federal entity with respect to an  
 23                  agreement of that Federal entity with the  
 24                  Foundation.

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

4 (10) NONAPPLICABILITY OF FACA.—The Fed-  
 5 eral Advisory Committee Act (5 U.S.C. App.) shall  
 6 not apply to the Foundation.

7 (g) COMMUNITY ADVISORY COMMITTEE AND RE-  
 8 PORT.—

9 (1) COMPOSITION.—

10 (A) IN GENERAL.—Not later 90 days after  
 11 the date on which the Foundation is estab-  
 12 lished, the Board shall convene an advisory  
 13 committee comprised of community members  
 14 from covered populations and experts with expe-  
 15 rience providing essential products and service  
 16 to covered populations.

17 (B) STAKEHOLDERS REPRESENTED.—To  
 18 the extent practicable, the Board shall ensure  
 19 that members appointed to the advisory com-  
 20 mittee under subparagraph (A) represent di-  
 21 verse regions, sectors, and communities, includ-  
 22 ing not less than 1 member who is affiliated  
 23 with, or has experience working with, all of the  
 24 following:

25 (i) Digital inclusion practitioners.

- 1 (ii) Rural-focused programs.
- 2 (iii) Members of Indigenous commu-
- 3 nities.
- 4 (iv) Civil rights advocates.
- 5 (v) Consumer advocates.
- 6 (vi) Libraries.
- 7 (vii) School systems or education tech-
- 8 nology specialists.
- 9 (viii) Accessibility advocates or ex-
- 10 perts.
- 11 (ix) Retired or older individuals.
- 12 (x) Private sector internet service pro-
- 13 viders.
- 14 (xi) Other relevant groups with expe-
- 15 rience addressing the access, adoption, and
- 16 affordability of broadband services.

17 (2) ANNUAL REPORT.—Not later than 2 years  
 18 after the date on which the Foundation is estab-  
 19 lished, and annually thereafter, the Board shall di-  
 20 rect the community advisory committee convened  
 21 under paragraph (1) to submit to the Board a writ-  
 22 ten report that includes recommended changes, if  
 23 any, to the Foundation and any other matter the  
 24 Board considers appropriate.

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

9       (h) SUPPORT SERVICES.—The Secretary shall pro-  
10      vide facilities, utilities, and support services to the Foun-  
11      dation if the Secretary determines that the provision of  
12      those items is advantageous to the programs of the De-  
13      partment.

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

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

22      (k) TRANSFER FUNDS.—The Foundation may trans-  
23      fer funds to the Department, which shall be subject to all  
24      applicable Federal limitations relating to federally funded  
25      research.

1       (l) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as may be  
3 necessary—

4           (1) to the Secretary for fiscal year 2023 to es-  
5 tablish the Committee;

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

8           (3) to the Foundation for fiscal year 2025, and  
9 each fiscal year thereafter, for administrative and  
10 operational costs.

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