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1ST SESSION

S. 1023

To provide for the establishment of a Digital Opportunity Investment Trust.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2005

Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for the establishment of a Digital Opportunity Investment Trust.

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 Opportunity
5 Investment Trust Act”.

6 **SEC. 2. ORGANIZATION.**

7 (a) IN GENERAL.—There is established a nonprofit
8 corporation to be known as the “Digital Opportunity In-
9 vestment Trust” (referred to in this Act as the “Trust”)
10 which shall not be an agency or establishment of the

1 United States Government. The Trust shall be subject to
2 the provisions of this section, and, to the extent consistent
3 with this section, to the District of Columbia Nonprofit
4 Corporation Act (D.C. Code, section 29–501 et seq.).

5 (b) FUNDING.—

6 (1) IN GENERAL.—There is established in the
7 Treasury a separate fund to be known as the “Dig-
8 ital Opportunity Investment Trust Fund” (referred
9 to in this Act as the “Trust Fund”). The Trust
10 Fund shall contain such amounts as are transferred
11 to the Trust Fund under paragraph (2) and any in-
12 terest earned on the investment of amounts in the
13 Trust Fund under section 4.

14 (2) TRANSFER OF FUNDS.—The Secretary of
15 the Treasury shall in each fiscal quarter through the
16 last quarter of fiscal year 2028, transfer from the
17 General Fund of the Treasury to the Trust Fund,
18 an amount equal to 30 percent of the proceeds re-
19 ceived by the Federal Government during the pre-
20 ceding fiscal quarter from any use (including any
21 auction, sale, fee derived from, or other revenue gen-
22 erated from) of the electromagnetic spectrum con-
23 ducted under section 309 (or any other section) of
24 the Communications Act of 1934 (47 U.S.C. 309

1 (j)) (or any other provision of Federal law) after
2 September 30, 2007.

3 (c) BOARD OF DIRECTORS; FUNCTIONS, AND DU-
4 TIES.—

5 (1) BOARD.—

6 (A) IN GENERAL.—A board of directors of
7 the Trust (referred to in this Act as the
8 “Board”) shall be established to oversee the ad-
9 ministration of the Trust. Such Board shall
10 consist of 9 members to be appointed by the
11 President, by and with the advice and consent
12 of the Senate, who—

13 (i) reflect representation from the
14 public and private sectors;

15 (ii) are not regular full-time employ-
16 ees of the Federal Government;

17 (iii) are eminent in such fields as tele-
18 communications including public television,
19 information technology, labor and work-
20 force development, education, cultural and
21 civic affairs, or the arts and humanities;

22 (iv) shall provide, as nearly as prac-
23 ticable, a broad representation of various
24 regions of the United States, various pro-
25 fessions and occupations, and various

1 kinds of talent and experience appropriate
 2 to the functions and responsibilities of the
 3 Trust; and

4 (v) shall be responsible for estab-
 5 lishing the priorities and funding obliga-
 6 tions of the Trust.

7 (B) INITIAL MEMBERS.—The initial mem-
 8 bers of the Board shall serve as incorporators
 9 of the Trust and shall take whatever actions are
 10 necessary to establish the Trust under the Dis-
 11 trict of Columbia Nonprofit Corporation Act
 12 (D.C. Code, section 29–501 et seq.).

13 (C) RECOMMENDATIONS.—The Majority
 14 Leader of the Senate, the Minority Leader of
 15 the Senate, the Speaker of the House of Rep-
 16 resentatives, and the Minority Leader of the
 17 House of Representatives shall jointly submit to
 18 the President recommendations of individuals,
 19 selected from nominations submitted to Con-
 20 gress from associations representing the fields
 21 of science and learning relative to the work of
 22 the Board, to serve as members of the Board.

23 (D) TERMS OF APPOINTMENT.—

1 (i) DATE.—Members of the Board
2 shall be appointed not later than 90 days
3 after the date of enactment of this Act.

4 (ii) TERMS.—

5 (I) IN GENERAL.—Except as pro-
6 vided in subclause (II), each member
7 of the Board shall be appointed for a
8 6-year term with terms set to expire
9 in non-Federal election years.

10 (II) STAGGERED TERMS.—With
11 respect to the initial members of the
12 Board—

13 (aa) 3 members shall serve
14 for a term of 6 years;

15 (bb) 3 members shall serve
16 for a term of 4 years; and

17 (cc) 3 members shall serve
18 for a term of 2 years.

19 (iii) VACANCIES.—A vacancy in the
20 membership of the Board shall not affect
21 the Board's powers, and shall be filled in
22 the same manner as the original member
23 was appointed.

24 (E) CHAIR AND VICE-CHAIR.—

1 (i) SELECTION.—The Board shall se-
 2 lect, from among the members of the
 3 Board, an individual to serve for a 2-year
 4 term as Chair of the Board and an indi-
 5 vidual to serve for a 2-year term as vice-
 6 Chair of the Board.

7 (ii) CONSECUTIVE TERMS.—An indi-
 8 vidual may not serve for more than 2 con-
 9 secutive terms as Chair of the Board.

10 (F) MEETINGS.—

11 (i) FIRST MEETING.—Not later than
 12 30 days after the date on which all of the
 13 members of the Board have been con-
 14 firmed by the Senate, the Chair of the
 15 Board shall call the first meeting of the
 16 Board.

17 (ii) QUORUM.—A majority of the
 18 members of the Board shall constitute a
 19 quorum, but a lesser number of members
 20 may hold hearings.

21 (G) BOARD PERSONNEL MATTERS.—

22 (i) COMPENSATION.—Members of the
 23 Board shall not receive compensation, al-
 24 lowances, or benefits by reason of the
 25 members' service on the Board.

1 (ii) TRAVEL EXPENSES.—The mem-
 2 bers of the Board shall be allowed travel
 3 expenses, including per diem in lieu of sub-
 4 sistence, at rates authorized for employees
 5 of agencies under subchapter I of chapter
 6 57 of title 5, United States Code, while
 7 away from their homes or regular places of
 8 business in the performance of services for
 9 the Board.

10 (H) SOLICITATION OF ADVICE.—The
 11 Board from time to time may solicit advice
 12 from—

13 (i) the Secretary of Health and
 14 Human Services;

15 (ii) the Secretary of Commerce;

16 (iii) the Secretary of Education;

17 (iv) the Secretary of Agriculture;

18 (v) the Secretary of Defense;

19 (vi) the Secretary of Energy;

20 (vii) the Secretary of Homeland Secu-
 21 rity;

22 (viii) the Secretary of the Interior;

23 (ix) the Secretary of Labor;

24 (x) the Administrator of the National
 25 Aeronautics and Space Administration;

1 (xi) the Director of the National Secu-
 2 rity Agency;

3 (xii) the Director of the National
 4 Science Foundation;

5 (xiii) the Director of the Office of
 6 Science and Technology Policy;

7 (xiv) the Director of the National En-
 8 dowment for the Arts;

9 (xv) the Director of the National En-
 10 dowment for the Humanities;

11 (xvi) the Director of the Institute of
 12 Museum and Library Services;

13 (xvii) the Librarian of Congress; and

14 (xviii) the President and Chief Execu-
 15 tive Officer of the Corporation for Public
 16 Broadcasting.

17 (2) DIRECTOR.—A majority of the members of
 18 the Board shall select a Director of the Trust who
 19 shall serve at the discretion of the Board and shall
 20 be responsible for instituting procedures to carry out
 21 the policies and priorities established by the Board,
 22 and for hiring all personnel of the Trust. The rate
 23 of compensation of the Director and personnel shall
 24 be fixed by the Board.

25 (d) TRUST FUND USES.—

1 (1) USES OF FUNDS.—To achieve the objectives
2 of this Act, the Director of the Trust, after consulta-
3 tion with the Board, may use Trust funds—

4 (A) to support the digitization of collec-
5 tions and other significant holdings of the na-
6 tion’s universities, museums, libraries, public
7 television stations, and other cultural institu-
8 tions;

9 (B) to support basic and applied research,
10 including demonstrations of innovative learning
11 and assessment systems as well as the compo-
12 nents and tools needed to create them;

13 (C) to use the research results developed
14 under subparagraph (B) to create prototype ap-
15 plications designed to meet learning objectives
16 in a variety of subject areas and designed for
17 learners with many different educational needs,
18 including—

19 (i) strengthening instruction in read-
20 ing, science, mathematics, history, and the
21 arts in elementary and secondary schools,
22 community colleges, and other colleges and
23 universities;

24 (ii) providing the training needed for
25 people now in the workplace to advance in

1 a constantly changing work environment;
2 and

3 (iii) developing new applications for
4 life-long learning in non-traditional learn-
5 ing environments such as libraries, muse-
6 ums, senior and community centers, and
7 public television and radio;

8 (D) to conduct assessments of legal, regu-
9 latory, and other issues that must be resolved
10 to ensure rapid development and use of ad-
11 vanced learning technologies; and

12 (E) to coordinate and disseminate informa-
13 tion about initiatives throughout the Federal
14 Government that focus on uses of technology in
15 education and learning.

16 (2) CONTRACTS AND GRANTS.—

17 (A) IN GENERAL.—In order to carry out
18 the activities described in paragraph (1), the
19 Director of the Trust, with the agreement of a
20 majority of the members of the Board, may
21 award contracts and grants to nonprofit public
22 institutions (with or without private partners)
23 and for-profit organizations and individuals.

24 (B) PUBLIC DOMAIN.—

1 (i) IN GENERAL.—The research and
2 development properties and materials asso-
3 ciated with a project in which a majority
4 of the funding used to carry out the
5 project is from a grant or contract under
6 this Act shall be freely and nonexclusively
7 available to the general public.

8 (ii) EXEMPTION.—The Director of the
9 Trust may exempt specific projects from
10 the requirement of clause (i) if the Direc-
11 tor of the Trust and a majority of the
12 members of the Board determine that the
13 general public will benefit significantly in
14 the long run due to the project not being
15 freely and nonexclusively available to the
16 general public.

17 (C) EVALUATION OF PROPOSALS.—To the
18 extent practicable, proposals for such contracts
19 or grants shall be evaluated on the basis of
20 comparative merit by panels of experts who rep-
21 resent diverse interests and perspectives, and
22 who are appointed by the Director of the Trust
23 from recommendations from the fields served
24 and the Board of Directors.

1 (3) COOPERATION.—The Director of the Trust,
2 after consultation with the Board, may cooperate
3 with business, industry, philanthropy, noncommer-
4 cial education broadcast, television and radio licens-
5 ees and permittees, and local and national public
6 service institutions, including in activities that seek
7 to enhance the work of such public service institu-
8 tions by seeking new ways to put telecommuni-
9 cations and information technologies to work in their
10 areas of interest.

11 **SEC. 3. ACCOUNTABILITY AND REPORTING.**

12 (a) REPORT.—

13 (1) IN GENERAL.—Not later than April 30 of
14 each year, the Director of the Trust shall prepare a
15 report for the preceding fiscal year that contains the
16 information described in paragraph (2).

17 (2) CONTENTS.—A report under paragraph (1)
18 shall include—

19 (A) a comprehensive and detailed report of
20 the Trust's operations, activities, financial con-
21 dition, and accomplishments, and such rec-
22 ommendations as the Director of the Trust de-
23 termines appropriate; and

24 (B) a comprehensive and detailed inventory
25 of funds distributed from the Trust Fund dur-

1 ing the fiscal year for which the report is being
2 prepared.

3 (3) STATEMENT OF THE BOARD.—Each report
4 under paragraph (1) shall include a statement from
5 the Board containing—

6 (A) a clear description of the plans and
7 priorities of the Board for the subsequent 5-
8 year period for expenditures from the Trust
9 Fund; and

10 (B) an estimate of the funds that will be
11 available for such expenditures from the Trust
12 Fund.

13 (4) SUBMISSION TO THE PRESIDENT AND CON-
14 GRESS.—A report under this subsection shall be sub-
15 mitted to the President and the appropriate commit-
16 tees of Congress.

17 (b) TESTIMONY.—The Chair of the Board, other
18 members of the Board, and the Director and principal offi-
19 cers of the Trust shall testify before the appropriate com-
20 mittees of Congress, upon request of such committees,
21 with respect to—

22 (1) a report prepared under subsection (a)(1);
23 and

24 (2) any other matter that such committees may
25 determine appropriate.

1 **SEC. 4. INVESTMENT OF TRUST FUNDS.**

2 (a) IN GENERAL.—The Secretary of the Treasury,
3 after consultation with the Board, shall invest the funds
4 of the Trust Fund in interest-bearing obligations of the
5 United States or in obligations guaranteed as to both prin-
6 cipal and interest by the United States.

7 (b) EXPENDITURES.—

8 (1) IN GENERAL.—The Director of the Trust
9 shall not undertake grant or contract activities
10 under this Act until the Trust has received the inter-
11 est or other proceeds from the investment of the
12 Trust Funds for not less than 1 year's duration.
13 Thereafter, upon Board approval of the annual
14 budget of the Trust, the Director of the Trust may
15 commence such grant or contract activities at the
16 start of each fiscal year.

17 (2) OBLIGATION OF FUNDS.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), in awarding grants or con-
20 tracts or making other expenditures under this
21 Act, the Director of the Trust shall not obligate
22 funds from the Trust that exceed the proceeds
23 received from the investment of the funds in the
24 Trust Fund during the preceding fiscal year.

25 (B) CARRY OVER.—Funds from the Trust
26 Fund that are available for obligation for a fis-

1 cal year that are not obligated for such fiscal
 2 year shall remain available for obligation for the
 3 succeeding fiscal year.

4 **SEC. 5. SPECIAL ACCOUNT FOR DISTRIBUTION TO PUBLIC**
 5 **TELEVISION STATIONS.**

6 (a) RESERVATION.—An amount equivalent to 21 per-
 7 cent of the interest derived from the investment proceeds
 8 referred to in section 2(b)(2) shall be reserved in a special
 9 account within the Trust Fund for distribution on a reg-
 10 ular basis to those noncommercial educational television
 11 broadcast stations (as defined in section 397(6) of the
 12 Communications Act of 1934 (47 U.S.C. 397(6)) that are
 13 qualified to receive grants from the Corporation for Public
 14 Broadcasting pursuant to section 396(k)(6)(B) of such
 15 Act (47 U.S.C. 396(k)(6)(B)) and to the Public Broad-
 16 casting Service in partnership with such stations.

17 (b) RESPONSIBILITY FOR DISTRIBUTION.—The Di-
 18 rector of the Trust shall—

19 (1) through a special contract, designate the
 20 Corporation for Public Broadcasting as the sole
 21 agent responsible for the distribution of funds under
 22 this section; and

23 (2) transfer the funds referred to in subsection
 24 (a) to the Corporation for Public Broadcasting on a
 25 regular basis.

1 (c) GRANTS.—In making the distribution referred to
2 in subsection (a), the Corporation for Public Broadcasting
3 shall utilize a competitive grant application process that
4 is governed by criteria that ensures that funds are directed
5 to the creation of locally delivered digital education and
6 learning services and ensures that a diversity of licensee
7 types and geographic service areas are adequately served.
8 The Corporation for Public Broadcasting shall develop
9 such criteria in consultation with public television licens-
10 ees, permittees, and representatives designated by their na-
11 tional organizations.

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