

105TH CONGRESS
2D SESSION

H. R. 4067

To establish the Commission for the Future of Public Broadcasting and authorize appropriations for the Corporation for Public Broadcasting, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1998

Mr. TAUZIN (for himself and Mr. MARKEY) introduced the following bill;
which was referred to the Committee on Commerce

A BILL

To establish the Commission for the Future of Public Broadcasting and authorize appropriations for the Corporation for Public Broadcasting, 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 “Public Broadcasting
5 Reform Act of 1998”.

1 **TITLE I—COMMISSION FOR THE**
2 **FUTURE OF PUBLIC BROAD-**
3 **CASTING**

4 **SEC. 101. ESTABLISHMENT.**

5 There is established a commission to be known as the
6 Commission for the Future of Public Broadcasting (in this
7 title referred to as the “Commission”).

8 **SEC. 102. MEMBERSHIP.**

9 (a) APPOINTMENT.—The Commission shall be com-
10 posed of 9 members appointed not later than 30 days after
11 the date of the enactment of this Act, as follows:

12 (1) 2 members appointed by the Speaker of the
13 House of Representatives.

14 (2) 1 member appointed by the Minority Leader
15 of the House of Representatives.

16 (3) 2 members appointed by the Majority Lead-
17 er of the Senate.

18 (4) 1 member appointed by the Minority Leader
19 of the Senate.

20 (5) 2 members appointed by the President.

21 (6) 1 member who shall be selected by a major-
22 ity of the other members and then appointed by the
23 President, and who shall serve as the Chair of the
24 Commission.

1 (b) QUALIFICATIONS.—Each individual appointed to
2 be a member of the Commission shall have extensive expe-
3 rience or expertise in—

4 (1) broadcasting or other mass media;

5 (2) education, the arts, or science; or

6 (3) business or corporate finance.

7 (c) TERMS.—Each member of the Commission shall
8 be appointed for the life of the Commission. A vacancy
9 in the Commission shall not affect the powers of the Com-
10 mission and shall be filled in the manner in which the
11 original appointment was made.

12 (d) PROHIBITION OF ADDITIONAL COMPENSATION.—
13 Members shall serve without pay.

14 (e) QUORUM.—5 members of the Commission shall
15 constitute a quorum, but a lesser number may hold hear-
16 ings.

17 (f) MEETINGS.—The Commission shall meet at the
18 call of the Chairperson or a majority of the members of
19 the Commission. The Chairperson shall call the first meet-
20 ing of the Commission not later than 60 days after the
21 date of the enactment of this Act.

22 **SEC. 103. FUNCTIONS.**

23 (a) STUDY.—The Commission shall conduct a study
24 to identify and analyze various options for actions to ac-
25 complish the following objectives:

1 (1) FINANCIAL SUPPORT.—Providing financial
2 assistance to licensees and permittees of public
3 broadcast stations for—

4 (A) ongoing support for—

5 (i) providing public telecommuni-
6 cations services; and

7 (ii) costs to public broadcast stations
8 of utilizing new technologies, including ad-
9 vanced television and digital television
10 services; and

11 (B) costs of converting public broadcast
12 stations to utilization of new technologies (in-
13 cluding advanced television and digital tele-
14 vision services), which may involve limiting fi-
15 nancial assistance by the Corporation for Public
16 Broadcasting to the equivalent of funding for
17 one station per market.

18 (2) REPLACING FEDERAL APPROPRIATIONS FOR
19 CPB.—Capitalizing and operating a fiscal mechanism
20 or entity to provide financial assistance to the Cor-
21 poration for Public Broadcasting that replaces Fed-
22 eral appropriations for such purpose.

23 (3) REDUCING FEDERAL SPENDING FOR PUB-
24 LIC BROADCASTING.—Reducing Federal spending for
25 the support of public broadcasting, including by—

1 (A) eliminating the Corporation for Public
2 Broadcasting;

3 (B) limiting Federal financial assistance to
4 the equivalent of funding for one public tele-
5 vision broadcast station per market; and

6 (C) selling or leasing certain television
7 broadcasting stations licensed to public tele-
8 vision broadcasting entities, subject to such re-
9 quirements as may be necessary to provide
10 that—

11 (i) such sales and leases result in each
12 market being limited to only one public tel-
13 evision broadcast station that receives Fed-
14 eral financial assistance;

15 (ii) for each station sold or leased, an
16 amount of the sale or lease proceeds ap-
17 proximating the net Federal assistance to
18 such station over time is provided to the
19 Corporation for Public Broadcasting (or
20 such other entity as may replace the Cor-
21 poration) for use in supporting local public
22 broadcasting services; and

23 (iii) such sales and leases do not re-
24 sult in viewers losing access to public
25 broadcast services.

1 (4) FEE FOR EXEMPTION FROM PUBLIC-INTER-
2 EST BROADCASTING REQUIREMENTS.—Establishing,
3 by law, authority for television broadcasters to opt
4 to pay fees as reimbursement to the public for reliev-
5 ing the broadcasters from obligations related to ful-
6 filling content-based public interest broadcasting re-
7 quirements and for collection of such fees to replace
8 or offset Federal appropriations to the Corporation
9 for Public Broadcasting.

10 (5) PUBLIC BROADCASTING PROGRAMMING.—
11 Carrying out the goals of public broadcasting by—

12 (A) enhancing the noncommercial mission
13 of public television and radio;

14 (B) preventing any reduction in the ability
15 or willingness of public broadcasters to fulfill
16 noncommercial objectives;

17 (C) expanding the delivery of programming
18 that is locally produced or concerns issues of
19 local interest;

20 (D) enhancing delivery and availability
21 of—

22 (i) high quality cultural programming
23 specifically designed for historically under-
24 served audiences, particularly minority au-
25 diences; and

1 (ii) high quality educational program-
2 ming specifically designed for children;

3 (E) making such cultural and educational
4 programming, materials, and services available
5 to schools and libraries in an efficient and cost-
6 effective manner; and

7 (F) establishing schedules for broadcasting
8 that reduce or eliminate simultaneous broad-
9 casting of identical programming by different
10 stations and unnecessarily duplicative broad-
11 casting.

12 (b) REPORT.—Not later than 120 days after the first
13 meeting of the Commission pursuant to section 102(f), the
14 Commission shall submit a report to the Congress that—

15 (1) sets forth various options for actions to ac-
16 complish the objectives specified in subsection (a) of
17 this section;

18 (2) analyzes the advantages and disadvantages
19 of each such proposed action;

20 (3) includes the recommendations of the Com-
21 mission regarding the most effective, efficient, and
22 appropriate actions to ensure the future ability of
23 public broadcasting in the United States to carry
24 out its noncommercial mission; and

1 (4) includes proposals for administrative, legis-
2 lative, and other actions to carry out such rec-
3 ommendations.

4 **SEC. 104. POWERS.**

5 (a) ASSISTANCE FROM FEDERAL AGENCIES.—

6 (1) OBTAINING OFFICIAL DATA.—The Commis-
7 sion may secure, directly from any department or
8 agency of the United States, information necessary
9 to enable it to carry out this title. Upon request of
10 the Commission, the head of the department or
11 agency shall furnish such information to the Com-
12 mission.

13 (2) SUPPORT SERVICES.—Upon request of the
14 Commission, the National Telecommunications and
15 Information Administration shall provide to the
16 Commission such administrative and research per-
17 sonnel, support services, and facilities as are nec-
18 essary for the Commission to carry out its respon-
19 sibilities under this title. The Commission shall not
20 be required to reimburse the Administration for any
21 personnel, support services, and facilities provided
22 pursuant to this paragraph.

23 (b) HEARINGS AND SESSIONS.—The Commission
24 may, for the purpose of carrying out this title, hold hear-

1 ings, sit and act at times and places, take testimony, and
2 receive evidence as the Commission considers appropriate.

3 (c) GIFTS, BEQUESTS, AND DEVISES.—The Commis-
4 sion may accept, use, and dispose of gifts, bequests, or
5 devises of services or property, both real and personal, for
6 the purpose of aiding or facilitating the work of the Com-
7 mission. Gifts, bequests, or devises of money and proceeds
8 from sales of other property received as gifts, bequests,
9 or devises shall be deposited in the Treasury and shall be
10 available for disbursement upon order of the Commission.

11 (d) MAILS.—The Commission may use the United
12 States mails in the same manner and under the same con-
13 ditions as other departments and agencies of the United
14 States.

15 **SEC. 105. DEFINITIONS.**

16 For purposes of this title, the terms “public broad-
17 casting entity”, “public broadcast station”, and “public
18 telecommunications services” having the meanings given
19 such terms in section 397 of the Communications Act of
20 1934 (47 U.S.C. 397).

21 **SEC. 106. TERMINATION.**

22 The Commission shall terminate 60 days after sub-
23 mitting the report required under section 103(b).

1 **TITLE II—AMENDMENTS TO PUB-**
2 **LIC TELECOMMUNICATIONS**
3 **PROVISIONS OF COMMUNICA-**
4 **TIONS ACT OF 1934**

5 **SEC. 201. PREVENTION OF UNJUST ENRICHMENT IN SALE**
6 **OF OVERLAPPING PUBLIC BROADCAST STA-**
7 **TIONS.**

8 (a) IN GENERAL.—Subpart E of part IV of title III
9 of the Communications Act of 1934 (47 U.S.C. 397 et
10 seq.) is amended by adding at the end the following new
11 section:

12 **“SEC. 399C. PREVENTION OF UNJUST ENRICHMENT IN**
13 **SALE OF OVERLAPPING PUBLIC BROADCAST**
14 **STATIONS.**

15 “(a) SALE REQUIREMENTS.—Upon application by a
16 licensee or permittee of an overlapping public broadcast
17 station for authority to assign or transfer the license or
18 construction permit of the licensee or permittee for a sta-
19 tion to another person or entity and for such person or
20 entity to operate the station other than as a public broad-
21 cast station, the Commission may approve such assign-
22 ment or transfer, and operation, only if all of the following
23 requirements are met:

24 “(1) UNJUST ENRICHMENT.—The licensee or
25 permittee applying to assign or transfer the license

1 or permit agrees (in such manner as the Commission
2 may require) that, from any net proceeds received
3 for the assignment or transfer, an amount equal to
4 the net Federal investment in the station will be dis-
5 tributed as follows:

6 “(A) COSTS OF DETERMINING NET FED-
7 ERAL INVESTMENT.—A portion of such amount,
8 which is equal to the cost to the Commission to
9 obtain the determination under subsection
10 (b)(2) regarding the assignment or transfer,
11 shall be distributed to the Commission.

12 “(B) PUBLIC TELECOMMUNICATIONS FA-
13 CILITIES SUPPORT.—A portion of such amount
14 equal to the aggregate amount of all financial
15 assistance provided for the planning, construc-
16 tion, and purchase of equipment and facilities
17 provided by the public telecommunications fa-
18 cilities program shall be distributed to such pro-
19 gram under section 391.

20 “(C) PUBLIC BROADCASTING SUPPORT.—
21 The remainder of such amount shall be pro-
22 vided to the Corporation for Public Broadcast-
23 ing (or such other entity as may replace the
24 Corporation) and shall be distributed—

1 “(i) in the case of amounts pursuant
2 to the assignment or transfer of a public
3 television broadcast station, together with
4 and in the same manner as amounts made
5 available for distribution under section
6 396(k)(3)(A)(ii)(I); and

7 “(ii) in the case of amounts pursuant
8 to the assignment or transfer of a public
9 radio broadcast station, together with and
10 in the same manner as amounts made
11 available for distribution under section
12 396(k)(3)(A)(iii)(I).

13 Amounts distributed under this paragraph shall be
14 available for use in accordance with such distribu-
15 tion only to the extent provided in advance in appro-
16 priation Acts.

17 “(2) FAIR VALUE.—The Commission deter-
18 mines that the compensation provided for assigning
19 or transferring the license or permit fairly reflects
20 the value of the license or permit and any related fa-
21 cilities.

22 “(3) UNIVERSAL ACCESS.—The Commission de-
23 termines that the sale of the broadcast station will
24 not diminish universal access to public broadcasting
25 services.

1 “(b) NET FEDERAL INVESTMENT.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the net Federal investment with respect to any
4 broadcast station shall be the sum of—

5 “(A) the aggregate amount of all financial
6 assistance provided over time to the licensee or
7 permittee of the station for use for such station
8 under the public telecommunications facilities
9 grant program under subpart A or by the Cor-
10 poration for Public Broadcasting under subpart
11 D; and

12 “(B) an amount for interest on such finan-
13 cial assistance, which shall be determined for
14 the period beginning upon the providing of such
15 assistance and ending upon the application for
16 assignment of the license in accordance with
17 this section, at a rate based upon the market
18 yields on marketable public obligations of the
19 United States outstanding during such period
20 and having maturities comparable to such pe-
21 riod.

22 “(2) DETERMINATION.—Determinations of the
23 amount of net Federal investment in a public broad-
24 cast station for purposes of any assignment or
25 transfer authorized pursuant to this section shall be

1 made on a case-by-case basis, using generally accept-
2 ed accounting principles, by a private commercial ac-
3 countant or assessor selected by the Commission.”.

4 (b) DEFINITION OF OVERLAPPING PUBLIC BROAD-
5 CAST STATION.—Section 397 of the Communications Act
6 of 1934 (47 U.S.C. 397) is amended—

7 (1) by redesignating paragraphs (10) through
8 (17) as paragraphs (11) through (18), respectively;
9 and

10 (2) by inserting after paragraph (9) the follow-
11 ing new paragraph:

12 “(10) The term ‘overlapping public broadcast station’
13 means—

14 “(A) a public broadcast television station hav-
15 ing a Grade A contour (as determined under the
16 regulations of the Commission)—

17 “(i) that reaches more than 50 percent of
18 the population that is reached by the Grade A
19 contour (as so determined) of any other public
20 television broadcast station; or

21 “(ii) that reaches a population more than
22 50 percent of whom are also reached by the
23 Grade A contour (as so determined) of any
24 other public television broadcast station; and

1 “(B) a public broadcast radio station having a
2 1.0 mV/m signal contour (as determined under the
3 regulations of the Commission)—

4 “(i) that reaches more than 50 percent of
5 the population that is reached by the 1.0 mV/
6 m signal contour (as so determined) of any
7 other public radio broadcast station; or

8 “(ii) that reaches a population more than
9 50 percent of whom are also reached by the 1.0
10 mV/m signal contour (as so determined) of any
11 other public radio broadcast station.”.

12 **SEC. 202. USE OF BUSINESS OR INSTITUTIONAL**
13 **LOGOGRAMS.**

14 Section 399A of the Communications Act of 1934 (47
15 U.S.C. 399a) is amended—

16 (1) in subsection (a), by striking “any aural”
17 and all that follows and inserting the following: “an
18 aural or visual message used for the exclusive pur-
19 pose of identifying any corporation, company, or
20 other organization that, except for the inclusion of
21 any symbol or sign, consists of and is limited to the
22 following words: ‘This program sponsored in part by
23 _____.’ (the blank space being filled in with the
24 name of such corporation, company, or other organi-
25 zation).”;

1 (2) by striking subsection (b) and inserting the
2 following new subsection:

3 “(b) Each public television station and each public
4 radio station shall be authorized to broadcast any business
5 or institutional logogram, except that broadcasts of such
6 logograms may not interrupt regular programming and
7 each broadcast of a logogram shall not exceed 10 seconds
8 in duration.”; and

9 (3) by adding at the end the following new sub-
10 section:

11 “(d) APPLICABILITY.—This section shall not apply to
12 any public television station or public radio station that
13 is receiving 70 percent or more of its annual operating
14 expenses from one of the fiscal mechanisms described in
15 the report required under title I of the Public Broadcast-
16 ing Reform Act of 1998.”.

17 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS FOR PUB-**
18 **LIC TELECOMMUNICATIONS FACILITIES PRO-**
19 **GRAM GRANTS.**

20 Section 391 of the Communications Act of 1934 (47
21 U.S.C. 391) is amended by striking “1992, 1993, and
22 1994” and inserting “1999, 2000, and 2001”.

23 **SEC. 204. REGULATIONS.**

24 Not later than the expiration of the 180-day period
25 beginning on the date of the enactment of this Act, the

1 Federal Communications Commission shall issue any reg-
2 ulations necessary to implement the amendments made by
3 this title.

4 **TITLE III—REAUTHORIZATION**
5 **FOR CORPORATION FOR PUB-**
6 **LIC BROADCASTING**

7 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

8 Section 396(k)(1) of the Communications Act of
9 1934 (47 U.S.C. 396(k)(1)) is amended by striking sub-
10 paragraph (C) and inserting the following new subpara-
11 graph:

12 “(C) AUTHORIZATION OF APPROPRIATIONS.—

13 “(i) IN GENERAL.—There is authorized to be
14 appropriated to the Fund, for each of the fiscal
15 years 1999, 2000, 2001, 2002, and 2003, an
16 amount equal to 40 percent of the total amount of
17 non-Federal financial support received by public
18 broadcasting entities during the fiscal year second
19 preceding each such fiscal year, except that the
20 amount so appropriated shall not exceed
21 \$475,000,000 for fiscal year 2000.

22 “(ii) TRANSITION TO DIGITAL BROADCAST-
23 ING.—In addition to the amount under clause (i),
24 there is authorized to be appropriated to the Fund,
25 for each of fiscal years 1999, 2000, 2001, 2002, and

1 2003, \$95,000,000 for the purchase of equipment to
2 enable the transition of public broadcasting to digi-
3 tal broadcasting. Notwithstanding paragraph (3),
4 any amounts appropriated pursuant to this clause
5 shall be distributed only among licensees and permit-
6 tees of public broadcasting stations. Such amounts
7 may be used to purchase equipment on a collabo-
8 rative basis to enable more than one station to bene-
9 fit from cost savings realized from the joint pur-
10 chase of equipment.”.

11 **SEC. 302. MODIFICATION TO STATUTORY MANDATES.**

12 Section 396(k)(6) of the Communications Act of
13 1934 (47 U.S.C. 396(k)) is amended by adding after sub-
14 paragraph (B) the following new subparagraph:

15 “(C) INCENTIVES FOR VOLUNTARY CONSOLIDA-
16 TION.—Not later than 2 years after the date of the enact-
17 ment of the Public Broadcasting Reform Act of 1998, the
18 Corporation (or such other entity as may replace the Cor-
19 poration) shall ensure that—

20 “(i) in areas where there are television stations
21 that are overlapping public broadcast stations which
22 agree to consolidate operations and equipment in a
23 manner such that they are reduced to a single public
24 broadcast station operating under a single broadcast
25 license, the total funds made available to licensees or

1 permittees of such stations are not more than 150
2 percent of the amount that would be provided if
3 such areas were served by a single public television
4 broadcast station, except that funds may be provided
5 for such a station only if the Corporation (or such
6 other replacement entity) determines that—

7 “(I) the distinct educational or minority
8 needs of the area are served, including through
9 the use of multiplexed programming;

10 “(II) such multiplexed programming is
11 carried on local cable systems serving the area,
12 except that such cable systems shall not be re-
13 quired to carry multiplexed channels that ex-
14 ceed the number of analog public television
15 channels carried on the date of the enactment
16 of the Public Broadcasting Reform Act of 1998;
17 and

18 “(III) universal access to public television
19 will not be diminished; and

20 “(ii) in areas where there are radio stations
21 that are overlapping public broadcast stations which
22 agree to consolidate operations and equipment in a
23 manner such that they are reduced to a single public
24 broadcast station operating under a single broadcast
25 license or permit, the total funds made available to

1 licensees or permittees of such stations are not more
2 than 150 percent of the amount that would be pro-
3 vided if such areas were served by a single public
4 radio broadcast station, except that funds may be
5 provided for such a station only if the Corporation
6 (or such other replacement entity) determines that—

7 “(I) the consolidated station meets or ex-
8 ceeds audience service criteria or community
9 support criteria, which shall be developed by the
10 Corporation (or such other replacement entity)
11 in consultation with public radio licensees and
12 permittees; and

13 “(II) universal access to public radio will
14 not be diminished.”.

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