To direct the Federal Communications Commission to take certain actions to increase diversity of ownership in the broadcasting industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. BUTTERFIELD (for himself, Ms. CLARKE of New York, Mr. CÁRDENAS, Mr. RUSH, Mr. VEASEY, and Mr. HASTINGS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Federal Communications Commission to take certain actions to increase diversity of ownership in the broadcasting industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Expanding Broadcast Ownership Opportunities Act of 2019”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) One of the main missions of the Federal Communications Commission, and a compelling governmental interest, is to ensure that there is a diversity of ownership and viewpoints in the broadcasting industry.

(2) The Commission should continue to collect relevant data and conduct studies on such diversity and make appropriate recommendations to Congress on how to increase the number of minority- and women-owned broadcast stations.

(3) Data from 2014 shows that, of the over 1,700 commercial broadcast television stations in the United States, less than 6 percent are owned by women, and less than 3 percent are minority-owned. With respect to radio stations, women owned approximately 7 percent of FM broadcast radio stations, and minorities owned less than 3 percent of such stations.

(4) Women and minority ownership is 5 to 10 times higher in other industries than in the broadcasting industry.

(5) During the 17 years that a minority tax certificate program was in place at the Commission (from 1978 to 1995), the Commission issued 287
certificates for radio stations and 40 certificates for television stations.

(6) The Commission can also support minority- and women-owned entrants into the broadcasting industry by implementing an incubator program in which existing licensees assist new entrants in the operation of broadcast stations.

SEC. 3. FCC REPORTS TO CONGRESS.

(a) Biennial Report Containing Recommendations for Increasing Number of Minority- and Women-Owned Broadcast Stations.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than every 2 years thereafter, the Commission shall submit to Congress a report containing recommendations for how to increase the total number of broadcast stations that are owned or controlled by members of minority groups or women, or by both members of minority groups and women.

(b) Biennial Report on Number of Minority- and Women-Owned Broadcast Stations.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than every 2 years thereafter, the Commission shall submit to Congress a report that states the total number of broadcast stations that are owned or controlled by members of minority groups or women, or
by both members of minority groups and women, based on data reported to the Commission on Form 323.

SEC. 4. TAX CERTIFICATE PROGRAM FOR BROADCAST STATION TRANSACTIONS FURTHERING OWNERSHIP BY SOCIALLY DISADVANTAGED INDIVIDUALS.

(a) Requirements for Issuance of Certificate by FCC.—

(1) In general.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

“SEC. 344. TAX CERTIFICATE PROGRAM FOR BROADCAST STATION TRANSACTIONS FURTHERING OWNERSHIP BY SOCIALLY DISADVANTAGED INDIVIDUALS.

“(a) Issuance of Certificate by Commission.—

Upon application by a person who engages in a sale of an interest in a broadcast station described in subsection (b), subject to the rules adopted by the Commission under subsection (e), the Commission shall issue to such person a certificate stating that such sale meets the requirements of this section.

“(b) Sales Described.—The sales described in this subsection are the following:
“(1) Sale resulting in or preserving ownership by socially disadvantaged individuals.—A sale of an interest in a broadcast station if, immediately following the sale, the station is owned by socially disadvantaged individuals (regardless of whether the station was owned by socially disadvantaged individuals before the sale).

“(2) Sale by investor in station owned by socially disadvantaged individuals.—In the case of a person who has contributed capital in exchange for an interest in a broadcast station that is owned by socially disadvantaged individuals, a sale by such person of some or all of such interest.

“(c) Rules.—The Commission shall adopt rules for the issuance of a certificate under subsection (a) that provide for the following:

“(1) Limit on value of sale.—A limit on the value of an interest the sale of which qualifies for the issuance of such a certificate. The limit shall be no lower than $10,000,000 and no higher than $50,000,000.

“(2) Minimum holding period.—In the case of a sale described in subsection (b)(1), a minimum period following the sale during which the broadcast station must remain owned by socially disadvantaged
individuals. The minimum period shall be no longer than 3 years.

“(3) Cumulative limit on number or value of sales.—A limit on the total number of sales or the total value of sales, or both, for which a person may be issued certificates under subsection (a).

“(4) Participation in station management by socially disadvantaged individuals.—Requirements for participation by socially disadvantaged individuals in the management of the broadcast station.

“(d) Annual Report to Congress.—The Commission shall submit to Congress an annual report describing the sales for which certificates have been issued under subsection (a) during the period covered by the report.

“(e) Definitions.—In this section:

“(1) Owned by socially disadvantaged individuals.—The term ‘owned by socially disadvantaged individuals’ means, with respect to a broadcast station, that—

“(A) such station is at least 51 percent owned by one or more socially disadvantaged individuals, or, in the case of any publicly owned broadcast station, at least 51 percent of the
stock of such station is owned by one or more socially disadvantaged individuals; and

“(B) the management and daily business operations of such station are controlled by one or more of such individuals.

“(2) Socially disadvantaged individual.—The term ‘socially disadvantaged individual’ means a woman or an individual who has been subjected to racial or ethnic prejudice or cultural bias because of the identity of the individual as a member of a group without regard to the individual qualities of the individual.”.

(2) Deadline for adoption of rules.—The Commission shall adopt rules to implement section 344 of the Communications Act of 1934, as added by paragraph (1), not later than 1 year after the date of the enactment of this Act.

(3) Report to Congress on program expansion.—Not later than 6 years after the date of the enactment of this Act, the Commission shall submit to Congress a report regarding whether Congress should expand section 344 of the Communications Act of 1934, as added by paragraph (1), beyond broadcast stations to cover other entities regulated by the Commission.
(4) Examination and report to Congress

on nexus between diversity of ownership
and diversity of viewpoint.—

(A) Examination.—Not later than 60
days after the date of the enactment of this
Act, the Commission shall initiate an examina-
tion of whether there is a nexus between diver-
sity of ownership or control of broadcast sta-
tions (including ownership or control by mem-
bers of minority groups or women, or by both
members of minority groups and women) and
diversity of the viewpoints expressed in the mat-
ter broadcast by broadcast stations.

(B) Report to Congress.—Not later
than 2 years after the date of the enactment of
this Act, the Commission shall submit to Con-
gress a report on the findings of the Commis-
ion in the examination under subparagraph
(A), including supporting data.

(b) Nonrecognition of gain or loss for tax
purposes.—

(1) In general.—Subchapter O of chapter 1
of the Internal Revenue Code of 1986 is amended by
inserting after part IV the following new part:
“PART V—SALE OF INTEREST IN CERTAIN
BROADCAST STATIONS

“SEC. 1071. NONRECOGNITION OF GAIN OR LOSS FROM
SALE OF INTEREST IN CERTAIN BROADCAST
STATIONS.

“(a) NONRECOGNITION OF GAIN OR LOSS.—If a sale
of an interest in a broadcast station, within the meaning
of section 344 of the Communications Act of 1934, is cer-
tified by the Federal Communications Commission under
such section, such sale shall, if the taxpayer so elects, be
treated as an involuntary conversion of such property
within the meaning of section 1033. For purposes of such
section as made applicable by the provisions of this sec-
tion, stock of a corporation operating a broadcast station
shall be treated as property similar or related in service
or use to the property so converted. The part of the gain,
if any, on such sale to which section 1033 is not applied
shall nevertheless not be recognized, if the taxpayer so
elects, to the extent that it is applied to reduce the basis
for determining gain or loss on any such sale, of a char-
acter subject to the allowance for depreciation under sec-
tion 167, remaining in the hands of the taxpayer imme-
diately after the sale, or acquired in the same taxable year.
The manner and amount of such reduction shall be deter-
mined under regulations prescribed by the Secretary. Any
election made by the taxpayer under this section shall be
made by a statement to that effect in his return for the taxable year in which the sale takes place, and such election shall be binding for the taxable year and all subsequent taxable years.

“(b) Minimum Holding Period; Continued Management.—If—

“(1) there is nonrecognition of gain or loss to a taxpayer under this section with respect to a sale of property (determined without regard to this paragraph), and

“(2) the taxpayer ceases to fulfill any requirements of the rules adopted by the Federal Communications Commission under paragraph (2) or (4) of section 344(c) of the Communications Act of 1934 (as such rules are in effect on the date of such sale), there shall be no nonrecognition of gain or loss under this section to the taxpayer with respect to such sale, except that any gain or loss recognized by the taxpayer by reason of this subsection shall be taken into account as of the date on which the taxpayer so ceases to fulfill such requirements.

“(c) Basis.—For basis of property acquired on a sale treated as an involuntary conversion under subsection (a), see section 1033(b).”.
(2) **CLERICAL AMENDMENT.**—The table of parts for subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item related to part IV the following new part:

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“PART V—SALE OF INTEREST IN CERTAIN BROADCAST STATIONS

“Section 1071. Nonrecognition of gain or loss from sale of interest in certain broadcast stations.”
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(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to sales of interests in broadcast stations after the date that is 1 year after the date of the enactment of this Act.

(d) **SUNSET.**—The amendments made by this section shall not apply with respect to sales of interests in broadcast stations after the date that is 16 years after the date of the enactment of this Act.

**SEC. 5. INCUBATOR PROGRAM.**

Not later than 180 days after the date of the enactment of this Act, the Commission shall amend its Report and Order in the matter of rules and policies to promote new entry and ownership diversity in the broadcasting services, MB Docket No. 17–289, FCC 18–114, adopted on August 2, 2018, to do the following:

(1) Expand the incubator program provided for in such Report and Order to permit a licensee to provide financial support or operational support, or
both, to a qualifying incubated entity that owns or
wants to own a television broadcast station.

(2) Expand the eligibility criteria for an in- 
cubated entity under such program to include broad-
cast stations owned by socially disadvantaged indi-
viduals.

SEC. 6. DEFINITIONS.

In this Act:

(1) BROADCAST STATION.—The term “broad-
cast station” has the meaning given such term in
section 3 of the Communications Act of 1934 (47

(2) COMMISSION.—The term “Commission”
means the Federal Communications Commission.

(3) OWNED BY SOCIALLY DISADVANTAGED IN-
DIVIDUALS.—The term “owned by socially disadvan-
taged individuals” has the meaning given such term
in section 344 of the Communications Act of 1934,
as added by section 4.