

Union Calendar No. 621

95TH CONGRESS
2D SESSION

H. R. 12605

[Report No. 95-1178]

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1978

Mr. VAN DEERLIN (for himself, Mr. FREY, Mr. CARNEY, Mr. WIRTH, Mr. RUSSO, Mr. MARKEY, Mr. GORE, Ms. MIKULSKI, Mr. WAXMAN, Mr. MOORE, Mr. MOORHEAD of California, and Mr. MARKS) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

MAY 15, 1978

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, 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 ~~That this Act may be cited as the "Public Telecommuni-~~
- 4 ~~cations Financing Act of 1978".~~

1 ~~TITLE I CONSTRUCTION AND PLANNING OF~~
2 ~~FACILITIES~~

3 ~~DECLARATION OF PURPOSE~~

4 ~~SEC. 101. (a) The heading for part IV of title III of~~
5 ~~the Communications Act of 1934 is amended to read as~~
6 ~~follows:~~

7 ~~"PART IV ASSISTANCE FOR PUBLIC TELECOMMUNICA-~~
8 ~~TIONS FACILITIES; TELECOMMUNICATIONS DEMON-~~
9 ~~STRATIONS; CORPORATION FOR PUBLIC BROAD-~~
10 ~~CASTING".~~

11 ~~(b) The heading for subpart A of part IV of title III~~
12 ~~of the Communications Act of 1934 is amended to read as~~
13 ~~follows:~~

14 ~~"Subpart A Assistance for Public Telecommunications~~
15 ~~Facilities".~~

16 ~~(c) Section 390 of the Communications Act of 1934~~
17 ~~is amended to read as follows:~~

18 ~~"DECLARATION OF PURPOSE~~

19 ~~"SEC. 390. The purpose of this subpart is to assist~~
20 ~~(through matching grants) in the planning and construction~~
21 ~~of public telecommunications facilities in order to achieve the~~
22 ~~following objectives: (1) extend delivery of public tele-~~
23 ~~communications services to as many citizens of the United~~
24 ~~States as possible by the most efficient and economical means,~~
25 ~~including the use of broadcast and nonbroadcast technolo-~~

1 ~~gies; (2) increase public telecommunications services and~~
2 ~~facilities available to and owned by minorities and women;~~
3 ~~and (3) strengthen the capability of existing public tele-~~
4 ~~vision and radio stations to provide educational and cultural~~
5 ~~services to the public.”~~

6 ~~AUTHORIZATION OF APPROPRIATIONS~~

7 ~~SEC. 102. Section 301 of the Communications Act of~~
8 ~~1934 is amended to read as follows:~~

9 ~~“AUTHORIZATION OF APPROPRIATIONS~~

10 ~~“SEC. 301. There are authorized to be appropriated~~
11 ~~\$40,000,000 for each of the fiscal years 1979, 1980, and~~
12 ~~1981, to be used by the Secretary of Commerce to assist in~~
13 ~~the planning and construction of public telecommunications~~
14 ~~facilities as provided in this subpart. Sums appropriated~~
15 ~~under this subpart for any fiscal year shall remain available~~
16 ~~until expended for payment of grants for projects for which~~
17 ~~applications approved by the Secretary of Commerce pur-~~
18 ~~suant to this part have been submitted within such fiscal~~
19 ~~year. Sums appropriated under this subpart may be used by~~
20 ~~the Secretary to cover the cost of administering the provisions~~
21 ~~of this subpart.”~~

22 ~~CONSTRUCTION AND PLANNING~~

23 ~~SEC. 103. (a) Section 302 of the Communications Act~~
24 ~~of 1934 is amended to read as follows:~~

1 ~~“GRANTS FOR CONSTRUCTION AND PLANNING~~

2 ~~“SEC. 392. (a) For each project for the construction~~
3 ~~of public telecommunications facilities there shall be sub-~~
4 ~~mitted to the Secretary of Commerce an application for a~~
5 ~~grant containing such information with respect to such~~
6 ~~project as the Secretary may require, including the total~~
7 ~~cost of such project, the amount of the grant requested for~~
8 ~~such project, and a five year plan outlining the applicant's~~
9 ~~projected facilities requirements and the projected costs of~~
10 ~~such facilities requirements. Each applicant shall also pro-~~
11 ~~vide assurances satisfactory to the Secretary that~~

12 ~~“(1) the applicant is (A) an entity which is~~
13 ~~eligible to be licensed or is licensed by the Federal~~
14 ~~Communications Commission as a noncommercial edu-~~
15 ~~cational broadcast station; (B) a system of public broad-~~
16 ~~cast stations; (C) a nonprofit foundation, corporation,~~
17 ~~institution, or association organized primarily for educa-~~
18 ~~tional or cultural purposes; or (D) a State or local~~
19 ~~government (or any agency thereof), or a political or~~
20 ~~special purpose subdivision of a State;~~

21 ~~“(2) the operation of such public telecommuni-~~
22 ~~cations facilities will be under the control of the appli-~~
23 ~~cant;~~

24 ~~“(3) necessary funds to construct, operate, and~~

1 ~~maintain such public telecommunications facilities will~~
2 ~~be available when needed;~~

3 ~~“(4) such public telecommunications facilities will~~
4 ~~be used only for noncommercial educational or cultural~~
5 ~~purposes;~~

6 ~~“(5) the applicant has participated in comprehen-~~
7 ~~sive planning for such public telecommunications facil-~~
8 ~~ities in the area which the applicant proposes to serve,~~
9 ~~and such planning has included an evaluation of alter-~~
10 ~~nate technologies; and~~

11 ~~“(6) the applicant will make the most efficient use~~
12 ~~of the grant.~~

13 ~~“(b) Upon approving any application under this sec-~~
14 ~~tion with respect to any project for the construction of~~
15 ~~public telecommunications facilities, the Secretary of Com-~~
16 ~~merce shall make a grant to the applicant in the amount~~
17 ~~determined by the Secretary, except that such amount shall~~
18 ~~not exceed 75 per centum of the amount determined by the~~
19 ~~Secretary to be the reasonable and necessary cost of such~~
20 ~~project.~~

21 ~~“(c) The Secretary of Commerce may provide such~~
22 ~~funds as the Secretary deems necessary for the planning of~~
23 ~~any project for which construction funds may be obtained~~
24 ~~under this section. An applicant for a planning grant shall~~

1 ~~provide such information with respect to such project as the~~
2 ~~Secretary may require and shall provide assurances satisfac-~~
3 ~~tory to the Secretary that the applicant meets the eligibility~~
4 ~~requirements of subsection (a) to receive construction assist-~~
5 ~~ance.~~

6 ~~“(d) Any studies conducted by or for any grant re-~~
7 ~~cipient under this section shall be provided to the Secretary~~
8 ~~of Commerce, if such studies are conducted through the use~~
9 ~~of funds received under this section.~~

10 ~~“(e) The Secretary of Commerce shall establish such~~
11 ~~rules and regulations as may be necessary to carry out this~~
12 ~~subpart, including rules and regulations relating to the order~~
13 ~~of priority in approving applications for construction projects~~
14 ~~and relating to determining the amount of each grant for~~
15 ~~such projects.~~

16 ~~“(f) In establishing criteria for grants pursuant to sec-~~
17 ~~tion 393 and in establishing procedures relating to the order~~
18 ~~of priority established in subsection (e) in approving appli-~~
19 ~~cations for grants, the Secretary of Commerce shall give~~
20 ~~special consideration to applications which increase minority~~
21 ~~and women’s ownership of, and participation in, public tele-~~
22 ~~communications entities. The Secretary shall take affirmative~~
23 ~~steps to inform minorities and women of the availability of~~
24 ~~funds under this subpart, and the localities where new public~~

1 ~~telecommunications facilities are needed, and to provide such~~
2 ~~assistance and information as may be appropriate.~~

3 ~~“(g) If, within ten years after completion of any proj-~~
4 ~~ect for construction of public telecommunications facilities~~
5 ~~with respect to which a grant has been made under this~~
6 ~~section—~~

7 ~~“(1) the applicant or other owner of such facil-~~
8 ~~ities ceases to be an agency, institution, foundation,~~
9 ~~corporation, or association described in subsection~~
10 ~~(a)(1); or~~

11 ~~“(2) such facilities cease to be used only for non-~~
12 ~~commercial public telecommunications purposes (unless~~
13 ~~the Secretary determines, in accordance with regulations,~~
14 ~~that there is good cause for releasing the applicant or~~
15 ~~other owner from the obligation to do so),~~

16 ~~the United States shall be entitled to recover from the~~
17 ~~applicant or other owner of such facilities the amount bear-~~
18 ~~ing the same ratio to the value of such facilities at the time~~
19 ~~of such determination (as determined by agreement of the~~
20 ~~parties or by action brought in the United States district~~
21 ~~court for the district in which such facilities are situated),~~
22 ~~as the amount of the Federal participation bore to the cost~~
23 ~~of construction of such facilities.~~

24 ~~“(h) Each recipient of assistance under this subpart~~

1 ~~shall keep such records as may be reasonably necessary to~~
 2 ~~enable the Secretary of Commerce to carry out the func-~~
 3 ~~tions of the Secretary under this subpart, including records~~
 4 ~~which fully disclose the amount and the disposition by such~~
 5 ~~recipient of the proceeds of such assistance, the total cost~~
 6 ~~of the project in connection with which such assistance is~~
 7 ~~given or used, and the amount and nature of that portion~~
 8 ~~of the cost of the project supplied by other sources, and such~~
 9 ~~other records as will facilitate an effective audit.~~

10 ~~“(i) The Secretary of Commerce and the Comptroller~~
 11 ~~General of the United States, or any of their duly authorized~~
 12 ~~representatives, shall have access for the purpose of audit~~
 13 ~~and examination to any books, documents, papers, and rec-~~
 14 ~~ords of any recipient of assistance under this subpart that~~
 15 ~~are pertinent to assistance received under this subpart.”.~~

16 ~~(b) The provisions of section 392 (g) of the Communi-~~
 17 ~~cations Act of 1934, as added by subsection (a), shall apply~~
 18 ~~to any grant made under section 392 of such Act before, on,~~
 19 ~~or after the date of the enactment of this Act. Any authority~~
 20 ~~and responsibilities of the Secretary of Health, Education,~~
 21 ~~and Welfare regarding the administration of such grants are~~
 22 ~~hereby transferred to the Secretary of Commerce.~~

23 ~~CRITERIA FOR APPROVAL AND EXPENDITURES~~

24 ~~BY SECRETARY OF COMMERCE~~

25 ~~SEC. 104. Section 392 of the Communications Act of~~
 26 ~~1934 is amended to read as follows:~~

1 ~~“CRITERIA FOR APPROVAL AND EXPENDITURES~~
2 ~~BY SECRETARY OF COMMERCE~~

3 ~~“SEC. 393. (a) The Secretary of Commerce, in consulta-~~
4 ~~tion with the Corporation for Public Broadcasting, noncom-~~
5 ~~mercial telecommunications entities, and as appropriate with~~
6 ~~others, shall establish criteria for making construction and~~
7 ~~planning grants. Such criteria shall be consistent with the~~
8 ~~objectives and provisions set forth in this subpart, and shall~~
9 ~~be made available to interested parties upon request.~~

10 ~~“(b) The Secretary of Commerce shall base determina-~~
11 ~~tions of whether to approve applications for grants under~~
12 ~~this subpart, and the amount of such grants, on criteria de-~~
13 ~~veloped pursuant to subsection (a) and designed to~~
14 ~~achieve—~~

15 ~~“(1) the provision of new telecommunications fa-~~
16 ~~ilities to extend service to areas presently unserved by~~
17 ~~public broadcasting;~~

18 ~~“(2) the expansion of the service areas of existing~~
19 ~~public telecommunications entities;~~

20 ~~“(3) the development of public telecommunications~~
21 ~~facilities owned by and available to minorities and~~
22 ~~women; and~~

23 ~~“(4) the improvement of the capabilities of exist-~~
24 ~~ing public broadcast stations to provide educational and~~
25 ~~cultural services.~~

1 ~~“(c) Of the funds appropriated pursuant to section 391,~~
 2 ~~not less than 75 per centum shall be available for the creation~~
 3 ~~of new noncommercial telecommunications entities and for~~
 4 ~~the expansion of the service areas of existing noncommercial~~
 5 ~~telecommunications entities, and preoperational expenses as-~~
 6 ~~sociated with such creation and expansion. In choosing among~~
 7 ~~applicants for grants, the Secretary shall compare the advan-~~
 8 ~~tages of alternate technologies on the basis of costs and~~
 9 ~~benefits.~~

10 ~~“(d) Of the funds appropriated pursuant to section 391~~
 11 ~~for any fiscal year, not less than 25 per centum shall be~~
 12 ~~available for the expansion and development of noncommer-~~
 13 ~~cial radio broadcast station facilities.”.~~

14 ~~LONG RANGE PLANNING FOR FACILITIES~~

15 ~~SEC. 105. Section 394 of the Communications Act of~~
 16 ~~1934 is amended to read as follows:~~

17 ~~“LONG RANGE PLANNING FOR FACILITIES~~

18 ~~“SEC. 394. (a) The Secretary of Commerce, in consul-~~
 19 ~~tation with appropriate parties, shall develop a long range~~
 20 ~~plan to accomplish the objectives set forth in section 390.~~
 21 ~~Such plan shall include a detailed five year projection of~~
 22 ~~national needs for public telecommunications, the broadcast~~
 23 ~~and nonbroadcast public telecommunications facilities re-~~
 24 ~~quired to meet such needs, and the expenditures necessary~~
 25 ~~to provide these facilities.—~~

1 ~~“(b) The plan required in subsection (a) shall be up-~~
 2 ~~dated annually, and a summary of the activities of the~~
 3 ~~Secretary of Commerce, in implementing the plan, shall be~~
 4 ~~submitted concurrently to the President and the Congress.”.~~

5 ~~TITLE II—TELECOMMUNICATIONS—~~

6 ~~DEMONSTRATIONS—~~

7 ~~ASSISTANCE FOR DEMONSTRATION PROJECTS~~

8 ~~SEC. 201. Part IV of title III of the Communications~~
 9 ~~Act of 1934 is amended by striking out section 395, by~~
 10 ~~redesignating subpart B and subpart C as subpart C and~~
 11 ~~subpart D, respectively, and by inserting after subpart A~~
 12 ~~the following new subpart:~~

13 ~~“Subpart B—Telecommunications Demonstrations~~

14 ~~“ASSISTANCE FOR DEMONSTRATION PROJECTS~~

15 ~~“SEC. 395. (a) It is the purpose of this subpart to~~
 16 ~~promote the development of nonbroadcast telecommunica-~~
 17 ~~tions facilities and services for the transmission, distribution,~~
 18 ~~and delivery of health, education, and public or social service~~
 19 ~~information. The Secretary is authorized, upon receipt of an~~
 20 ~~application in such form and containing such information as~~
 21 ~~he may by regulation require, to make grants to, and enter~~
 22 ~~into contracts with public and private nonprofit agencies, or~~
 23 ~~organizations, and institutions for the purpose of carrying out~~
 24 ~~telecommunications demonstrations.~~

1 ~~“(b) The Secretary may approve an application sub-~~
2 ~~mitted under subsection (a) if he determines—~~

3 ~~“(1) that the project for which application is made~~
4 ~~will demonstrate innovative methods or techniques of~~
5 ~~utilizing nonbroadcast telecommunications equipment or~~
6 ~~facilities to satisfy the purpose of this subpart;~~

7 ~~“(2) that demonstrations and related activities as-~~
8 ~~sisted under this subpart will remain under the adminis-~~
9 ~~tration and control of the applicant;~~

10 ~~“(3) that the applicant has the managerial and~~
11 ~~technical capability to carry out the project for which~~
12 ~~the application is made; and—~~

13 ~~“(4) that the facilities and equipment acquired or~~
14 ~~developed pursuant to the application will be used sub-~~
15 ~~stantially for the transmission, distribution, and delivery~~
16 ~~of health, education, or public or social service informa-~~
17 ~~tion.~~

18 ~~“(e) Upon approving any application under this sub-~~
19 ~~part with respect to any project, the Secretary shall make a~~
20 ~~grant to or enter into a contract with the applicant in an~~
21 ~~amount determined by the Secretary not to exceed the rea-~~
22 ~~sonable and necessary cost of such project. The Secretary~~
23 ~~shall pay such amount from the sum available therefor, in~~
24 ~~advance or by way of reimbursement, and in such install-~~

1 ~~ments consistent with established practice, as he may deter-~~
2 ~~mine.~~

3 ~~“(d) Funds made available pursuant to this subpart~~
4 ~~shall not be available for the construction, remodeling, or~~
5 ~~repair of structures to house the facilities or equipment~~
6 ~~acquired or developed with such funds, except that such~~
7 ~~funds may be used for minor remodeling which is necessary~~
8 ~~for and incident to the installation of such facilities or~~
9 ~~equipment.~~

10 ~~“(e) For purposes of this section, the term ‘nonbroad-~~
11 ~~cast telecommunications facilities’ includes, but is not limited~~
12 ~~to, cable television systems, communications satellite systems~~
13 ~~and related terminal equipment, and other methods of trans-~~
14 ~~mitting, emitting, or receiving images and sounds or intelli-~~
15 ~~gence by means of wire, radio, optical, electromagnetic or~~
16 ~~other means.~~

17 ~~“(f) The funding of any demonstration pursuant to this~~
18 ~~subpart shall continue for not more than three years from~~
19 ~~the date of the original grant or contract.~~

20 ~~“(g) The Secretary shall require that the recipient of~~
21 ~~a grant or contract under this subpart submit a summary and~~
22 ~~evaluation of the results of the demonstration at least annually~~
23 ~~for each year in which funds are received pursuant to this~~
24 ~~section.~~

1 ~~“(h) (1) Each recipient of assistance under this sub-~~
2 ~~part shall keep such records as may be reasonably necessary~~
3 ~~to enable the Secretary of Health, Education, and Welfare~~
4 ~~to carry out the Secretary’s functions under this subpart,~~
5 ~~including records which fully disclose the amount and the~~
6 ~~disposition by such recipient of the proceeds of such assist-~~
7 ~~ance, the total cost of the project or undertaking in connec-~~
8 ~~tion with which such assistance is given or used, and the~~
9 ~~amount and nature of that portion of the cost of the project~~
10 ~~or undertaking supplied by other sources, and such other~~
11 ~~records as will facilitate an effective audit.~~

12 ~~“(2) The Secretary of Health, Education, and Welfare~~
13 ~~and the Comptroller General of the United States, or any of~~
14 ~~their duly authorized representatives, shall have access for~~
15 ~~the purposes of audit and examination to any books, docu-~~
16 ~~ments, papers, and records of the recipient that are pertinent~~
17 ~~to assistance received under this subpart.~~

18 ~~“(i) The Secretary is authorized to make such rules and~~
19 ~~regulations as may be necessary to carry out this subpart,~~
20 ~~including regulations relating to the order of priority in~~
21 ~~approving applications for projects under this subpart or to~~
22 ~~determining the amounts of grants for such projects.~~

23 ~~“(j) The Federal Communications Commission is au-~~
24 ~~thorized to provide such assistance in carrying out the pro-~~
25 ~~visions of this subpart as may be requested by the Secretary.~~

1 ~~The Secretary shall provide for close coordination with the~~
 2 ~~Federal Communications Commission in the administration~~
 3 ~~of his functions under this subpart which are of interest to~~
 4 ~~or affect the functions of the Commission. The Secretary~~
 5 ~~shall provide for close coordination with the Corporation for~~
 6 ~~Public Broadcasting in the administration of his functions~~
 7 ~~under this subpart which are of interest to or affect the func-~~
 8 ~~tions of the Corporation.~~

9 ~~“(k) There are authorized to be appropriated \$1,000,-~~
 10 ~~000 for the fiscal year ending September 30, 1979, to be~~
 11 ~~used by the Secretary of Health, Education, and Welfare to~~
 12 ~~carry out the provisions of this section. Sums appropriated~~
 13 ~~under this subsection for any fiscal year or period shall re-~~
 14 ~~main available for payment of grants or contracts for proj-~~
 15 ~~ects for which applications approved under this subpart have~~
 16 ~~been submitted within one year after the last day of such~~
 17 ~~fiscal year or period.”.~~

18 ~~TITLE III—CORPORATION FOR PUBLIC~~

19 ~~BROADCASTING~~

20 ~~DECLARATION OF POLICY~~

21 ~~SEC. 301. Section 396 (a) of the Communications Act~~
 22 ~~of 1934 is amended to read as follows:~~

23 ~~“SEC. 396. (a) The Congress hereby finds and declares—~~

24 ~~“(1) that it is in the public interest to encourage~~
 25 ~~the growth and development of public radio and televi—~~

1 ~~sion broadcasting, including the use of such media for~~
2 ~~instructional, educational, and cultural purposes;~~

3 ~~“(2) that expansion and development of public~~
4 ~~telecommunications and of diversity of its programming~~
5 ~~depend on freedom, imagination, and initiative on both~~
6 ~~local and national levels;~~

7 ~~“(3) that the encouragement and support of public~~
8 ~~broadcasting, while matters of importance for private~~
9 ~~and local development, are also of appropriate and im-~~
10 ~~portant concern to the Federal Government;~~

11 ~~“(4) that it furthers the general welfare to encour-~~
12 ~~age public broadcast programing which will be respon-~~
13 ~~sive to the interests of people both in particular localities~~
14 ~~and throughout the United States, and which will con-~~
15 ~~stitute an expression of diversity and excellence;~~

16 ~~“(5) that it is necessary and appropriate for the~~
17 ~~Federal Government to complement, assist, and support~~
18 ~~a national policy that will most effectively make public~~
19 ~~broadcasting available to all the citizens of the United~~
20 ~~States;~~

21 ~~“(6) that it is in the public interest to encourage~~
22 ~~the growth and development of nonbroadcast telecom-~~
23 ~~munications technologies for the transmission of non-~~
24 ~~commercial educational and cultural programs and serv-~~
25 ~~ices; and~~

1 ~~“(7) that a private corporation should be created~~
 2 ~~to facilitate the development of public telecommunica-~~
 3 ~~tions and to afford maximum protection from extraneous~~
 4 ~~interference and control.”.~~

5 ~~CHAIRMAN OF THE BOARD~~

6 ~~SEC. 302. Section 396 (d) (1) of the Communications~~
 7 ~~Act of 1934 is amended by striking out “President shall~~
 8 ~~designate one of the members first appointed to the Board:~~
 9 ~~thereafter the”.~~

10 ~~COMPENSATION OF OFFICERS AND EMPLOYEES~~

11 ~~SEC. 303. Section 396 (e) (1) of the Communications~~
 12 ~~Act of 1934 is amended by inserting after the first sentence~~
 13 ~~the following new sentence: “No officer or employee of the~~
 14 ~~Corporation may be compensated by the Corporation at an~~
 15 ~~annual rate of pay which exceeds the rate of pay in effect~~
 16 ~~from time to time for level I of the Executive Schedule under~~
 17 ~~section 5312 of title 5, United States Code.”.~~

18 ~~PURPOSES AND ACTIVITIES OF CORPORATION~~

19 ~~SEC. 304. Section 396 (g) of the Communications Act~~
 20 ~~of 1934 is amended to read as follows:-~~

21 ~~“Purposes and Activities of Corporation~~

22 ~~“(g) (1) In order to achieve the objectives and to~~
 23 ~~carry out the purposes of this subpart, as set out in sub-~~
 24 ~~section (a) of this section, the Corporation may—~~

1 ~~“(A) facilitate the full development of public tele-~~
2 ~~communications in which programs—~~

3 ~~“(i) of high quality, diversity, creativity, excel-~~
4 ~~lence, and innovation; and~~

5 ~~“(ii) obtained from diverse sources;~~
6 ~~will be made available to public television or radio~~
7 ~~broadcast stations and noncommercial telecommunica-~~
8 ~~tions entities, with strict adherence to objectivity and~~
9 ~~balance in all programs or series of programs of a con-~~
10 ~~troversial nature;~~

11 ~~“(B) assist in the establishment and development~~
12 ~~of one or more interconnection systems to be used for~~
13 ~~the distribution of public television or radio programs so~~
14 ~~that all public television or radio broadcast stations and~~
15 ~~noncommercial telecommunications entities may dissemi-~~
16 ~~nate the programs at times chosen by the stations or~~
17 ~~entities;~~

18 ~~“(C) assist in the establishment and development~~
19 ~~of one or more systems of public broadcast stations and~~
20 ~~noncommercial telecommunications entities throughout~~
21 ~~the United States; and~~

22 ~~“(D) carry out its purposes and functions and en-~~
23 ~~gage in its activities in ways that will most effectively~~
24 ~~assure the maximum freedom of the public television~~
25 ~~or radio broadcast systems and local stations and non-~~

1 ~~commercial telecommunications entities from interference~~
2 ~~with, or control of, program content or other activities.~~

3 ~~“(2) In order to carry out the purposes set forth in~~
4 ~~subsection (a) of this section, the Corporation may—~~

5 ~~“(A) obtain grants from and make contracts with~~
6 ~~individuals and with private, State, and Federal agen-~~
7 ~~cies, organizations, and institutions;—~~

8 ~~“(B) contract with or make grants to national,~~
9 ~~regional, and other systems of public broadcast stations,~~
10 ~~public broadcast stations, noncommercial telecommunica-~~
11 ~~tions entities, and independent producers and production~~
12 ~~entities for the production or acquisition of public tele-~~
13 ~~vision or radio programs for national or regional non-~~
14 ~~commercial distribution, except that (i) to the maximum~~
15 ~~extent possible, proposals for the provision of assistance~~
16 ~~by the Corporation in the production or acquisition of~~
17 ~~programs or series of programs shall be evaluated on the~~
18 ~~basis of comparative merit by panels of outside experts,~~
19 ~~representing diverse interests and perspectives, ap-~~
20 ~~pointed by the Corporation; and (ii) nothing in this~~
21 ~~subparagraph shall be construed to prohibit the exercise~~
22 ~~by the Corporation of its prudent business judgment with~~
23 ~~respect to any contract or grant to assist in the produc-~~
24 ~~tion or acquisition of any program or series of programs~~
25 ~~recommended by any such panel;—~~

1 ~~“(C) make payments to existing and new public~~
2 ~~broadcast stations and noncommercial telecommunica-~~
3 ~~tions entities to aid in financing noncommercial televi-~~
4 ~~sion and radio programming costs of such stations and~~
5 ~~entities, particularly innovative approaches thereto, and~~
6 ~~other costs of operation of such stations and entities;~~

7 ~~“(D) establish and maintain a library and archives~~
8 ~~of public television or radio programs and related ma-~~
9 ~~terials and develop public awareness of, and disseminate~~
10 ~~information about, public television or radio services by~~
11 ~~various means, including the publication of a journal;~~

12 ~~“(E) arrange, by grant to or contract with ap-~~
13 ~~propriate public or private agencies, organizations, or~~
14 ~~institutions, for interconnection facilities suitable for dis-~~
15 ~~tribution and transmission of educational and cultural~~
16 ~~television or radio programs and services to public broad-~~
17 ~~cast stations and noncommercial telecommunications~~
18 ~~entities;~~

19 ~~“(F) hire or accept the voluntary services of con-~~
20 ~~sultants, experts, advisory boards, and panels to aid the~~
21 ~~Corporation in carrying out the purposes of this subpart;~~

22 ~~“(G) conduct (directly or through grants or con-~~
23 ~~tracts) research, demonstrations, or training in matters~~
24 ~~related to public television or radio broadcasting and~~
25 ~~the use of nonbroadcast communications technologies~~

1 ~~for the dissemination of noncommercial educational and~~
2 ~~cultural television or radio programs;~~

3 ~~“(H) make grants or contracts for the use of non-~~
4 ~~broadcast telecommunications technologies for the dis-~~
5 ~~semination of noncommercial television or radio pro-~~
6 ~~grams, except that any such contracts entered into~~
7 ~~shall be effective only to the extent or in such amounts~~
8 ~~as are provided in advance in appropriation Acts; and~~

9 ~~“(I) take such other actions as may be necessary~~
10 ~~to accomplish the purposes set forth in subsection (a)~~
11 ~~of this subsection.~~

12 ~~“(3) To carry out the foregoing purposes and engage~~
13 ~~in the foregoing activities, and consistent with the provi-~~
14 ~~sions of this subpart, the Corporation shall have the usual~~
15 ~~powers conferred upon a nonprofit corporation by the~~
16 ~~District of Columbia Nonprofit Corporation Act, except that~~
17 ~~the Corporation is prohibited from—~~

18 ~~“(A) owning or operating any television or radio~~
19 ~~broadcast station, system, or network, community an-~~
20 ~~tenna television system, interconnection system or~~
21 ~~facility, program production facility, or any public~~
22 ~~telecommunications entity, system, or network; and~~

23 ~~“(B) producing, acquiring, scheduling, or distribut-~~
24 ~~ing programs.~~

25 ~~“(4) All meetings of the Board of Directors of the~~

1 ~~Corporation shall be open to the public under such terms,~~
2 ~~conditions, and exceptions as are set forth in subsection (k)~~
3 ~~(4) of this section.~~

4 ~~“(5) (A) The Corporation, in consultation with public~~
5 ~~broadcast stations, shall undertake a study to determine the~~
6 ~~manner in which the personal services of volunteers should~~
7 ~~be included in determining the level of non-Federal financial~~
8 ~~support pursuant to subsection (k) (2) (A). The study shall~~
9 ~~include an examination of any fiscal, administrative, or other~~
10 ~~factors which should be taken into account in determining the~~
11 ~~manner in which such services should be so included.~~

12 ~~“(B) The Corporation shall submit a report to the Con-~~
13 ~~gress containing the results of such study no later than 120-~~
14 ~~days after the effective date of this paragraph.”.~~

15 ~~INTERCONNECTION SERVICE~~

16 ~~SEC. 305. Section 306 (h) of the Communications Act~~
17 ~~of 1934 is amended to read as follows:~~

18 ~~“Interconnection Service~~

19 ~~“(h) (1) Nothing in this Act, or in any other provision~~
20 ~~of law, shall be construed to prevent United States communi-~~
21 ~~cations common carriers from rendering free or reduced rate~~
22 ~~communications interconnection services for public television~~
23 ~~or radio services, subject to such rules and regulations as the~~
24 ~~Federal Communications Commission may prescribe.~~

25 ~~“(2) Public telecommunications entities shall have pri-~~

~~1 ority for the use of interconnection systems for which funds
 2 authorized in this part are expended. Capacity remaining
 3 after such priority use shall be made available to other per-
 4 sons for the transmission of material to public telecommuni-
 5 cations entities. The Corporation, in consultation with the
 6 persons responsible for managing the interconnection sys-
 7 tems, shall establish reasonable terms and conditions gov-
 8 erning the use of the interconnection systems by persons
 9 other than public telecommunications entities, except that
 10 (A) no such person shall be denied access whenever suf-
 11 ficient capacity is available; and (B) any charge made for
 12 such use shall not exceed any cost which is directly attribut-
 13 able to transmitting the material."~~

14 ~~ANNUAL REPORT TO CONGRESS~~

~~15 SEC. 306. Section 396 (i) of the Communications Act
 16 of 1934 is amended to read as follows:~~

17 ~~"Report to Congress~~

~~18 "(i) (1) The Corporation shall submit an annual report
 19 for the preceding fiscal year ending September 30 to the
 20 President for transmittal to the Congress on or before the
 21 31st day of December of each year. The report shall include—~~

~~22 "(A) a comprehensive and detailed report of the
 23 Corporation's operations, activities, financial condition,
 24 and accomplishments under this subpart and such recom-
 25 mendations as the Corporation deems appropriate;~~

1 ~~“(B) the plan on public telecommunications re-~~
2 ~~quired in paragraph (2) of this subsection;~~

3 ~~“(C) a comprehensive and detailed inventory of~~
4 ~~funds distributed by Federal agencies to public broad-~~
5 ~~casting and noncommercial telecommunications entities~~
6 ~~during the preceding fiscal year; and~~

7 ~~“(D) the summary of the annual report provided~~
8 ~~to the Secretary of Health, Education, and Welfare pur-~~
9 ~~suant to section 398 (b) (4) of this subpart.~~

10 ~~“(2) The Corporation, in consultation with public tele-~~
11 ~~communications entities, and as appropriate with others, shall~~
12 ~~create a five-year plan for the development of public televi-~~
13 ~~sion and radio programming and services. Such plan, updated~~
14 ~~annually, and a summary of activities under such plan, shall~~
15 ~~be included in the report required in paragraph (1) (A) of~~
16 ~~this subsection.~~

17 ~~“(3) The officers and directors of the Corporation shall~~
18 ~~be available to testify before appropriate committees of~~
19 ~~the Congress with respect to such report, the report of any~~
20 ~~audit made by the Comptroller General pursuant to sec-~~
21 ~~tion 396 (1), or any other matter which such committees~~
22 ~~may determine.”.~~

23 ~~FINANCING; OPEN MEETINGS AND FINANCIAL RECORDS~~

24 ~~SEC. 307. Section 396 (k) of the Communications Act~~
25 ~~of 1934 is amended to read as follows:~~

1 ~~“Financing; Open Meetings and Financial Records~~

2 ~~“(k) (1) (A) There is hereby established in the Treas-~~
3 ~~ury a fund which shall be known as the Public Broadcasting~~
4 ~~Fund (hereinafter in this subsection referred to as the~~
5 ~~‘Fund’), to be administered by the Secretary of the~~
6 ~~Treasury.~~

7 ~~“(B) There is authorized to be appropriated to the~~
8 ~~Fund, for each of the fiscal years 1978, 1979, and 1980,~~
9 ~~an amount equal to 40 per centum of the total amount of~~
10 ~~non-Federal financial support received by public broad-~~
11 ~~casting entities during the fiscal year second preceding~~
12 ~~each such fiscal year, except that the amount so appropriated~~
13 ~~shall not exceed \$121,000,000 for fiscal year 1978, \$140,~~
14 ~~000,000 for fiscal year 1979, and \$160,000,000 for fiscal~~
15 ~~year 1980.~~

16 ~~“(C) For each of the fiscal years 1981, 1982, and~~
17 ~~1983, there is authorized to be appropriated to the Fund~~
18 ~~an amount equal to 50 per centum of the total amount of~~
19 ~~non-Federal financial support received by public broadcast-~~
20 ~~ing entities during the fiscal year second preceding each such~~
21 ~~fiscal year, except that the amount so appropriated shall not~~
22 ~~exceed \$180,000,000 for fiscal year 1981, \$200,000,000 for~~
23 ~~fiscal year 1982, and \$220,000,000 for fiscal year 1983.~~

24 ~~“(D) Funds appropriated under this subsection shall~~
25 ~~remain available until expended.~~

1 ~~“(2) (A) The funds authorized to be appropriated by~~
2 ~~this subsection shall be used by the Corporation, in a pru-~~
3 ~~dent and financially responsible manner, solely for its grants,~~
4 ~~contracts, and administrative costs, except that the Corpora-~~
5 ~~tion may not use any funds appropriated under this Act for~~
6 ~~purposes of conducting any reception, or providing any other~~
7 ~~entertainment, for any officer or employee of the Federal~~
8 ~~Government or any State or local government. The Corpora-~~
9 ~~tion shall determine the amount of non-Federal financial sup-~~
10 ~~port received by public broadcasting entities during each~~
11 ~~of the fiscal years referred to in paragraph (1) for the pur-~~
12 ~~pose of determining the amount of each authorization, and~~
13 ~~shall certify such amount to the Secretary of the Treasury,~~
14 ~~except that the Corporation may include in its certification~~
15 ~~non-Federal financial support received by a public broad-~~
16 ~~casting entity during its most recent fiscal year ending be-~~
17 ~~fore September 30 of the year for which certification is~~
18 ~~made. Upon receipt of such certification, the Secretary of~~
19 ~~the Treasury shall make available to the Corporation, from~~
20 ~~such funds as may be appropriated to the Fund, the amount~~
21 ~~authorized for each of the fiscal years pursuant to the pro-~~
22 ~~visions of this subsection.~~

23 ~~“(B) Funds appropriated and made available under~~
24 ~~this subsection shall be disbursed by the Secretary of the~~
25 ~~Treasury on a quarterly basis, in such amounts as the Cor-~~

1 ~~poration certifies will be necessary to meet its financial obli-~~
2 ~~gations in the succeeding quarter.~~

3 ~~“(3) (A) The Corporation shall reserve for distribu-~~
4 ~~tion among the licensees and permittees of public television~~
5 ~~and radio stations an amount equal to (i) not less than 40~~
6 ~~per centum of the funds disbursed by the Corporation from~~
7 ~~the Fund under this section in each fiscal year in which~~
8 ~~the amount disbursed is \$88,000,000 or more, but less than~~
9 ~~\$121,000,000; (ii) not less than 45 per centum in each~~
10 ~~fiscal year in which the amount disbursed is \$121,000,000~~
11 ~~or more, but less than \$160,000,000; and (iii) not less~~
12 ~~than 50 per centum in each fiscal year in which the amount~~
13 ~~disbursed is \$160,000,000 or more.~~

14 ~~“(B) (i) The Corporation shall establish an annual~~
15 ~~budget according to which it shall make grants and contracts~~
16 ~~for production of public television or radio programs by inde-~~
17 ~~pendent production entities and public telecommunications~~
18 ~~entities, for acquisition of such programs by public telecom-~~
19 ~~munications entities, for interconnection facilities and opera-~~
20 ~~tions, for distribution of funds among noncommercial tele-~~
21 ~~communications entities, for provision of assistance to public~~
22 ~~telecommunications entities to improve management and~~
23 ~~train personnel, for engineering and program-related re-~~
24 ~~search, and for the enhancement of instructional and educa-~~
25 ~~tional television and radio services. A significant portion of~~

1 ~~funds available under the budget established by the Corpo-~~
2 ~~ration under this subparagraph shall be used for funding the~~
3 ~~production of television and radio programs. Of such portion,~~
4 ~~a substantial amount shall be reserved for distribution to~~
5 ~~independent producers and production entities for the pro-~~
6 ~~duction of programs.~~

7 ~~“(ii) All funds contained in such budget shall be dis-~~
8 ~~tributed to entities outside the Corporation and shall not be~~
9 ~~used for the general administrative costs of the Corporation,~~
10 ~~the salaries or related expenses of Corporation personnel and~~
11 ~~members of the Board, or for expenses of consultants and~~
12 ~~advisors to the Corporation. During each of the fiscal years~~
13 ~~1981, 1982, and 1983, such budget shall consist of not less~~
14 ~~than 95 per centum of the funds made available to the Cor-~~
15 ~~poration pursuant to paragraph (1) (C) of this subsection.~~

16 ~~“(iii) In determining the amount of funds which shall be~~
17 ~~made available for radio programming and operations under~~
18 ~~this subparagraph, the Corporation shall take into account the~~
19 ~~increased financial needs relating to radio programming and~~
20 ~~operations resulting from the expansion and development of~~
21 ~~noncommercial radio broadcast station facilities through the~~
22 ~~use of funds made available pursuant to section 393 (d).~~

23 ~~“(C) In fiscal year 1981, the Corporation may expend~~
24 ~~an amount equivalent to not more than 5 per centum of the~~
25 ~~funds made available during such fiscal year pursuant to para-~~

1 ~~graph (1) (C) of this subsection for those activities author-~~
2 ~~ized under subsection (g) (2) which are not among those~~
3 ~~grant activities described in subparagraph (B).~~

4 ~~“(D) In fiscal years 1982 and 1983, the amount which~~
5 ~~the Corporation may expend for activities authorized under~~
6 ~~subsection (g) (2) which are not among those grant activi-~~
7 ~~ties described in subparagraph (B) shall be 105 per centum~~
8 ~~of the amount derived for the preceding fiscal year.~~

9 ~~“(4) Funds may not be distributed pursuant to this sub-~~
10 ~~section to the Public Broadcasting Service or National Public~~
11 ~~Radio (or any successor organization), or to the licensee or~~
12 ~~permittee of any public broadcast station, unless the govern-~~
13 ~~ing board of any such organization, any committee of such~~
14 ~~governing board, or any advisory body of any such organiza-~~
15 ~~tion, holds open meetings preceded by reasonable notice to~~
16 ~~the public. All persons shall be permitted to attend any meet-~~
17 ~~ing of the board, or of any such committee or body, and no~~
18 ~~member of the public shall be required, as a condition to~~
19 ~~attendance at any such meeting, to register his or her name~~
20 ~~or to provide any other information. Nothing contained in~~
21 ~~this paragraph shall be construed to prevent any such board,~~
22 ~~committee, or body from holding closed sessions to consider~~
23 ~~personnel matters, pending or proposed litigation, labor nego-~~
24 ~~tiations, contract negotiations, the development of proposed~~
25 ~~or pending competitive proposals for grants or contracts, trade~~

1 ~~secrets, or commercial or financial information obtained from~~
2 ~~a person on a privileged or confidential basis. If any such~~
3 ~~meeting is closed pursuant to the provisions of this paragraph,~~
4 ~~the organization involved shall make available to the public a~~
5 ~~written statement containing—~~

6 ~~“(A) an explanation of the reasons for closing the~~
7 ~~meeting, including a general description of the subject~~
8 ~~matter of the meeting; and~~

9 ~~“(B) a list of the individuals who attended the~~
10 ~~meeting, including an identification of any organization~~
11 ~~represented by any such individual.~~

12 ~~“(5) Funds may not be distributed pursuant to this~~
13 ~~subsection to the licensee or permittee of any public broad-~~
14 ~~cast station that does not maintain for public examination~~
15 ~~copies of the annual financial and audit reports submitted~~
16 ~~to the Corporation pursuant to subsection (1) (3) (B).~~

17 ~~“(6) (A) The Corporation, in consultation with public~~
18 ~~television and radio licensees, shall establish and review~~
19 ~~annually the percentage of funds reserved pursuant to para-~~
20 ~~graph (3) (A), and the criteria and conditions regarding~~
21 ~~the division and distribution of such funds among public-~~
22 ~~television and radio stations.~~

23 ~~“(B) The funds reserved for public broadcast stations~~
24 ~~pursuant to paragraph (3) (A) shall be divided into two~~
25 ~~portions, one to be distributed among radio stations and one~~

1 ~~to be distributed among television stations. The Corporation~~
2 ~~shall make a basic grant from the portion reserved for tele-~~
3 ~~vision stations to each licensee and permittee of a public~~
4 ~~television station that is on the air. The balance of the por-~~
5 ~~tion reserved for television stations and the total portion~~
6 ~~reserved for radio stations shall be distributed to licensees~~
7 ~~and permittees of such stations in accordance with eligibility~~
8 ~~criteria that promote the public interest in public broad-~~
9 ~~casting, and on the basis of criteria designed to—~~

10 ~~“(i) provide for the financial needs and require-~~
11 ~~ments of stations in relation to the communities and~~
12 ~~audiences such stations undertake to serve;~~

13 ~~“(ii) maintain existing, and stimulate new sources~~
14 ~~of non-Federal financial support for stations by provid-~~
15 ~~ing incentives for increases in such support;~~

16 ~~“(iii) assure that each eligible licensee and per-~~
17 ~~mittee of a public radio station receives a basic grant;~~

18 ~~“(iv) encourage innovative approaches, both tech-~~
19 ~~nical and programming, to reaching new audiences;~~

20 ~~“(v) encourage responsiveness to the community~~
21 ~~served by each station;~~

22 ~~“(vi) encourage cost efficiencies, particularly in in-~~
23 ~~creasing programming expenditures in relation to admin-~~
24 ~~istrative costs;~~

25 ~~“(vii) encourage programs to train women and~~

1 ~~minorities and to increase their participation in public~~
2 ~~broadcasting; and~~

3 ~~“(viii) encourage the use of volunteers by stations.~~

4 ~~“(7) No distribution of funds pursuant to this subsec-~~
5 ~~tion shall exceed, in any fiscal year, one-half of a licensee’s~~
6 ~~or permittee’s total non-Federal financial support during the~~
7 ~~fiscal year second preceding the fiscal year in which such~~
8 ~~distribution is made.~~

9 ~~“(8) Not less than 50 per centum of the funds dis-~~
10 ~~tributed to each public television station pursuant to para-~~
11 ~~graph (3) (A) shall be used by such station for the produc-~~
12 ~~tion and acquisition of television programs. Of the portion~~
13 ~~reserved for such purpose, a substantial amount shall be used~~
14 ~~for providing funds for the production and acquisition of~~
15 ~~programs produced by independent producers and produc-~~
16 ~~tion entities. The remainder of the funds distributed to each~~
17 ~~public television station and all funds distributed to public~~
18 ~~radio stations pursuant to paragraph (3) (A) may be used~~
19 ~~at the discretion of the recipient for purposes relating to the~~
20 ~~provision of public television and radio programming, in-~~
21 ~~cluding, but not limited to—~~

22 ~~“(A) producing, acquiring, broadcasting, or other-~~
23 ~~wise disseminating public television or radio programs;~~

24 ~~“(B) procuring national or regional programs dis-~~
25 ~~tribution services that make public television or radio~~

1 ~~programs available for broadcast or other dissemination~~
2 ~~at times chosen by stations;~~

3 ~~“(C) acquiring, replacing, or maintaining facilities,~~
4 ~~and real property used with facilities, for the production,~~
5 ~~broadcast, or other dissemination of public television and~~
6 ~~radio programs; and~~

7 ~~“(D) developing and using nonbroadcast communi-~~
8 ~~cations technologies for public television or radio pro-~~
9 ~~gramming purposes.~~

10 ~~“(9) (A) Any public broadcast station which desires~~
11 ~~to receive funds under this subpart shall establish a commu-~~
12 ~~nity advisory board. The membership of such board shall, to~~
13 ~~the maximum extent feasible, be composed of individuals who~~
14 ~~are representative of the communities served by such station.~~

15 ~~“(B) Such board shall be permitted to review the pro-~~
16 ~~gramming goals established by such station, the service~~
17 ~~provided by such station, and the significant policy de-~~
18 ~~isions rendered by such station. Such board may also~~
19 ~~be delegated any other responsibilities, as determined~~
20 ~~by the governing body of such station. Such board shall~~
21 ~~advise the governing body of such station with respect~~
22 ~~to whether the programming and other policies of such~~
23 ~~station are meeting the specialized educational and infor-~~
24 ~~mational needs of the communities served by such station,~~

1 ~~and may make such recommendations as it considers appro-~~
2 ~~priate to meet such needs.~~

3 ~~“(C) The role of such board shall be solely advisory in~~
4 ~~nature, except to the extent other responsibilities are dele-~~
5 ~~gated to such board by the governing body of such station.~~
6 ~~In no case shall such board have any authority to exercise~~
7 ~~any control over the daily management or operation of such~~
8 ~~station.~~

9 ~~“(D) In the case of any public broadcasting station in~~
10 ~~existence on the effective date of this paragraph, such station~~
11 ~~shall comply with the requirements of this paragraph with~~
12 ~~respect to the establishment of a community advisory board~~
13 ~~not later than 180 days after such effective date.~~

14 ~~“(10) Funds may not be distributed pursuant to this~~
15 ~~subsection to the Public Broadcasting Service or National~~
16 ~~Public Radio (or any successor organization) unless assur-~~
17 ~~ances are provided that no officer or employee of the Public~~
18 ~~Broadcasting Service or National Public Radio (or any suc-~~
19 ~~cessor organization), as the case may be, will be compensated~~
20 ~~at an annual rate of pay which exceeds the rate of pay in~~
21 ~~effect from time to time for level I of the Executive Schedule~~
22 ~~under section 5312 of title 5, United States Code.”~~

23 ~~FINANCIAL MANAGEMENT AND RECORDS~~

24 ~~SEC. 308. Section 396(1) (3) of the Communications~~
25 ~~Act of 1934 is amended to read as follows:~~

1 ~~“(3) (A) The Corporation, in consultation with the~~
2 ~~General Accounting Office and as appropriate with others,~~
3 ~~shall develop a uniform system of accounts which shall be~~
4 ~~used by all public broadcast licensees or permittees receiving~~
5 ~~funds under this subpart. Such system shall be designed to~~
6 ~~account fully for all funds received and expended for public~~
7 ~~broadcasting purposes by such licensees or permittees. Noth-~~
8 ~~ing contained in this paragraph shall prevent the Corporation~~
9 ~~from adopting different classes of accounting systems that~~
10 ~~may be appropriate to different classes of licensees or per-~~
11 ~~mittees.~~

12 ~~“(B) Each noncommercial broadcast licensee or per-~~
13 ~~mittee receiving funds under this subpart shall be required—~~

14 ~~“(i) to keep its books, records, and accounts in~~
15 ~~such form as may be required by the Corporation;~~

16 ~~“(ii) to undergo an annual audit by independent~~
17 ~~certified public accountants or independent licensed~~
18 ~~public accountants certified or licensed by a regulatory~~
19 ~~authority of a State, which audit shall be in accordance~~
20 ~~with auditing standards developed by the Corporation,~~
21 ~~in consultation with the General Accounting Office; and~~

22 ~~“(iii) to furnish annually to the Corporation a copy~~
23 ~~of the audit report required pursuant to clause (ii), as~~
24 ~~well as such other information regarding financial opera-~~
25 ~~tions that the Corporation may require.~~

1 ~~“(C) Any recipient of assistance by grant or contract~~
 2 ~~under this section, other than a fixed price contract awarded~~
 3 ~~pursuant to competitive bidding procedures, shall keep such~~
 4 ~~records as may be reasonably necessary to disclose fully the~~
 5 ~~amount and the disposition by such recipient of such as-~~
 6 ~~sistance, the total cost of the project or undertaking in con-~~
 7 ~~nection with which such assistance is given or used, and~~
 8 ~~the amount and nature of that portion of the cost of the~~
 9 ~~project or undertaking supplied by other sources, and such~~
 10 ~~other records as will facilitate an effective audit.~~

11 ~~“(D) The Corporation or any of its duly authorized~~
 12 ~~representatives shall have access for the purpose of audit and~~
 13 ~~examination to any books, documents, papers, and records~~
 14 ~~of any recipient of assistance that are related to assistance~~
 15 ~~received under this section. The Comptroller General of the~~
 16 ~~United States or any of his duly authorized representatives~~
 17 ~~shall also have access thereto for such purpose during any~~
 18 ~~fiscal year for which Federal funds are available to the~~
 19 ~~Corporation.”.~~

20 ~~EQUAL EMPLOYMENT OPPORTUNITY~~

21 ~~SEC. 309. Section 398 of the Communications Act of~~
 22 ~~1934 is amended to read as follows:~~

23 ~~“FEDERAL INTERFERENCE OR CONTROL PROHIBITED;~~

24 ~~EQUAL EMPLOYMENT OPPORTUNITY~~

25 ~~“SEC. 398. (a) Nothing contained in this part shall be~~
 26 ~~deemed (1) to amend any other provision of, or require~~

1 ~~ment under, this Act; or (2) except to the extent authorized~~
2 ~~in subsection (b), to authorize any department, agency,~~
3 ~~officer, or employee of the United States to exercise any~~
4 ~~direction, supervision, or control over public telecommunica-~~
5 ~~tions, or over the Corporation or any of its grantees or con-~~
6 ~~tractors, or over the charter or bylaws of the Corporation,~~
7 ~~or over the curriculum, program of instruction, or personnel~~
8 ~~of any educational institution, school system, or public tele-~~
9 ~~communications entity.~~

10 ~~“(b) (1) Equal opportunity in employment shall be~~
11 ~~afforded to all persons by all public telecommunications~~
12 ~~entities receiving funds pursuant to subpart C (hereinafter~~
13 ~~in this subsection referred to as ‘recipients’), and no person~~
14 ~~shall be subjected to discrimination in employment (includ-~~
15 ~~ing discrimination in connection with appointments to gov-~~
16 ~~erning or advisory bodies) by any such recipient on the~~
17 ~~grounds of race, color, religion, national origin, or sex.~~

18 ~~“(2) The Secretary of Health, Education, and Welfare~~
19 ~~is authorized and directed to enforce this subsection and~~
20 ~~to prescribe such rules and regulations as may be necessary~~
21 ~~to carry out the Secretary’s functions under this subsection.~~

22 ~~“(3) The Corporation shall incorporate into each grant~~
23 ~~agreement or contract with any recipient entered into on or~~
24 ~~after the effective date of the rules and regulations pre-~~
25 ~~scribed by the Secretary of Health, Education, and Welfare~~

~~1 pursuant to paragraph (2), a statement indicating that, as
2 a material part of the terms and conditions of the grant
3 agreement or contract, the recipient will comply with the
4 provisions of paragraph (1) and the rules and regulations
5 prescribed pursuant to paragraph (2). Any public or non-
6 commercial telecommunications entity which desires to re-
7 ceive funds under subpart C shall, before receiving any such
8 funds, provide to the Corporation any information which the
9 Corporation may require to satisfy itself that such entity is
10 affording equal opportunity in employment in accordance
11 with the requirements of this subsection. If the Corporation
12 is not satisfied that such entity is affording equal opportunity
13 in employment in accordance with the requirements of this
14 subsection, the Corporation shall notify the Secretary, and
15 the Secretary shall review the matter and make a final deter-
16 mination regarding whether such entity is affording equal
17 opportunity in employment. In any case in which the Secre-
18 tary conducts a review under the preceding sentence, the
19 Corporation shall make funds available to the entity involved
20 pursuant to the grant application of such entity (if the Cor-
21 poration would have approved such application but for the
22 finding of the Corporation under this paragraph) pending a
23 final determination of the Secretary upon completion of such
24 review. The Corporation shall monitor the equal employment~~

1 ~~opportunity practices of each recipient throughout the dura-~~
2 ~~tion of the grant or contract.~~

3 ~~“(4) Based upon its responsibilities under paragraph~~
4 ~~(3), the Corporation shall provide an annual report for the~~
5 ~~preceding fiscal year ending September 30 to the Secretary~~
6 ~~of Health, Education, and Welfare on or before the 31st day~~
7 ~~of December of each year. The report shall contain informa-~~
8 ~~tion in the form required by the Secretary in order to deter-~~
9 ~~mine whether recipients are in compliance with paragraph~~
10 ~~(1). The Corporation shall submit a summary of such report~~
11 ~~to the President and the Congress as part of the report re-~~
12 ~~quired in section 396 (i). The Corporation shall provide~~
13 ~~other information in the form and with any analysis which~~
14 ~~the Secretary may require in order to carry out the Secre-~~
15 ~~tary’s functions under this subsection.~~

16 ~~“(5) Whenever the Secretary of Health, Education,~~
17 ~~and Welfare makes a final determination, pursuant to the~~
18 ~~rules and regulations which the Secretary shall prescribe,~~
19 ~~that a recipient is not in compliance with paragraph (1),~~
20 ~~the Secretary shall, within 10 days after such determina-~~
21 ~~tion, notify the recipient in writing of such determination~~
22 ~~and request the recipient to secure compliance. Unless the~~
23 ~~recipient, within 120 days after receipt of such written~~
24 ~~notice—~~

1 ~~“(A) demonstrates to the Secretary that the viola-~~
 2 ~~tion has been corrected; or~~

3 ~~“(B) enters into a compliance agreement approved~~
 4 ~~by the Secretary;~~

5 ~~the Secretary shall direct the Corporation to reduce or sus-~~
 6 ~~pend any further payments of funds under this part to the~~
 7 ~~recipient and the Corporation shall comply with such direc-~~
 8 ~~tive. Resumption of payments shall take place only when the~~
 9 ~~Secretary certifies to the Corporation that the recipient has~~
 10 ~~entered into a compliance agreement approved by the Secre-~~
 11 ~~tary. A recipient whose funds have been reduced or suspended~~
 12 ~~may apply at any time to the Secretary for such certification.~~

13 ~~“(c) Nothing in this section shall be construed to au-~~
 14 ~~thorize any department, agency, officer, or employee of~~
 15 ~~the United States to exercise any direction, supervision, or~~
 16 ~~control over the content or distribution of public telecom-~~
 17 ~~munications programs and services, or over the curriculum~~
 18 ~~or program of instruction of any educational institution or~~
 19 ~~school system.”~~

20 ~~TITLE IV GENERAL PROVISIONS~~

21 ~~DEFINITIONS~~

22 ~~SEC. 401. Section 397 of the Communications Act of~~
 23 ~~1934 is amended to read as follows:~~

24 ~~DEFINITIONS~~

25 ~~“SEC. 397. For the purposes of this part—~~

1 ~~“(1) The term ‘construction’, as applied to public tele-~~
2 ~~communications facilities, means acquisition (including ac-~~
3 ~~quisition by lease), installation, and modernization of public~~
4 ~~telecommunications facilities and planning and preparatory~~
5 ~~steps incidental thereto.~~

6 ~~“(2) The term ‘Corporation’ means the Corporation~~
7 ~~for Public Broadcasting authorized to be established in sub-~~
8 ~~part C of this part.~~

9 ~~“(3) The term ‘interconnection system’ means any~~
10 ~~system of interconnection facilities used for the distribution of~~
11 ~~programs (which may include the selection and scheduling~~
12 ~~of programs for such distribution) to public telecommunica-~~
13 ~~tions entities.~~

14 ~~“(4) The term ‘meeting’ means the deliberations of at~~
15 ~~least the number of members of a governing or advisory~~
16 ~~body, or any committee thereof, required to take action on~~
17 ~~behalf of such body or committee where such deliberations~~
18 ~~determine or result in the joint conduct or disposition of the~~
19 ~~governing or advisory body’s business, or the committee’s~~
20 ~~business, as the case may be, but only to the extent that~~
21 ~~such deliberations relate to public broadcasting.~~

22 ~~“(5) The terms ‘noncommercial educational broadcast~~
23 ~~station’ and ‘public broadcast station’ mean a television or~~
24 ~~radio broadcast station which (A) under the rules and regu-~~
25 ~~lations of the Federal Communications Commission in effect~~

1 ~~on the date of the enactment of the Public Telecommunica-~~
2 ~~tions Financing Act of 1978 is eligible to be licensed by the~~
3 ~~Commission as a noncommercial educational radio or televi-~~
4 ~~sion broadcast station and which is owned and operated by~~
5 ~~a public agency or nonprofit private foundation, corporation,~~
6 ~~or association; or (B) is owned and operated by a mu-~~
7 ~~nicipality and which transmits only noncommercial pro-~~
8 ~~grams for educational purposes.~~

9 ~~“(6) The term ‘noncommercial telecommunications en-~~
10 ~~tity’ means any enterprise which (A) is owned and operated~~
11 ~~by a State, a political or special purpose subdivision of a~~
12 ~~State, a public agency or nonprofit private foundation, corpo-~~
13 ~~ration, or association; and (B) has been organized primarily~~
14 ~~for the purpose of distributing noncommercial educational or~~
15 ~~cultural audio or video programs by means of television or~~
16 ~~radio or other telecommunications technology, including, but~~
17 ~~not limited to, coaxial cable, optical fiber, broadcast transla-~~
18 ~~tors, cassettes, discs, microwave, or laser transmission through~~
19 ~~the atmosphere.~~

20 ~~“(7) The term ‘nonprofit’, as applied to any founda-~~
21 ~~tion, corporation, or association, means a foundation, cor-~~
22 ~~poration, or association, no part of the net earnings of which~~
23 ~~inures, or may lawfully inure, to the benefit of any private~~
24 ~~shareholder or individual.~~

1 ~~“(8) The term ‘non-Federal financial support’ means~~
2 ~~the total value of cash and the fair market value of property~~
3 ~~and services (including, to the extent provided in the second~~
4 ~~sentence of this paragraph, the personal services of volun-~~
5 ~~teers) received—~~

6 ~~“(A) as gifts, grants, bequests, donations, or other~~
7 ~~contributions for the construction or operation of non-~~
8 ~~commercial educational broadcast stations, or for the~~
9 ~~production, acquisition, distribution, or dissemination of~~
10 ~~educational television or radio programs, and related~~
11 ~~activities, from any source other than (i) the United~~
12 ~~States or any agency or establishment thereof; or (ii)~~
13 ~~any public broadcasting entity; or~~

14 ~~“(B) as gifts, grants, donations, contributions, or~~
15 ~~payments from any State, or any educational institution,~~
16 ~~for the construction or operation of noncommercial edu-~~
17 ~~cational broadcast stations or for the production, acquisi-~~
18 ~~tion, distribution, or dissemination of educational televi-~~
19 ~~sion or radio programs, or payments in exchange for~~
20 ~~services or materials respecting the provisions of educa-~~
21 ~~tional or instructional television or radio programs.~~

22 ~~Such term includes the fair market value of personal services~~
23 ~~of volunteers but only with respect to such services provided~~
24 ~~to public telecommunications entities and only, with respect~~

1 ~~to such an entity in a fiscal year, to the extent that the value~~
2 ~~of the services does not exceed five percent of the total non-~~
3 ~~Federal financial support of the entity in that fiscal year.~~

4 “~~(9) The term ‘pre operational expenses’ means all~~
5 ~~nonconstruction costs incurred by new telecommunications~~
6 ~~entities before the date on which they begin providing~~
7 ~~service to the public, and all nonconstruction costs as~~
8 ~~sociated with expansion of existing entities before the date~~
9 ~~on which such expanded capacity is activated, except that~~
10 ~~such expenses shall not include any portion of the salaries of~~
11 ~~any personnel employed by an operating broadcasting sta-~~
12 ~~tion or other telecommunications entity.~~

13 “~~(10) The term ‘public broadcasting entity’ means the~~
14 ~~Corporation, any licensee or permittee of a public broadcast~~
15 ~~station, or any nonprofit institution engaged primarily in the~~
16 ~~production, acquisition, distribution, or dissemination of edu-~~
17 ~~cational television or radio programs.~~

18 “~~(11) The term ‘public telecommunications entity’~~
19 ~~means any enterprise which (A) is a public broadcasting~~
20 ~~station or a noncommercial telecommunications entity; (B)~~
21 ~~receives funds from the Corporation under section 396(k);~~
22 ~~and (C) distributes public television or radio program serv-~~
23 ~~ices to the public.~~

24 “~~(12) The term ‘public telecommunications facilities’~~
25 ~~means apparatus necessary for production, interconnection,~~

1 ~~captioning, broadcast, or other distribution of programming,~~
2 ~~including, without limitation, studio equipment, cameras,~~
3 ~~microphones, audio and video storage or reproduction equip-~~
4 ~~ment or both, signal processors and switchers, towers, anten-~~
5 ~~nas, transmitters, translators, microwave equipment, mobile~~
6 ~~equipment, satellite communications equipment, instructional~~
7 ~~television fixed service equipment, subsidiary communica-~~
8 ~~tions authorization transmitting and receiving equipment,~~
9 ~~cable television equipment, video and audio cassettes and~~
10 ~~discs, optical fiber communications equipment, and other~~
11 ~~means of transmitting, emitting, storing, and receiving~~
12 ~~images and sounds, or intelligence, except that such term~~
13 ~~shall not include the buildings to house such apparatus, with~~
14 ~~the exception of small equipment shelters which are part of~~
15 ~~satellite earth stations, translators, microwave interconne-~~
16 ~~tion facilities, and similar facilities.~~

17 ~~“(13) The term ‘State’ includes the District of Colum-~~
18 ~~bia, the Commonwealth of Puerto Rico, the Virgin Islands,~~
19 ~~Guam, American Samoa, and the Trust Territory of the~~
20 ~~Pacific Islands.~~

21 ~~“(14) The term ‘system of public broadcast stations’~~
22 ~~means any two or more public television or radio stations~~
23 ~~acting cooperatively, on a formal or informal basis, either~~
24 ~~to produce, acquire, or distribute programs; or to undertake~~
25 ~~programming and related activities.”.~~

1 ~~CANDIDATES FOR POLITICAL OFFICE~~

2 ~~SEC. 402. Section 399 of the Communications Act of~~
 3 ~~1934 is amended to read as follows:~~

4 ~~“CANDIDATES FOR POLITICAL OFFICE~~

5 ~~“SEC. 399. No public telecommunications entity may~~
 6 ~~support or oppose any candidate for political office.”.~~

7 ~~EFFECTIVE DATES~~

8 ~~SEC. 403. The provisions of this Act, and the amend-~~
 9 ~~ments made by this Act, shall take effect on October 1, 1978,~~
 10 ~~except that the amendments made by sections 102 and 201,~~
 11 ~~and the provisions of section 396 (k) (1) of the Communica-~~
 12 ~~tions Act of 1934 (as amended by section 307), shall take~~
 13 ~~effect on the date of the enactment of this Act.~~

14 *That this Act may be cited as the “Public Telecommuni-*
 15 *cations Financing Act of 1978”.*

16 *TITLE I—CONSTRUCTION AND PLANNING OF*
 17 *FACILITIES*

18 *DECLARATION OF PURPOSE*

19 *SEC. 101. Section 390 of the Communications Act of*
 20 *1934 is amended to read as follows:*

21 *“DECLARATION OF PURPOSE*

22 *“SEC. 390. The purpose of this subpart is to assist*
 23 *(through matching grants) in the planning and construction*
 24 *of public telecommunications facilities in order to achieve the*
 25 *following objectives: (1) extend delivery of public tele-*

1 *communications services to as many citizens of the United*
2 *States as possible by the most efficient and economical means,*
3 *including the use of broadcast and nonbroadcast technolo-*
4 *gies; (2) increase public telecommunications services and*
5 *facilities available to and owned by minorities and women;*
6 *and (3) strengthen the capability of existing public tele-*
7 *vision and radio stations to provide educational and cultural*
8 *services to the public.”.*

9 **AUTHORIZATION OF APPROPRIATIONS**

10 *SEC. 102. Section 391 of the Communications Act of*
11 *1934 is amended to read as follows:*

12 **“AUTHORIZATION OF APPROPRIATIONS**

13 *“SEC. 391. There are authorized to be appropriated*
14 *\$40,000,000 for each of the fiscal years 1979, 1980, and*
15 *1981, to be used by the Secretary of Commerce to assist in*
16 *the planning and construction of public telecommunications*
17 *facilities as provided in this subpart. Sums appropriated*
18 *under this subpart for any fiscal year shall remain available*
19 *until expended for payment of grants for projects for which*
20 *applications approved by the Secretary of Commerce pur-*
21 *suant to this subpart have been submitted within such fiscal*
22 *year. Sums appropriated under this subpart may be used by*
23 *the Secretary to cover the cost of administering the provisions*
24 *of this subpart.”.*

CONSTRUCTION AND PLANNING

1
2 *SEC. 103. (a) Section 392 of the Communications Act*
3 *of 1934 is amended to read as follows:*

"GRANTS FOR CONSTRUCTION AND PLANNING

4
5 *"SEC. 392. (a) For each project for the construction*
6 *of public telecommunications facilities there shall be sub-*
7 *mitted to the Secretary of Commerce an application for a*
8 *grant containing such information with respect to such*
9 *project as the Secretary may require, including the total*
10 *cost of such project, the amount of the grant requested for*
11 *such project, and a five-year plan outlining the applicant's*
12 *projected facilities requirements and the projected costs of*
13 *such facilities requirements. Each applicant shall also pro-*
14 *vide assurances satisfactory to the Secretary that—*

15 *"(1) the applicant is (A) an entity which is*
16 *eligible to be licensed or is licensed by the Federal*
17 *Communications Commission as a noncommercial edu-*
18 *cational broadcast station; (B) a system of public broad-*
19 *cast stations; (C) a nonprofit foundation, corporation,*
20 *institution, or association organized primarily for educa-*
21 *tional or cultural purposes; or (D) a State or local*
22 *government (or any agency thereof), or a political or*
23 *special purpose subdivision of a State;*

24 *"(2) the operation of such public telecommuni-*

1 *cations facilities will be under the control of the appli-*
2 *cant;*

3 *“(3) necessary funds to construct, operate, and*
4 *maintain such public telecommunications facilities will*
5 *be available when needed;*

6 *“(4) such public telecommunications facilities will*
7 *be used only for noncommercial educational or cultural*
8 *purposes;*

9 *“(5) the applicant has participated in comprehen-*
10 *sive planning for such public telecommunications facil-*
11 *ities in the area which the applicant proposes to serve,*
12 *and such planning has included an evaluation of alter-*
13 *nate technologies; and*

14 *“(6) the applicant will make the most efficient use*
15 *of the grant.*

16 *“(b) Upon approving any application under this sec-*
17 *tion with respect to any project for the construction of*
18 *public telecommunications facilities, the Secretary of Com-*
19 *merce shall make a grant to the applicant in the amount*
20 *determined by the Secretary, except that such amount shall*
21 *not exceed 75 per centum of the amount determined by the*
22 *Secretary to be the reasonable and necessary cost of such*
23 *project.*

1 “(c) The Secretary of Commerce may provide such
2 funds as the Secretary deems necessary for the planning of
3 any project for which construction funds may be obtained
4 under this section. An applicant for a planning grant shall
5 provide such information with respect to such project as the
6 Secretary may require and shall provide assurances satisfac-
7 tory to the Secretary that the applicant meets the eligibility
8 requirements of subsection (a) to receive construction assist-
9 ance.

10 “(d) Any studies conducted by or for any grant re-
11 cipient under this section shall be provided to the Secretary
12 of Commerce, if such studies are conducted through the use
13 of funds received under this section.

14 “(e) The Secretary of Commerce shall establish such
15 rules and regulations as may be necessary to carry out this
16 subpart, including rules and regulations relating to the order
17 of priority in approving applications for construction projects
18 and relating to determining the amount of each grant for
19 such projects.

20 “(f) In establishing criteria for grants pursuant to sec-
21 tion 393 and in establishing procedures relating to the order
22 of priority established in subsection (e) in approving appli-
23 cations for grants, the Secretary of Commerce shall give
24 special consideration to applications which would increase
25 minority and women’s ownership of, and participation in,

1 *public telecommunications entities. The Secretary shall take*
2 *affirmative steps to inform minorities and women of the*
3 *availability of funds under this subpart, and the localities*
4 *where new public telecommunications facilities are needed,*
5 *and to provide such assistance and information as may be*
6 *appropriate.*

7 “(g) *If, within ten years after completion of any proj-*
8 *ect for construction of public telecommunications facilities*
9 *with respect to which a grant has been made under this*
10 *section—*

11 “(1) *the applicant or other owner of such facil-*
12 *ities ceases to be an agency, institution, foundation,*
13 *corporation, or association described in subsection*
14 *(a) (1); or*

15 “(2) *such facilities cease to be used only for non-*
16 *commercial public telecommunications purposes (unless*
17 *the Secretary determines, in accordance with regulations,*
18 *that there is good cause for releasing the applicant or*
19 *other owner from the obligation to do so),*
20 *the United States shall be entitled to recover from the*
21 *applicant or other owner of such facilities the amount bear-*
22 *ing the same ratio to the value of such facilities at the time*
23 *the applicant ceases to be such an entity or at the time*
24 *of such determination (as determined by agreement of the*
25 *parties or by action brought in the United States district*

1 court for the district in which such facilities are situated),
2 as the amount of the Federal participation bore to the cost
3 of construction of such facilities.

4 “(h) Each recipient of assistance under this subpart
5 shall keep such records as may be reasonably necessary to
6 enable the Secretary of Commerce to carry out the func-
7 tions of the Secretary under this subpart, including records
8 which fully disclose the amount and the disposition by such
9 recipient of the proceeds of such assistance, the total cost
10 of the project in connection with which such assistance is
11 given or used, and the amount and nature of that portion
12 of the cost of the project supplied by other sources, and such
13 other records as will facilitate an effective audit.

14 “(i) The Secretary of Commerce and the Comptroller
15 General of the United States, or any of their duly authorized
16 representatives, shall have access for the purpose of audit
17 and examination to any books, documents, papers, and rec-
18 ords of any recipient of assistance under this subpart that
19 are pertinent to assistance received under this subpart.”.

20 (b) The provisions of section 392(g) of the Communi-
21 cations Act of 1934, as added by subsection (a), shall apply
22 to any grant made under section 392 of such Act before, on,
23 or after the date of the enactment of this Act. Any authority
24 and responsibilities of the Secretary of Health, Education,

1 *and Welfare regarding the administration of such grants are*
 2 *hereby transferred to the Secretary of Commerce.*

3 **CRITERIA FOR APPROVAL AND EXPENDITURES**

4 **BY SECRETARY OF COMMERCE**

5 *SEC. 104. Section 393 of the Communications Act of*
 6 *1934 is amended to read as follows:*

7 **"CRITERIA FOR APPROVAL AND EXPENDITURES**

8 **BY SECRETARY OF COMMERCE**

9 *"SEC. 393. (a) The Secretary of Commerce, in consulta-*
 10 *tion with the Corporation for Public Broadcasting, noncom-*
 11 *mercial telecommunications entities, and as appropriate with*
 12 *others, shall establish criteria for making construction and*
 13 *planning grants. Such criteria shall be consistent with the*
 14 *objectives and provisions set forth in this subpart, and shall*
 15 *be made available to interested parties upon request.*

16 *"(b) The Secretary of Commerce shall base determina-*
 17 *tions of whether to approve applications for grants under*
 18 *this subpart, and the amount of such grants, on criteria*
 19 *developed pursuant to subsection (a) and designed to*
 20 *achieve—*

21 *"(1) the provision of new telecommunications fa-*
 22 *ilities to extend service to areas presently unserved by*
 23 *public broadcasting;*

24 *"(2) the expansion of the service areas of existing*
 25 *public telecommunications entities;*

1 “(3) the development of public telecommunications
2 facilities owned by and available to minorities and
3 women; and

4 “(4) the improvement of the capabilities of exist-
5 ing public broadcast stations to provide educational and
6 cultural services.

7 “(c) Of the funds appropriated pursuant to section 391
8 for any fiscal year, not less than 75 per centum shall be avail-
9 able for the creation of new noncommercial telecommunica-
10 tions entities and for the expansion of the service areas of
11 existing noncommercial telecommunications entities, and
12 preoperational expenses associated with such creation and
13 expansion. In choosing among applicants for grants, the
14 Secretary shall compare the advantages of alternate technol-
15 ogies on the basis of costs and benefits.

16 “(d) Of the funds appropriated pursuant to section 391
17 for any fiscal year, not more than 25 per centum shall be
18 available for the expansion and development of noncommer-
19 cial radio broadcast station facilities.”.

20 **LONG-RANGE PLANNING FOR FACILITIES**

21 **SEC. 105.** Section 394 of the Communications Act of
22 1934 is amended to read as follows:

23 **“LONG-RANGE PLANNING FOR FACILITIES**

24 **“SEC. 394. (a)** The Secretary of Commerce, in consul-
25 tation with appropriate parties, shall develop a long-range

1 *plan to accomplish the objectives set forth in section 390.*
 2 *Such plan shall include a detailed five-year projection of*
 3 *the broadcast and nonbroadcast public telecommunications*
 4 *facilities required to meet such objectives, and the expendi-*
 5 *tures necessary to provide those facilities.*

6 “(b) *The plan required in subsection (a) shall be up-*
 7 *dated annually, and a summary of the activities of the*
 8 *Secretary of Commerce, in implementing the plan, shall be*
 9 *submitted concurrently to the President and the Congress.”.*

10 **MISCELLANEOUS PROVISIONS**

11 **SEC. 106.** (a) *The heading for part IV of title III of*
 12 *the Communications Act of 1934 is amended to read as*
 13 *follows:*

14 “**PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICA-**
 15 **TIONS FACILITIES; TELECOMMUNICATIONS DEMON-**
 16 **STRATIONS; CORPORATION FOR PUBLIC BROADCAST-**
 17 **ING”.**

18 (b) *The heading for subpart A of part IV of title III of*
 19 *the Communications Act of 1934 is amended to read as*
 20 *follows:*

21 “**Subpart A—Assistance for Public Telecommunications**
 22 **Facilities”.**

23 (c) *The position of Deputy Assistant Secretary of*
 24 *Commerce for Communications and Information, established*
 25 *in Department of Commerce Organization Order Numbered*

1 10-10 (effective March 26, 1978), shall be compensated at
2 the rate of pay in effect from time to time for level V of the
3 Executive Schedule under section 5316 of title 5, United
4 States Code.

5 **TITLE II—TELECOMMUNICATIONS**

6 **DEMONSTRATIONS**

7 **ASSISTANCE FOR DEMONSTRATION PROJECTS**

8 *SEC. 201. Part IV of title III of the Communications*
9 *Act of 1934 is amended by striking out section 395, by*
10 *redesignating subpart B and subpart C as subpart C and*
11 *subpart D, respectively, and by inserting after subpart A*
12 *the following new subpart:*

13 *“Subpart B—Telecommunications Demonstrations*

14 *“ASSISTANCE FOR DEMONSTRATION PROJECTS*

15 *“SEC. 395. (a) It is the purpose of this subpart to*
16 *promote the development of nonbroadcast telecommunica-*
17 *tions facilities and services for the transmission, distribution,*
18 *and delivery of health, education, and public or social service*
19 *information. The Secretary is authorized, upon receipt of an*
20 *application in such form and containing such information as*
21 *he may by regulation require, to make grants to, and enter*
22 *into contracts with, public and private nonprofit agencies, or-*
23 *ganizations, and institutions for the purpose of carrying out*
24 *telecommunications demonstrations.*

1 “(b) The Secretary may approve an application sub-
2 mitted under subsection (a) if he determines—

3 “(1) that the project for which application is made
4 will demonstrate innovative methods or techniques of
5 utilizing nonbroadcast telecommunications equipment or
6 facilities to satisfy the purpose of this subpart;

7 “(2) that demonstrations and related activities as-
8 sisted under this subpart will remain under the adminis-
9 tration and control of the applicant;

10 “(3) that the applicant has the managerial and
11 technical capability to carry out the project for which
12 the application is made; and

13 “(4) that the facilities and equipment acquired or
14 developed pursuant to the application will be used
15 substantially for the transmission, distribution, and
16 delivery of health, education, or public or social service
17 information.

18 “(c) Upon approving any application under this sub-
19 part with respect to any project, the Secretary shall make a
20 grant to or enter into a contract with the applicant in an
21 amount determined by the Secretary not to exceed the rea-
22 sonable and necessary cost of such project. The Secretary
23 shall pay such amount from the sums available therefor, in
24 advance or by way of reimbursement, and in such install-

1 *ments consistent with established practice, as he may*
2 *determine.*

3 “(d) *Funds made available pursuant to this subpart*
4 *shall not be available for the construction, remodeling, or*
5 *repair of structures to house the facilities or equipment*
6 *acquired or developed with such funds, except that such*
7 *funds may be used for minor remodeling which is necessary*
8 *for and incidental to the installation of such facilities or*
9 *equipment.*

10 “(e) *For purposes of this section, the term ‘nonbroad-*
11 *cast telecommunications facilities’ includes, but is not limited*
12 *to, cable television systems, communications satellite systems*
13 *and related terminal equipment, and other modes of trans-*
14 *mitting, emitting, or receiving images and sounds or intelli-*
15 *gence by means of wire, radio, optical, electromagnetic, or*
16 *other means.*

17 “(f) *The funding of any demonstration pursuant to this*
18 *subpart shall continue for not more than three years from*
19 *the date of the original grant or contract.*

20 “(g) *The Secretary shall require that the recipient of*
21 *a grant or contract under this subpart submit a summary and*
22 *evaluation of the results of the demonstration at least annually*
23 *for each year in which funds are received pursuant to this*
24 *section.*

1 “(h)(1) Each recipient of assistance under this sub-
2 part shall keep such records as may be reasonably necessary
3 to enable the Secretary of Health, Education, and Welfare
4 to carry out the Secretary’s functions under this subpart,
5 including records which fully disclose the amount and the
6 disposition by such recipient of the proceeds of such assist-
7 ance, the total cost of the project or undertaking in connec-
8 tion with which such assistance is given or used, and the
9 amount and nature of that portion of the cost of the project
10 or undertaking supplied by other sources, and such other
11 records as will facilitate an effective audit.

12 “(2) The Secretary of Health, Education, and Welfare
13 and the Comptroller General of the United States, or any of
14 their duly authorized representatives, shall have access for
15 the purposes of audit and examination to any books, docu-
16 ments, papers, and records of the recipient that are pertinent
17 to assistance received under this subpart.

18 “(i) The Secretary is authorized to make such rules and
19 regulations as may be necessary to carry out this subpart,
20 including regulations relating to the order of priority in
21 approving applications for projects under this subpart or to
22 determining the amounts of grants for such projects.

23 “(j) The Federal Communications Commission is au-
24 thorized to provide such assistance in carrying out the pro-
25 visions of this subpart as may be requested by the Secretary.

1 *The Secretary shall provide for close coordination with the*
2 *Federal Communications Commission in the administration*
3 *of his functions under this subpart which are of interest to*
4 *or affect the functions of the Commission. The Secretary*
5 *shall provide for close coordination with the Corporation for*
6 *Public Broadcasting in the administration of his functions*
7 *under this subpart which are of interest to or affect the func-*
8 *tions of the Corporation.*

9 “(k) *There are authorized to be appropriated \$1,000,-*
10 *000 for the fiscal year ending September 30, 1979, to be*
11 *used by the Secretary of Health, Education, and Welfare to*
12 *carry out the provisions of this subpart. Sums appropriated*
13 *under this subsection for any fiscal year shall remain avail-*
14 *able for payment of grants or contracts for projects for which*
15 *applications approved under this subpart have been submitted*
16 *within one year after the last day of such fiscal year.”.*

17 *TITLE III—CORPORATION FOR PUBLIC*

18 *BROADCASTING*

19 *DECLARATION OF POLICY*

20 *SEC. 301. Section 396(a) of the Communications Act*
21 *of 1934 is amended to read as follows:*

22 “*SEC. 396. (a) The Congress hereby finds and declares—*

23 “*(1) that it is in the public interest to encourage*
24 *the growth and development of public radio and televi-*

1 *sion broadcasting, including the use of such media for*
2 *instructional, educational, and cultural purposes;*

3 *“(2) that expansion and development of public*
4 *telecommunications and of diversity of its programming*
5 *depend on freedom, imagination, and initiative on both*
6 *local and national levels;*

7 *“(3) that the encouragement and support of public*
8 *broadcasting, while matters of importance for private*
9 *and local development, are also of appropriate and im-*
10 *portant concern to the Federal Government;*

11 *“(4) that it furthers the general welfare to encour-*
12 *age public broadcast programming which will be re-*
13 *sponsive to the interests of people both in particular*
14 *localities and throughout the United States, and which*
15 *will constitute an expression of diversity and excellence;*

16 *“(5) that it is necessary and appropriate for the*
17 *Federal Government to complement, assist, and support*
18 *a national policy that will most effectively make public*
19 *broadcasting available to all the citizens of the United*
20 *States;*

21 *“(6) that it is in the public interest to encourage*
22 *the growth and development of nonbroadcast telecom-*
23 *munications technologies for the transmission of non-*
24 *commercial educational and cultural programs and serv-*
25 *ices; and*

1 “(7) that a private corporation should be created
2 to facilitate the development of public telecommunica-
3 tions and to afford maximum protection from extraneous
4 interference and control.”.

5 **CHAIRMAN OF THE BOARD**

6 **SEC. 302.** *Section 396(d)(1) of the Communications*
7 *Act of 1934 is amended by striking out “President shall*
8 *designate one of the members first appointed to the Board:*
9 *thereafter the”.*

10 **COMPENSATION OF OFFICERS AND EMPLOYEES**

11 **SEC. 303.** *Section 396(e)(1) of the Communications*
12 *Act of 1934 is amended by inserting after the first sentence*
13 *the following new sentence: “No officer or employee of the*
14 *Corporation may be compensated by the Corporation at an*
15 *annual rate of pay which exceeds the rate of pay in effect*
16 *from time to time for level I of the Executive Schedule under*
17 *section 5312 of title 5, United States Code.”.*

18 **PURPOSES AND ACTIVITIES OF CORPORATION**

19 **SEC. 304.** *Section 396(g) of the Communications Act*
20 *of 1934 is amended to read as follows:*

21 *“Purposes and Activities of Corporation*

22 “(g)(1) *In order to achieve the objectives and to*
23 *carry out the purposes of this subpart, as set out in sub-*
24 *section (a) of this section, the Corporation may—*

25 “(A) *facilitate the full development of public tele-*

1 *communications in which programs of high quality, diver-*
2 *sity, creativity, excellence, and innovation, which are*
3 *obtained from diverse sources, will be made available*
4 *to public television or radio broadcast stations and non-*
5 *commercial telecommunications entities, with strict ad-*
6 *herence to objectivity and balance in all programs or*
7 *series of programs of a controversial nature;*

8 *“(B) assist in the establishment and development*
9 *of one or more interconnection systems to be used for*
10 *the distribution of public television or radio programs so*
11 *that all public television or radio broadcast stations and*
12 *noncommercial telecommunications entities may dissemi-*
13 *nate the programs at times chosen by the stations or*
14 *entities;*

15 *“(C) assist in the establishment and development*
16 *of one or more systems of public broadcast stations and*
17 *noncommercial telecommunications entities throughout*
18 *the United States; and*

19 *“(D) carry out its purposes and functions and en-*
20 *gage in its activities in ways that will most effectively*
21 *assure the maximum freedom of the public television*
22 *or radio broadcast systems and local stations and non-*
23 *commercial telecommunications entities from interference*
24 *with, or control of, program content or other activities.*

1 “(2) In order to carry out the purposes set forth in
2 subsection (a) of this section, the Corporation may—

3 “(A) obtain grants from and make contracts with
4 individuals and with private, State, and Federal agen-
5 cies, organizations, and institutions;

6 “(B) contract with or make grants to national,
7 regional, and other systems of public broadcast stations,
8 public broadcast stations, noncommercial telecommunica-
9 tions entities, and independent producers and production
10 entities for the production or acquisition of public tele-
11 vision or radio programs for national or regional non-
12 commercial distribution, except that (i) to the maximum
13 extent possible, proposals for the provision of assistance
14 by the Corporation in the production or acquisition of
15 programs or series of programs shall be evaluated on the
16 basis of comparative merit by panels of outside experts,
17 representing diverse interests and perspectives, ap-
18 pointed by the Corporation; and (ii) nothing in this
19 subparagraph shall be construed to prohibit the exercise
20 by the Corporation of its prudent business judgment with
21 respect to any contract or grant to assist in the produc-
22 tion or acquisition of any program or series of programs
23 recommended by any such panel;

24 “(C) make payments to existing and new public
25 broadcast stations and noncommercial telecommunica-

1 *tions entities to aid in financing noncommercial televi-*
2 *sion and radio programing costs of such stations and*
3 *entities, particularly innovative approaches thereto, and*
4 *other costs of operation of such stations and entities;*

5 *“(D) establish and maintain a library and archives*
6 *of public television or radio programs and related ma-*
7 *terials and develop public awareness of, and disseminate*
8 *information about, public television or radio services by*
9 *various means, including the publication of a journal;*

10 *“(E) arrange, by grant to or contract with ap-*
11 *propriate public or private agencies, organizations, or*
12 *institutions, for interconnection facilities suitable for dis-*
13 *tribution and transmission of educational and cultural*
14 *television or radio programs and services to public broad-*
15 *cast stations and noncommercial telecommunications*
16 *entities;*

17 *“(F) hire or accept the voluntary services of con-*
18 *sultants, experts, advisory boards, and panels to aid the*
19 *Corporation in carrying out the purposes of this subpart;*

20 *“(G) conduct (directly or through grants or con-*
21 *tracts) research, demonstrations, or training in matters*
22 *related to public television or radio broadcasting and*
23 *the use of nonbroadcast communications technologies*
24 *for the dissemination of noncommercial educational and*
25 *cultural television or radio programs;*

1 “(H) make grants or contracts for the use of non-
2 broadcast telecommunications technologies for the dis-
3 semination of noncommercial television or radio pro-
4 grams, except that any such contracts entered into
5 shall be effective only to the extent or in such amounts
6 as are provided in advance in appropriation Acts; and

7 “(I) take such other actions as may be necessary
8 to accomplish the purposes set forth in subsection (a)
9 of this section.

10 “(3) To carry out the foregoing purposes and engage
11 in the foregoing activities, and consistent with the provi-
12 sions of this subpart, the Corporation shall have the usual
13 powers conferred upon a nonprofit corporation by the
14 District of Columbia Nonprofit Corporation Act, except that
15 the Corporation is prohibited from—

16 “(A) owning or operating any television or radio
17 broadcast station, system, or network, community an-
18 tenna television system, interconnection system or
19 facility, program production facility, or any public
20 telecommunications entity, system, or network; and

21 “(B) producing, acquiring, scheduling, or distribut-
22 ing programs.

23 “(4) All meetings of the Board of Directors of the
24 Corporation shall be open to the public under such terms,

1 conditions, and exceptions as are set forth in subsection (k)
2 (4) of this section.

3 “(5)(A) The Corporation, in consultation with public
4 broadcast stations, shall undertake a study to determine the
5 manner in which the personal services of volunteers should
6 be included in determining the level of non-Federal financial
7 support pursuant to subsection (k)(2)(A). The study shall
8 include an examination of any fiscal, administrative, or other
9 factors which should be taken into account in determining the
10 manner in which such services should be so included.

11 “(B) The Corporation shall submit a report to the Con-
12 gress containing the results of such study no later than 120
13 days after the effective date of this paragraph.

14 “(6) The Corporation, in consultation with interested
15 parties, shall create a five-year plan for the development of
16 public television and radio programs and services. Such plan
17 shall be updated annually by the Corporation.”

18 **INTERCONNECTION SERVICE**

19 **SEC. 305.** Section 396(h) of the Communications Act
20 of 1934 is amended to read as follows:

21 **“Interconnection Service**

22 “(h)(1) Nothing in this Act, or in any other provision
23 of law, shall be construed to prevent United States communi-
24 cations common carriers from rendering free or reduced rate
25 communications interconnection services for public television

1 or radio services, subject to such rules and regulations as the
 2 Federal Communications Commission may prescribe.

3 “(2) Public telecommunications entities shall have pri-
 4 ority for the use of interconnection systems for which funds
 5 authorized in this part are expended. Capacity remaining
 6 after such priority use shall be made available to other per-
 7 sons for the transmission of noncommercial educational and
 8 cultural programs, and information relating to such programs
 9 to public telecommunications entities. The Corporation, in
 10 consultation with the persons responsible for managing the
 11 interconnection systems, shall establish reasonable terms and
 12 conditions governing the use of the interconnection systems
 13 by persons other than public telecommunications entities,
 14 except that (A) no such person shall be denied access when-
 15 ever sufficient capacity is available; and (B) any charge
 16 made for such use shall not exceed any cost which is directly
 17 attributable to transmitting the material.”.

18 ANNUAL REPORT TO CONGRESS

19 SEC. 306. Section 396(i) of the Communications Act
 20 of 1934 is amended to read as follows:

21 “Report to Congress

22 “(i) (1) The Corporation shall submit an annual report
 23 for the preceding fiscal year ending September 30 to the
 24 President for transmittal to the Congress on or before the
 25 31st day of December of each year. The report shall include—

1 “(A) a comprehensive and detailed report of the
2 Corporation’s operations, activities, financial condition,
3 and accomplishments under this subpart and such recom-
4 mendations as the Corporation deems appropriate;

5 “(B) a comprehensive and detailed inventory of
6 funds distributed by Federal agencies to public broad-
7 casting and noncommercial telecommunications entities
8 during the preceding fiscal year; and

9 “(C) the summary of the annual report provided
10 to the Secretary of Health, Education, and Welfare pur-
11 suant to section 398(b)(4).

12 “(2) The officers and directors of the Corporation shall
13 be available to testify before appropriate committees of
14 the Congress with respect to such report, the report of any
15 audit made by the Comptroller General pursuant to sec-
16 tion 396(l), or any other matter which such committees
17 may determine.”.

18 **FINANCING; OPEN MEETINGS AND FINANCIAL RECORDS**

19 **SEC. 307.** Section 396(k) of the Communications Act
20 of 1934 is amended to read as follows:

21 **“Financing; Open Meetings and Financial Records**

22 “(k)(1)(A) There is hereby established in the Treas-
23 ury a fund which shall be known as the Public Broadcasting
24 Fund (hereinafter in this subsection referred to as the

1 *'Fund'), to be administered by the Secretary of the*
2 *Treasury.*

3 *“(B) There is authorized to be appropriated to the*
4 *Fund, for each of the fiscal years 1978, 1979, and 1980,*
5 *an amount equal to 40 per centum of the total amount of*
6 *non-Federal financial support received by public broad-*
7 *casting entities during the fiscal year second preceding*
8 *each such fiscal year, except that the amount so appropriated*
9 *shall not exceed \$121,000,000 for fiscal year 1978, \$140,-*
10 *000,000 for fiscal year 1979, and \$160,000,000 for fiscal*
11 *year 1980.*

12 *“(C) There is authorized to be appropriated to the*
13 *Fund, for each of the fiscal years 1981, 1982, and 1983,*
14 *an amount equal to 50 per centum of the total amount of*
15 *non-Federal financial support received by public broadcast-*
16 *ing entities during the fiscal year second preceding each such*
17 *fiscal year, except that the amount so appropriated shall not*
18 *exceed \$180,000,000 for fiscal year 1981, \$200,000,000 for*
19 *fiscal year 1982, and \$220,000,000 for fiscal year 1983.*

20 *“(D) Funds appropriated under this subsection shall*
21 *remain available until expended.*

22 *“(2)(A) The funds authorized to be appropriated by*
23 *this subsection shall be used by the Corporation, in a pru-*
24 *dent and financially responsible manner, solely for its grants,*
25 *contracts, and administrative costs, except that the Corpora-*

1 *tion may not use any funds appropriated under this subpart*
2 *for purposes of conducting any reception, or providing any*
3 *other entertainment, for any officer or employee of the Federal*
4 *Government or any State or local government. The Corpora-*
5 *tion shall determine the amount of non-Federal financial sup-*
6 *port received by public broadcasting entities during each*
7 *of the fiscal years referred to in paragraph (1) for the pur-*
8 *pose of determining the amount of each authorization, and*
9 *shall certify such amount to the Secretary of the Treasury,*
10 *except that the Corporation may include in its certification*
11 *non-Federal financial support received by a public broad-*
12 *casting entity during its most recent fiscal year ending be-*
13 *fore September 30 of the year for which certification is*
14 *made. Upon receipt of such certification, the Secretary of*
15 *the Treasury shall make available to the Corporation, from*
16 *such funds as may be appropriated to the Fund, the amount*
17 *authorized for each of the fiscal years pursuant to the pro-*
18 *visions of this subsection.*

19 *“(B) Funds appropriated and made available under*
20 *this subsection shall be disbursed by the Secretary of the*
21 *Treasury on a quarterly basis, in such amounts as the Cor-*
22 *poration certifies will be necessary to meet its financial obli-*
23 *gations in the succeeding quarter.*

24 *“(3)(A) The Corporation shall reserve for distribu-*
25 *tion among the licensees and permittees of public television.*

1 *and radio stations an amount equal to (i) not less than 40*
2 *per centum of the funds disbursed by the Corporation from*
3 *the Fund under this section in each fiscal year in which*
4 *the amount disbursed is \$88,000,000 or more, but less than*
5 *\$121,000,000; (ii) not less than 45 per centum of such funds*
6 *in each fiscal year in which the amount disbursed is \$121,-*
7 *000,000 or more, but less than \$160,000,000; and (iii)*
8 *not less than 50 per centum of such funds in each fiscal year*
9 *in which the amount disbursed is \$160,000,000 or more.*

10 “(B)(i) *The Corporation shall establish an annual*
11 *budget according to which it shall make grants and contracts*
12 *for production of public television or radio programs by inde-*
13 *pendent producers and production entities and public tele-*
14 *communications entities, for acquisition of such programs by*
15 *public telecommunications entities, for interconnection facili-*
16 *ties and operations, for distribution of funds among non-*
17 *commercial telecommunications entities, for provision of*
18 *assistance to public telecommunications entities to improve*
19 *management and train personnel, for engineering and pro-*
20 *gram-related research, and for the enhancement of instruc-*
21 *tional and educational television and radio services. A sig-*
22 *nificant portion of funds available under the budget estab-*
23 *lished by the Corporation under this subparagraph shall*
24 *be used for funding the production of television and radio*
25 *programs. Of such portion, a substantial amount shall be*

1 reserved for distribution to independent producers and
2 production entities for the production of programs.

3 “(ii) All funds contained in such budget shall be dis-
4 tributed to entities outside the Corporation and shall not be
5 used for the general administrative costs of the Corporation,
6 the salaries or related expenses of Corporation personnel and
7 members of the Board, or for expenses of consultants and
8 advisers to the Corporation. During each of the fiscal years
9 1981, 1982, and 1983, such budget shall consist of not less
10 than 95 per centum of the funds made available to the Cor-
11 poration pursuant to paragraph (1)(C) of this subsection.

12 “(iii) In determining the amount of funds which shall be
13 made available for radio programing and operations under
14 this subparagraph, the Corporation shall take into account the
15 increased financial needs relating to radio programing and
16 operations resulting from the expansion and development of
17 noncommercial radio broadcast station facilities through the
18 use of funds made available pursuant to section 393(d).

19 “(C) In fiscal year 1981, the Corporation may expend
20 an amount equal to not more than 5 per centum of the
21 funds made available during such fiscal year pursuant to
22 paragraph (1)(C) of this subsection for those activities
23 authorized under subsection (g)(2) which are not among
24 those grant activities described in subparagraph (B).

1 “(D) In fiscal years 1982 and 1983, the amount which
2 the Corporation may expend for activities authorized under
3 subsection (g)(2) which are not among those grant activi-
4 ties described in subparagraph (B) shall be 105 per centum
5 of the amount derived for the preceding fiscal year.

6 “(4) Funds may not be distributed pursuant to this sub-
7 section to the Public Broadcasting Service or National Public
8 Radio (or any successor organization), or to the licensee or
9 permittee of any public broadcast station, unless the govern-
10 ing body of any such organization, any committee of such
11 governing body, or any advisory body of any such organiza-
12 tion, holds open meetings preceded by reasonable notice to
13 the public. All persons shall be permitted to attend any meet-
14 ing of the board, or of any such committee or body, and no
15 member of the public shall be required, as a condition to
16 attendance at any such meeting, to register his or her name
17 or to provide any other information. Nothing contained in
18 this paragraph shall be construed to prevent any such board,
19 committee, or body from holding closed sessions to consider
20 personnel matters, pending or proposed litigation, labor nego-
21 tiations, contract negotiations, the development of proposed
22 or pending competitive proposals for grants or contracts, trade
23 secrets, or commercial or financial information obtained from
24 a person on a privileged or confidential basis. If any such
25 meeting is closed pursuant to the provisions of this paragraph,

1 the organization involved shall make available to the public a
2 written statement containing—

3 “(A) an explanation of the reasons for closing the
4 meeting, including a general description of the subject
5 matter of the meeting; and

6 “(B) a list of the individuals who attended the
7 meeting, including an identification of any organization
8 represented by any such individual.

9 “(5) Funds may not be distributed pursuant to this
10 subsection to the licensee or permittee of any public broad-
11 cast station that does not maintain for public examination
12 copies of the annual financial and audit reports submitted
13 to the Corporation pursuant to subsection (1)(3)(B).

14 “(6)(A) The Corporation, in consultation with public
15 television and radio licensees, shall establish and review
16 annually the percentage of funds reserved pursuant to para-
17 graph (3)(A), and the criteria and conditions regarding
18 the division and distribution of such funds among public
19 television and radio stations.

20 “(B) The funds reserved for public broadcast stations
21 pursuant to paragraph (3)(A) shall be divided into two
22 portions, one to be distributed among radio stations and one
23 to be distributed among television stations. The Corporation
24 shall make a basic grant from the portion reserved for tele-
25 vision stations to each licensee and permittee of a public

1 television station that is on the air. The balance of the por-
2 tion reserved for television stations and the total portion
3 reserved for radio stations shall be distributed to licensees
4 and permittees of such stations in accordance with eligibility
5 criteria that promote the public interest in public broad-
6 casting, and on the basis of criteria designed to—

7 “(i) provide for the financial needs and require-
8 ments of stations in relation to the communities and
9 audiences such stations undertake to serve;

10 “(ii) maintain existing, and stimulate new, sources
11 of non-Federal financial support for stations by provid-
12 ing incentives for increases in such support;

13 “(iii) assure that each eligible licensee and per-
14 mittee of a public radio station receives a basic grant;

15 “(iv) encourage innovative approaches, both tech-
16 nical and programming, to reaching new audiences;

17 “(v) encourage responsiveness to the community
18 served by each station;

19 “(vi) encourage cost efficiencies, particularly in in-
20 creasing programming expenditures in relation to admin-
21 istrative costs;

22 “(vii) encourage programs to train women and
23 minorities and to increase their participation in public
24 broadcasting; and

1 “(viii) encourage the use of volunteers by stations.

2 “(7) No distribution of funds pursuant to this subsec-
3 tion shall exceed, in any fiscal year, 50 per centum of a li-
4 censee’s or permittee’s total non-Federal financial support
5 during the fiscal year second preceding the fiscal year in which
6 such distribution is made.

7 “(8) The funds distributed to each public television
8 and public radio station pursuant to paragraph (3)(A)
9 may be used at the discretion of the recipient for purposes
10 relating to the provision of public television and radio pro-
11 gramming, including, but not limited to—

12 “(A) producing, acquiring, broadcasting, or other-
13 wise disseminating public television or radio programs;

14 “(B) procuring national or regional programs dis-
15 tribution services that make public television or radio
16 programs available for broadcast or other dissemination
17 at times chosen by stations;

18 “(C) acquiring, replacing, or maintaining facilities,
19 and real property used with facilities, for the production,
20 broadcast, or other dissemination of public television and
21 radio programs; and

22 “(D) developing and using nonbroadcast communi-
23 cations technologies for public television or radio pro-
24 gramming purposes.

1 “(9)(A) Any public broadcast station which desires
2 to receive funds under this subpart shall establish a commu-
3 nity advisory board. The membership of the board shall, to
4 the maximum extent feasible, be composed of individuals who
5 are representative of the communities served by the station.

6 “(B) The board shall be permitted to review the pro-
7 gramming goals established by the station, the service pro-
8 vided by the station, and the significant policy decisions
9 rendered by the station. The Board may also be delegated
10 any other responsibilities, as determined by the governing
11 body of the station. The board shall advise the governing
12 body of the station with respect to whether the programming
13 and other policies of such station are meeting the specialized
14 educational and informational needs of the communities
15 served by the station, and may make such recommendations
16 as it considers appropriate to meet such needs.

17 “(C) The role of the board shall be solely advisory in
18 nature, except to the extent other responsibilities are dele-
19 gated to the board by the governing body of the station.
20 In no case shall the board have any authority to exercise
21 any control over the daily management or operation of the
22 station.

23 “(D) In the case of any public broadcasting station in
24 existence on the effective date of this paragraph, such station
25 shall comply with the requirements of this paragraph with

1 respect to the establishment of a community advisory board
2 not later than 180 days after such effective date.

3 “(10) Funds may not be distributed pursuant to this
4 subsection to the Public Broadcasting Service or National
5 Public Radio (or any successor organization) unless assur-
6 ances are provided that no officer or employee of the Public
7 Broadcasting Service or National Public Radio (or any suc-
8 cessor organization), as the case may be, will be compensated
9 at an annual rate of pay which exceeds the rate of pay in
10 effect from time to time for level I of the Executive Schedule
11 under section 5312 of title 5, United States Code.”.

12 **FINANCIAL MANAGEMENT AND RECORDS**

13 **SEC. 308.** Section 396(l)(3) of the Communications
14 Act of 1934 is amended to read as follows:

15 “(3)(A) The Corporation, in consultation with the
16 General Accounting Office, the Financial Accounting Stand-
17 ards Board, and as appropriate with others, shall develop a
18 uniform system of accounts which shall be used by all public
19 broadcast licensees or permittees receiving funds under this
20 subpart. Such system shall be designed to account fully for all
21 funds received and expended for public broadcasting pur-
22 poses by such licensees or permittees. Nothing contained in
23 this paragraph shall prevent the Corporation from adopting
24 different classes of accounting systems that may be appro-
25 priate to different classes of licensees or permittees.

1 “(B) *Each noncommercial broadcast licensee or per-*
2 *mittee receiving funds under this subpart shall be required—*

3 “(i) *to keep its books, records, and accounts in*
4 *such form as may be required by the Corporation;*

5 “(ii) *to undergo an annual audit by independent*
6 *certified public accountants or independent licensed*
7 *public accountants certified or licensed by a regulatory*
8 *authority of a State, which audit shall be in accordance*
9 *with auditing standards developed by the Corporation,*
10 *in consultation with the General Accounting Office; and*

11 “(iii) *to furnish annually to the Corporation a copy*
12 *of the audit report required pursuant to clause (ii), as*
13 *well as such other information regarding financial opera-*
14 *tions that the Corporation may require.*

15 “(C) *Any recipient of assistance by grant or contract*
16 *under this section, other than a fixed price contract awarded*
17 *pursuant to competitive bidding procedures, shall keep such*
18 *records as may be reasonably necessary to disclose fully the*
19 *amount and the disposition by such recipient of such as-*
20 *sistance, the total cost of the project or undertaking in con-*
21 *nection with which such assistance is given or used, and*
22 *the amount and nature of that portion of the cost of the*
23 *project or undertaking supplied by other sources, and such*
24 *other records as will facilitate an effective audit.*

1 “(D) The Corporation or any of its duly authorized
2 representatives shall have access for the purpose of audit and
3 examination to any books, documents, papers, and records
4 of any recipient of assistance that are related to assistance
5 received under this section. The Comptroller General of the
6 United States or any of his duly authorized representatives
7 shall also have access thereto for such purpose during any
8 fiscal year for which Federal funds are available to the
9 Corporation.”.

10 **EQUAL EMPLOYMENT OPPORTUNITY**

11 **SEC. 309.** Section 398 of the Communications Act of
12 1934 is amended to read as follows:

13 **“FEDERAL INTERFERENCE OR CONTROL PROHIBITED;**

14 **EQUAL EMPLOYMENT OPPORTUNITY**

15 **“SEC. 398. (a)** Nothing contained in this part shall be
16 deemed (1) to amend any other provision of, or require-
17 ment under, this Act; or (2) except to the extent authorized
18 in subsection (b), to authorize any department, agency,
19 officer, or employee of the United States to exercise any
20 direction, supervision, or control over public telecommunica-
21 tions, or over the Corporation or any of its grantees or con-
22 tractors, or over the charter or bylaws of the Corporation,
23 or over the curriculum, program of instruction, or personnel
24 of any educational institution, school system, or public tele-
25 communications entity.

1 “(b)(1) *Equal opportunity in employment shall be*
2 *afforded to all persons by all public telecommunications en-*
3 *tities receiving funds pursuant to subpart C (hereinafter*
4 *in this subsection referred to as ‘recipients’), and no person*
5 *shall be subjected to discrimination in employment (includ-*
6 *ing discrimination in connection with appointments to gov-*
7 *erning or advisory bodies) by any such recipient on the*
8 *grounds of race, color, religion, national origin, or sex.*

9 “(2) *The Secretary of Health, Education, and Welfare*
10 *is authorized and directed to enforce this subsection and*
11 *to prescribe such rules and regulations as may be necessary*
12 *to carry out the Secretary’s functions under this subsection.*

13 “(3)(A) *The Corporation shall incorporate into each*
14 *grant agreement or contract with any recipient entered into*
15 *on or after the effective date of the rules and regulations pre-*
16 *scribed by the Secretary of Health, Education, and Welfare*
17 *pursuant to paragraph (2), a statement indicating that, as*
18 *a material part of the terms and conditions of the grant*
19 *agreement or contract, the recipient will comply with the*
20 *provisions of paragraph (1) and the rules and regulations*
21 *prescribed pursuant to paragraph (2). Any public or non-*
22 *commercial telecommunications entity which desires to re-*
23 *ceive funds under subpart C shall, before receiving any such*
24 *funds, provide to the Corporation any information which the*
25 *Corporation may require to satisfy itself that such entity is*

1 *affording equal opportunity in employment in accordance*
2 *with the requirements of this subsection.*

3 “(B) *If the Corporation is not satisfied that such entity*
4 *is affording equal opportunity in employment in accordance*
5 *with the requirements of this subsection, the Corporation*
6 *shall notify the Secretary, and the Secretary shall review the*
7 *matter and make a final determination regarding whether*
8 *such entity is affording equal opportunity in employment.*
9 *In any case in which the Secretary conducts a review under*
10 *the preceding sentence, the Corporation shall make funds*
11 *available to the entity involved pursuant to the grant appli-*
12 *cation of such entity (if the Corporation would have ap-*
13 *proved such application but for the finding of the Corporation*
14 *under this paragraph) pending a final determination of the*
15 *Secretary upon completion of such review. The Corporation*
16 *shall monitor the equal employment opportunity practices of*
17 *each recipient throughout the duration of the grant or*
18 *contract.*

19 “(4) *Based upon its responsibilities under paragraph*
20 *(3), the Corporation shall provide an annual report for the*
21 *preceding fiscal year ending September 30 to the Secretary*
22 *of Health, Education, and Welfare on or before the 31st day*
23 *of December of each year. The report shall contain informa-*
24 *tion in the form required by the Secretary in order to deter-*
25 *mine whether recipients are in compliance with paragraph*

1 (1). *The Corporation shall submit a summary of such report*
2 *to the President and the Congress as part of the report re-*
3 *quired in section 396(i). The Corporation shall provide*
4 *other information in the form and with any analysis which*
5 *the Secretary may require in order to carry out the Secre-*
6 *tary's functions under this subsection.*

7 " (5) *Whenever the Secretary of Health, Education,*
8 *and Welfare makes a final determination, pursuant to the*
9 *rules and regulations which the Secretary shall prescribe,*
10 *that a recipient is not in compliance with paragraph (1),*
11 *the Secretary shall, within 10 days after such determina-*
12 *tion, notify the recipient in writing of such determination*
13 *and request the recipient to secure compliance. Unless the*
14 *recipient within 120 days after receipt of such written*
15 *notice—*

16 " (A) *demonstrates to the Secretary that the viola-*
17 *tion has been corrected; or*

18 " (B) *enters into a compliance agreement approved*
19 *by the Secretary;*

20 *the Secretary shall direct the Corporation to reduce or sus-*
21 *pend any further payments of funds under this part to the*
22 *recipient and the Corporation shall comply with such direc-*
23 *tive. Resumption of payments shall take place only when the*
24 *Secretary certifies to the Corporation that the recipient has*
25 *entered into compliance agreement approved by the Secre-*

1 tary. A recipient whose funds have been reduced or suspended
2 may apply at any time to the Secretary for such certifica-
3 tion.”.

4 TITLE IV—GENERAL PROVISIONS

5 DEFINITIONS

6 SEC. 401. Section 397 of the Communications Act of
7 1934 is amended to read as follows:

8 “DEFINITIONS

9 “SEC. 397. For the purposes of this part—

10 “(1) The term ‘construction’, as applied to public tele-
11 communications facilities, means acquisition (including ac-
12 quisition by lease), installation, and modernization of public
13 telecommunications facilities and planning and preparatory
14 steps incidental thereto.

15 “(2) The term ‘Corporation’ means the Corporation
16 for Public Broadcasting authorized to be established in sub-
17 part C of this part.

18 “(3) The term “interconnection system’ means any sys-
19 tem of interconnection facilities used for the distribution of
20 programs (which may include the selection and scheduling
21 of programs for such distribution) to public telecommunica-
22 tions entities.

23 “(4) The term ‘meeting’ means the deliberations of at
24 least the number of members of a governing or advisory
25 body, or any committee thereof, required to take action on

1 *behalf of such body or committee where such deliberations*
2 *determine or result in the joint conduct of disposition of the*
3 *governing or advisory body's business, or the committee's*
4 *business, as the case may be, but only to the extent that*
5 *such deliberations relate to public broadcasting.*

6 “(5) *The terms ‘noncommercial educational broadcast*
7 *station’ and ‘public broadcast station’ mean a television or*
8 *radio broadcast station which (A) under the rules and regu-*
9 *lations of the Federal Communications Commission in effect*
10 *on the date of the enactment of the Public Telecommunica-*
11 *tions Financing Act of 1978 is eligible to be licensed by the*
12 *Commission as a noncommercial educational radio or televi-*
13 *sion broadcast station and which is owned and operated by*
14 *a public agency or nonprofit private foundation, corporation,*
15 *or association; or (B) is owned and operated by a mu-*
16 *nicipality and which transmits only noncommercial pro-*
17 *grams for educational purposes.*

18 “(6) *The term ‘noncommercial telecommunications en-*
19 *tity’ means any enterprise which (A) is owned and operated*
20 *by a State, a political or special purpose subdivision of a*
21 *State, a public agency or nonprofit private foundation, corpo-*
22 *ration, or association; and (B) has been organized primarily*
23 *for the purpose of distributing noncommercial educational or*
24 *cultural audio or video programs by means of television or*
25 *radio or other telecommunications technology, including, but*

1 *not limited to, coaxial cable, optical fiber, broadcast transla-*
2 *tors, cassettes, discs, microwave, or laser transmission through*
3 *the atmosphere.*

4 “(7) *The term ‘nonprofit’, as applied to any founda-*
5 *tion, corporation, or association, means a foundation, cor-*
6 *poration, or association, no part of the net earnings of which*
7 *inures, or may lawfully inure, to the benefit of any private*
8 *shareholder or individual.*

9 “(8) *The term ‘non-Federal financial support’ means*
10 *the total value of cash and the fair market value of property*
11 *and services (including, to the extent provided in the second*
12 *sentence of this paragraph, the personal services of volun-*
13 *teers) received—*

14 “(A) *as gifts, grants, bequests, donations, or other*
15 *contributions for the construction or operation of non-*
16 *commercial educational broadcast stations, or for the*
17 *production, acquisition, distribution, or dissemination of*
18 *educational television or radio programs, and related*
19 *activities, from any source other than (i) the United*
20 *States or any agency or establishment thereof; or (ii)*
21 *any public broadcasting entity; or*

22 “(B) *as gifts, grants, donations, contributions, or*
23 *payments from any State, or any educational institution,*
24 *for the construction or operation of noncommercial edu-*
25 *cational broadcast stations or for the production, acquisi-*

1 *tion, distribution, or dissemination of educational televi-*
2 *sion or radio programs, or payments in exchange for*
3 *services or materials respecting the provisions of educa-*
4 *tional or instructional television or radio programs.*

5 *Such term includes the fair market value of personal services*
6 *of volunteers but only with respect to such services provided*
7 *to public telecommunications entities and only, with respect*
8 *to such an entity in a fiscal year, to the extent that the value*
9 *of the services does not exceed 5 percent of the total non-*
10 *Federal financial support of the entity in that fiscal year.*

11 “(9) The term ‘pre-operational expenses’ means all non-
12 construction costs incurred by new telecommunications en-
13 tities before the date on which they begin providing service
14 to the public, and all nonconstruction costs associated with
15 expansion of existing entities before the date on which such
16 expanded capacity is activated, except that such expenses
17 shall not include any portion of the salaries of any per-
18 sonnel employed by an operating broadcasting station or
19 other telecommunications entity.

20 “(10) The term ‘public broadcasting entity’ means the
21 Corporation, any licensee or permittee of a public broadcast
22 station, or any nonprofit institution engaged primarily in the
23 production, acquisition, distribution, or dissemination of edu-
24 cational television or radio programs.

25 “(11) The term ‘public telecommunications entity’

1 means any enterprise which (A) is a public broadcasting
2 station or a noncommercial telecommunications entity; (B)
3 receives funds from the Corporation under section 396(k);
4 and (C) distributes public television or radio program serv-
5 ices to the public.

6 “(12) The term ‘public telecommunications facilities’
7 means apparatus necessary for production, interconnection,
8 captioning, broadcast, or other distribution of programming,
9 including, without limitation, studio equipment, cameras,
10 microphones, audio and video storage or reproduction equip-
11 ment or both, signal processors and switchers, towers, anten-
12 nas, transmitters, translators, microwave equipment, mobile
13 equipment, satellite communications equipment, instructional
14 television fixed service equipment, subsidiary communica-
15 tions authorization transmitting and receiving equipment,
16 cable television equipment, video and audio cassettes and
17 discs, optical fiber communications equipment, and other
18 means of transmitting, emitting, storing, and receiving im-
19 ages and sounds, or intelligence, except that such term shall
20 not include the buildings to house such apparatus, with the
21 exception of small equipment shelters which are part of
22 satellite earth stations, translators, microwave interconnec-
23 tion facilities, and similar facilities.

24 “(13) The term ‘public telecommunications services’
25 means noncommercial educational and cultural radio and

1 television programs, and, in addition, other noncommercial
2 instructional or informational material that may be transmit-
3 ted by means of electronic communications.

4 “(14) The term ‘State’ includes the District of Colum-
5 bia, the Commonwealth of Puerto Rico, the Virgin Islands,
6 Guam, American Samoa, and the Trust Territory of the
7 Pacific Islands.

8 “(15) The term ‘system of public broadcast stations’
9 means any two or more public television or radio stations
10 acting cooperatively, on a formal or informal basis, either
11 to produce, acquire, or distribute programs, or to undertake
12 programming and related activities.”.

13 **CANDIDATES FOR POLITICAL OFFICE**

14 *SEC. 402. Section 399 of the Communications Act of*
15 *1934 is amended to read as follows:*

16 **“CANDIDATES FOR POLITICAL OFFICE**

17 *“SEC. 399. No public telecommunications entity may*
18 *support or oppose any candidate for political office.”.*

19 **EFFECTIVE DATES**

20 *SEC. 403. The provisions of this Act, and the amend-*
21 *ments made by this Act, shall take effect on October 1, 1978,*
22 *except that the amendments made by sections 102 and 201,*
23 *and the provisions of section 396(k)(1) of the Communica-*
24 *tions Act of 1934 (as amended by section 307), shall take*
25 *effect on the date of the enactment of this Act.*

Union Calendar No. 621

95TH CONGRESS
2D SESSION

H. R. 12605

[Report No. 95-1178]

A BILL

To amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

By Mr. VAN DEERLIN, Mr. FREY, Mr. CARNEY, Mr. WIRTH, Mr. RUSSO, Mr. MARKEY, Mr. GORE, Ms. MIKULSKI, Mr. WAXMAN, Mr. MOORE, Mr. MOORHEAD of California, and Mr. MARKS

MAY 8, 1978

Referred to the Committee on Interstate and Foreign
Commerce

MAY 15, 1978

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed