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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT No.
1st Session } { 94-245, Pt. I

PUBLIC BROADCASTING FINANCING ACT OF 1975

MAY 22, 1975.—Reported with an amendment, referred to the Committee on Appropriations for a period ending not later than July 22, 1975, for consideration of such provisions of the bill as fall within the jurisdiction of that Committee under rule X, clause 1(b), and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 6461]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

COMMITTEE AMENDMENT

The amendment is as follows:

Page 3, line 10, after "expended" and before the period insert the following:

, and a significant portion of such funds, including those funds distributed pursuant to paragraph (5) of this subsection, shall be utilized for the development and dissemination of instructional programming.

EXPLANATION OF COMMITTEE AMENDMENT

Your Committee has had a long-standing concern that instructional programming remain an important component of public broadcasting. (See H. Rept. 92-979, (April 11, 1972) p. 4; H. Rept. 92-1292 (August 3, 1972) p. 5; and H. Rept. 93-324 (June 22, 1978) p. 11.) Accordingly, it adopted the amendment set forth above which provides that a significant portion of the funds authorized and appropriated under this legislation (including a significant portion of the funds distributed directly to on-the-air public broadcasting stations under proposed section 396(k)(5) be used for the development and dissemination of instructional programming.



The term "significant portion" as used in the amendment requires discussion. It is used rather than a fixed percentage in recognition of the fact that flexibility must be exercised in administering the amendment. For example, in fiscal year 1973 (the latest period for which reliable statistics are available), 32.1% of the total of 809,588 hours of programming broadcast by the 221 public television stations then in operation was devoted to classroom programming. During the same period the 121 CPB-qualified radio stations then in operation broadcast 716,790 hours of programming of which only 2.6% was in-school or in-service programming.

Furthermore, the entities which are licensed to engage in noncommercial broadcasting fall into four categories: (1) institutions of higher education, (2) local public school systems, (3) State or local governmental authorities, and (4) community organizations. Presumably institutions of higher education, local public school systems, and State or local governmental authorities devote a much larger portion of their broadcast time to instructional programming than do community organizations. And, of course, there are other differences between public broadcasting stations which dictate that a fixed percentage not be used in this amendment.

SUMMARY OF LEGISLATION

H.R. 6471 would—

(1) Authorize and appropriate for the operation of the Corporation for Public Broadcasting (CPB) for each fiscal year in the period beginning July 1, 1975, and ending September 30, 1978, an amount equal to 40 percent of the amount of non-Federal financial support received by public broadcasting entities in the second year preceding each such fiscal year, and for each of the two fiscal years in the period beginning October 1, 1978, and ending September 30, 1980, an amount equal to 33½ percent of such support received in the second year preceding each such fiscal year. This authorization and appropriation would be subject to the following limitations:

| Fiscal year or period: | Limitation |
|--|--------------|
| 1976 | \$88,000,000 |
| July 1, 1976–September 30, 1976 ¹ | 22,000,000 |
| 1977 | 103,000,000 |
| 1978 | 121,000,000 |
| 1979 | 140,000,000 |
| 1980 | 160,000,000 |

¹ Transitional period from fiscal year beginning July 1 to fiscal year beginning October 1 as provided in title V of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

(2) Require that of the amounts appropriated to the CPB the following portions be distributed directly to on-the-air noncommercial educational broadcasting stations for their programming, operation, and maintenance:

40 percent or more of amounts appropriated for the period July 1, 1975, through September 30, 1976, and for any fiscal year in which the amount appropriated is \$88 million or more but less than \$121 million;

45 percent or more of the amount for any fiscal year in which the amount appropriated is \$121 million or more but less than \$160 million; and

50 percent or more of the amount for any fiscal year in which the amount appropriated is \$160 million.

The funds distributed under the bill to any public broadcasting station for any fiscal year could not exceed an amount equal to one-half of the station's total non-Federal financial support during the second preceding fiscal year. This would assure that no public broadcasting station was mainly supported by Federal funds.

(3) Authorize the CPB to engage in the development and use of non-broadcast communications technologies such as cable television and communications satellites for the distribution and dissemination of educational radio and television programs.

COMMITTEE JURISDICTION

The legislation herein reported provides authorizations and appropriations for the Corporation for Public Broadcasting for the period from July 1, 1976, through September 30, 1980. These authorizations and appropriations are based on the non-Federal financial support received by public broadcasting entities during the second fiscal year preceding the fiscal year for which the authorizations and appropriations are made. This plan was recommended by the Task Force on Long-Range Financing (see below p. 16) and adopted by the Administration in the legislation which it submitted to the Congress. Both regarded this approach as a necessary means of assuring that the budgetary and appropriations processes of the Federal Government would not intrude on freedom of expression in public broadcasting. However desirable the purpose, the Interstate and Foreign Commerce Committee recognizes that all appropriations in the bill are wholly within the jurisdiction of the Appropriations Committee. Accordingly, the Committee on Interstate and Foreign Commerce has taken no action with respect to the appropriations language in the legislation. References to appropriations in this report are solely for the sake of accuracy in reporting on the provisions of the bill.

COMMITTEE ACTION

Hearings

The Committee, acting through its Subcommittee on Communications, held one day of overview hearings on public broadcasting on March 19, 1975. In those hearings the Subcommittee received testimony from the Chairmen of the Boards and Presidents of the Corporation for Public Broadcasting and of the Public Broadcasting Service and from the Presidents of the Association of Public Radio Stations and of National Public Radio.

On April 8, 1975, the Subcommittee began five days of hearings (April 8-10, 14 and 22) on H.R. 4563 (introduced by Chairman Staggers, for himself and Mr. Devine, at the request of the Administration), the forerunner of H.R. 6461. In those hearings the Chairmen of the Boards and Presidents of the Corporation for Public Broadcasting and of the Public Broadcasting Service and the Presidents of the Association of Public Radio Stations and National Public Radio were the initial witnesses, and, appearing as a panel, were also the closing witnesses in the hearing.

In addition, the Subcommittee received testimony from a panel representing the Advisory Committee of National Organizations (ACNO) to the Corporation for Public Broadcasting. Included on the panel were representatives of the National Council of Churches of Christ, the National Association for the Advancement of Colored People, the National Education Association, the National Congress of Parents and Teachers, the U.S. National Student Association, and the American Council for Better Broadcasts, some of 45 member national organizations of ACNO.

Other witnesses included the Acting Director of the White House Office of Telecommunications Policy, Commissioner Benjamin Hooks of the Federal Communications Commission, the President of the National Association of Educational Broadcasters, representatives of the National Organization for Women, the National Council of Women, the National Black Media Coalition, the Council of AFL-CIO Unions for Professional Employees, and of the National University Extension Association.

Statements were also received from the Honorable Clarence J. Brown, and the Honorable William Clay. Mr. Clay appeared on behalf of the Congressional Black Caucus. In addition, the chairman of the Committee for Economic Development filed a statement with the Subcommittee.

No witness appeared in opposition to the legislation and there was nearly unanimous support for the higher limitations on appropriations which are contained in H.R. 6461.

Mark-up

The Subcommittee on Communications met on April 28, 1975, to mark-up H.R. 4563. Three amendments to the legislation were unanimously adopted by the Subcommittee. These amendments—

(1) Raised the limitation on authorizations and appropriations as shown in the table below and made corresponding adjustments in the amounts distributed directly to public broadcasting stations.

[In millions of dollars]

| Fiscal year | From— | To— |
|------------------------|--------|------|
| 1976 | \$70.0 | \$88 |
| 1976 (July 1-Sept. 30) | 17.5 | 22 |
| 1977 | 80.0 | 103 |
| 1978 | 90.0 | 121 |
| 1979 | 95.0 | 140 |
| 1980 | 100.0 | 160 |
| Total | 452.5 | 634 |

(2) Increased the ratio of non-Federal financial support of public broadcasting to authorizations and appropriations under the legislation from 2.5:1 to 3:1 for the purpose of determining the authorization and appropriations under the legislation for fiscal years 1979 and 1980.

(3) Clarified the responsibility of directors and officers of the CPB to testify before appropriate Congressional committees.

A clean bill incorporating these amendments was prepared and introduced by the Subcommittee Chairman, Mr. Macdonald, for himself and the full membership of the Subcommittee (Messrs.

Murphy, Carney, Wirth, Brodhead, Frey, and Madigan). The bill (H.R. 6461) was unanimously reported to the full committee.

On May 13, 1975, the full Committee considered H.R. 6461, adopted the Committee instructional programming amendment described above, and by a unanimous voice vote ordered the bill reported to the House.

USE OF FUNDS

If non-Federal financial support of public broadcasting is sufficiently great to achieve the maximum authorizations and appropriations provided in the legislation, it is expected that the Federal funds will be used generally as shown in the following table. It should be emphasized that this table represents estimates for purposes of planning and should not be regarded as a mandated allocation of funds.

| | Fiscal year— | | | | |
|---|--------------|---------------|---------------|---------------|---------------|
| | 1976 \$88 | 1977 \$103 | 1978 \$121 | 1979 \$140 | 1980 \$160 |
| Television: | | | | | |
| Support of local stations | 44,000 | 51,500 | 60,500 | 70,000 | 80,000 |
| Distribution | 12,000 | 13,400 | 14,800 | 15,900 | 17,000 |
| Production | 9,934 | 12,100 | 14,700 | 20,100 | 23,000 |
| TV staff | 558 | 612 | 666 | 716 | 769 |
| Total | 66,492 | 77,612 | 90,666 | 106,716 | 120,769 |
| Radio: | | | | | |
| Support of local stations | 5,665 | 6,600 | 7,700 | 8,900 | 10,400 |
| Distribution | 1,658 | 2,200 | 2,500 | 2,700 | 3,000 |
| Production | 3,703 | 4,100 | 4,500 | 5,100 | 5,700 |
| Radio staff | 232 | 255 | 277 | 298 | 320 |
| All other | 2,425 | 2,303 | 2,521 | 2,538 | 2,156 |
| Total | 13,683 | 15,438 | 17,498 | 19,536 | 21,576 |
| Common broadcast services and support: | | | | | |
| Research | 2,216 | 2,493 | 2,787 | 3,060 | 3,340 |
| Training | 670 | 754 | 843 | 926 | 1,011 |
| Other | 1,586 | 1,784 | 1,995 | 2,191 | 2,391 |
| Total | 4,472 | 5,031 | 5,625 | 6,177 | 6,742 |
| Program direction and administration | | | | | |
| Contingency | 2,259 | 2,478 | 2,695 | 2,899 | 3,114 |
| Total | 1,094 | 2,421 | 4,516 | 4,672 | 7,799 |
| | 88,000 | 103,000 | 121,000 | 140,000 | 160,000 |

BACKGROUND AND NEED

Radio

Noncommercial broadcasting had its start in 1919 when the Secretary of Commerce and Labor, under authority of the Radio Act of 1912, licensed radio station 9XM (changed in 1922 to WHA) to the University of Wisconsin in Madison, Wisconsin. By 1925, noncommercial broadcasting in the United States was being carried on by 171 educational organizations. (In that same year, there were 390 commercially licensed AM broadcasting stations.)

In 1929, the Secretary of the Interior appointed an Advisory Committee on Education by Radio, comprised of representatives of education, broadcasting, and related fields, to study the uses of radio in the classroom and in adult education, and the development of educational radio in general.

Section 307(c) of the Communications Act of 1934, provided that "The [Federal Communications] Commission shall study the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of non-profit radio programs or to persons identified with particular types or kinds of non-profit activities, and shall report to Congress, not later than February 1, 1935, its recommendations together with the reasons for the same."

In its report to Congress, the FCC concluded that "there is no need for a change in existing law" inasmuch as "the interests of the non-profit organizations would be better served by giving educators access to costly and efficient equipment and access to an established audience." Accordingly, the FCC held a national conference in May, 1935, to explore plans for cooperation between broadcasters and non-profit organizations. From this conference, the FCC created the Federal Radio Education Committee (FREC). In 1936, the FREC urged "that a portion of the ultra high frequencies be reserved for non-commercial use by organized educational agencies.

In 1938, the FCC set aside certain AM channels between 41 and 42 megacycles for what were then called "curricular" stations—channels to be used exclusively for educational institutions. With the licensing of more and more commercial radio stations, however, and with those stations providing an increasing number of services previously offered by public radio, the noncommercial radio industry went into eclipse.

The slow reversal in the declining trend of public radio came with the introduction of FM broadcasting. By 1945, when the FCC reserved 20 FM channels exclusively for non-commercial educational broadcasting, there were only nine FM public radio stations. In three years, the number grew to 27 such stations, and in 1948, the FCC authorized low-power (10-watt) educational FM broadcasting. With the authorization of 10-watt stations, FM public broadcasting proliferated. During the next 20 years, the number of public FM stations grew to 362. Of these, more than 45 percent had a power of 10 watts.

Today there are about 740 FM public radio broadcasting stations. However, only 176 public radio broadcasting stations are today qualified to receive CPB assistance of which 20 are AM stations. In order to qualify for such assistance a radio station must meet the following criteria:

- (1) The station must be licensed by the FCC as a noncommercial educational radio station.
- (2) The station must operate with a power of no less than 250 watts.
- (3) A minimum of one adequately equipped studio and separate control room must be available to provide for local program production and origination.
- (4) In fiscal year 1975 the station must have a minimum of four full-time professional members of whom at least 1 must be employed in a managerial or programming position.
- (5) In fiscal year 1975 the station must be on the air at least 52 weeks, 7 days a week, and 16 hours a day.
- (6) The radio station's daily broadcast schedule should be devoted primarily to programming of good quality which serves demonstrated community needs of an educational, informational,

and cultural nature within its primary signal area. Such programming should be intended for a general audience.

The 176 CPB-qualified public radio stations serve 62 percent of the American public. At present, 34 major metropolitan centers have no CPB-qualified public radio service including such cities as Cleveland, Ohio; Newark, New Jersey; Sacramento, California; Charlotte, North Carolina; South Bend, Indiana; and Honolulu, Hawaii. The funds provided in H.R. 6461 are necessary if the goal of providing acceptable local public radio service to 90 percent of the population of the United States is to be realized.

Last year over 70 percent of the programs broadcast by CPB-qualified public radio stations were locally produced and originated. Approximately 15 percent of their programs were provided by National Public Radio either through interconnection with other public radio stations or from NPR productions. A sterling example of the kind of program which can be provided by public radio is *All Things Considered*. This program is in magazine format and consists of correspondents from NPR and its member stations examining various issues, events, and ideas. *All Things Considered* is carried over the NPR interconnection in the late afternoon for 90 minutes Monday through Saturday of each week. In addition, NPR makes available to a nationwide audience important congressional hearings, debates from the United Nations, and other significant events which would otherwise not be broadcast.

Television

As early as 1949, the FCC was considering the advisability of providing channels for noncommercial educational television operation. In 1951, as part of a general review of television, the Commission proposed the establishment of educational TV channels.

In 1952, the FCC authorized the reservation of 242 station channels—80 in the VHF band and 162 in the UHF band—for the exclusive use of non-commercial educational television. In that same year, the Ford Foundation created the National Educational Television and Radio Center (later to become NET) with a grant of over one million dollars. (In the period from 1951 to date, the Ford Foundation has made grants and expenditures of more than \$275 million in support of noncommercial broadcasting, but is now in the process of phasing out its support so that its resources may be used for other undertakings.)

In May 1953, the nation's first educational television station, KUHT, went on the air at the University of Houston, Texas. In 1962, there were 76 educational television broadcasting stations on the air. The Educational Television Facilities Act (Public Law 87-447) was enacted in 1962. Amending the Communications Act of 1934, the new law initially authorized \$32 million to be made available to the states "**** over a five-year period to assist (through matching grants) in the construction of educational television broadcasting facilities." In the first five years of the program, 113 new educational television broadcasting stations had either begun operation or were under construction.

By 1967, the Carnegie Commission on Educational Television, under the chairmanship of Dr. James R. Killian, Jr., had researched and documented the enormous potential of noncommercial broadcast-

ing for service to the people of the United States. In its report, "Public Television, A Program for Action," the Commission proposed the creation of a private, non-governmental corporation to "provide * * * leadership, standards of excellence, and an instrument by which the hundreds of local stations can act from time to time in concert." The Corporation would "exist primarily to make it possible for those stations, one by one, to provide the greatest public service to their communities."

In passing the Public Broadcasting Act of 1967, Congress recognized the sensitive role the Corporation must play in noncommercial broadcasting's development. On the one hand, it was to facilitate the full development of noncommercial broadcasting in which "programs of high quality [would be] obtained from diverse sources" and assist in the development of interconnection and related systems; but, on the other hand, its work was to be done "in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities."

Today almost 80 percent of the American public is within the reach of public television. The programs broadcast by public television stations are funded and produced by many diverse sources. Many of those programs are funded and produced by the public television stations themselves to meet the particular needs of their local audiences. Many are of high quality, but testimony received by the Committee indicates that substantially more funds are needed to permit local stations to give adequate service to all the audiences they are expected to serve. Larger community service grants to these stations from the CPB, which this legislation makes possible, will permit these stations to produce programs of greater diversity and excellence and increase their ability to serve the varied needs of their service areas. Most instructional programming is now locally produced and is generally funded by State or local educational agencies. This legislation will assure that sufficient funds are available for instructional programming.

Foundations, corporations, and other entities such as the National Science Foundation and the National Endowments for the Arts and Humanities presently underwrite all or part of the costs of particular programs or series which for the most part are presented on public television by means of the PBS national interconnection. These programs and series of programs have generally been of high quality and have contributed substantially to the excellence of overall public television offerings. However, your committee has serious concern that this method of funding public television programs tends to vest the entity providing the funding with the making of vital program decisions which under the Communications Act of 1934 are intended to be made by the broadcast licensee.

Approximately 30 percent of the programs distributed over the national public television interconnection during fiscal year 1975 were funded by the Station Program Cooperative, which is administered by the Public Broadcasting Service. The Station Program Cooperative is a mechanism through which local stations select the programs which they will support financially. When a particular

program or series receives sufficient support to cover its production costs, it becomes a part of the PBS program schedule. The second Station Program Cooperative recently undertook to select approximately \$18 million worth of programs for the 1975-76 television season. Of the \$18 million, \$10 million has been provided by the CPB and the Ford Foundation, the balance by the public television stations themselves. This reflects an increased participation by the stations from the first Station Program Cooperative which was funded with \$5.2 million from the Ford Foundation, \$4.2 million from the CPB, and \$4 million from the stations, a total of \$13.4 million.

Among the programs which will be funded by the Station Program Cooperative for the 1975-76 television season are many with which viewers of public television are already familiar including *Sesame Street*, *Electric Company*, *Washington Week in Review*, *Nova*, *Bill Moyers Journal*, *Firing Line*, *Woman*, *Black Perspective on the News*, *Consumer Survival Kit*, *Wall Street Week*, *Book Beat*, and *Hollywood Television Theater*.

Your committee regards the Station Program Cooperative as an innovative means of local selection and funding of programs for public television but has concern that it does not provide adequate programming which is responsive to the needs of the elderly, women, and minorities.

Since the public broadcasting stations are themselves funding ongoing programs through the Station Program Cooperative, the CPB has concentrated on providing funds for research, development, and piloting intended to provide new programs for the public television stations in selected categories. Thus, within the last month, the Corporation has granted (1) \$300,000 to WITF-TV, Hershey, Pennsylvania, for the production of eight one-hour anthology programs to be called *Images of Aging* dealing with images and attitudes toward aging, (2) \$400,000 to WNET-TV for the funding of *Woman Alive!*, a series of 10 half-hour programs devoted to presenting the many varied experiences, explorations, and changes in the lives of women today, and (3) \$100,000 to the Nguzo Saba Films, an independent minority production company of San Francisco, California, for the piloting of the first of two programs entitled *Were You There?* which is expected to be an innovative black cultural program. In addition, \$700,000 has been allocated by the Corporation to fund a third pilot and for support of a series of innovative programs on black culture.

The average cost of public television programs for national distribution during prime time is approximately \$50,000 per hour. This is substantially less than the average cost of prime time commercial network television programming which is about \$250,000 per hour. If public television programs are going to reach the audiences for which they are intended, they will have to be funded at levels more nearly comparable to those of commercial television programs.

In large measure because of the high cost of public television programs there has been extensive use by public television stations of programs produced abroad. These programs, while of technical excellence, were developed for foreign audiences. Enactment of H.R. 6461 should lessen the reliance of public television broadcasting stations on foreign programs and permit them to be supplanted in large

measure with programs of equal or higher quality produced in this country.

Another major need of public television broadcasting stations which approaches program production in its importance is for "state-of-the-art" equipment. A recent study conducted by the CPB at the request of U.S. Office of Education has established that it would require slightly over \$104 million to upgrade the technical facilities of existing public television stations to allow them to provide service to the public in a manner comparable to their commercial counterparts.

Corporation for Public Broadcasting

The Corporation for Public Broadcasting is a private, independent, nonprofit corporation established pursuant to title II of the Public Broadcasting Act of 1967 (47 U.S.C. 396-399) and under the terms of the District of Columbia Non-Profit Corporation Act.

CPB operates under a bipartisan board of directors consisting of 15 members. Members of the board are appointed by the President by and with the advice and consent of the Senate for staggered terms of 6 years. No more than a simple majority of the CPB Board may be members of the same political party.

Under the Public Broadcasting Act of 1967 the Corporation for Public Broadcasting has four principal purposes. They are to (1) assist in the production and procurement of programs of excellence for presentation over public television and radio stations, (2) assist in the establishment and development of one or more systems of interconnection for such stations, (3) assist in the establishment and development of one or more systems of public broadcasting stations, and (4) act so as to assure the maximum freedom of noncommercial educational broadcasting systems and stations from interference with or control of program content or other activities.

PBS-NPR-APRS

Soon after it became operational (in 1969), the CPB together with public broadcasting licensees established the Public Broadcasting Service, an independent corporation whose principal purpose was to distribute programs to public television broadcasting stations in the United States. A somewhat similar organization, National Public Radio (NPR), became operational in 1971. NPR is made up of CPB-qualified public radio stations.

In early 1973 a thorough reassessment of the structure of public broadcasting was undertaken by the CPB and public broadcasting stations. As a result of that reassessment, in March 1973, the Public Broadcasting Service was reconstituted as a nonprofit membership corporation which today represents 151 public television licensees which operate 253 public television stations. To represent the CPB-qualified public radio stations in the United States the Association of Public Radio Stations was formed. Although National Public Radio has some similarities to PBS—both are membership organizations managed by the members, and both draw from local sources for their programs—there are four basic differences: NPR produces programs, while PBS does not; PBS obtains programming from its member stations and a variety of producing entities which are partially funded by CPB, while NPR is principally funded by CPB and supplements its production by contracting with local stations and other producing agencies for programs it will carry; PBS policy making is shared by two boards representing the station managers and station

board chairmen, NPR policy is set by one board of directors comprised of station representatives and lay representatives.

CPB-PBS Agreement

As a basis for their interaction, the CPB and PBS on May 31, 1973, entered into the following agreement under which they now operate:

A JOINT RESOLUTION OF THE CORPORATION FOR PUBLIC BROADCASTING AND THE PUBLIC BROADCASTING SERVICE

Resolved, by the Boards of the Corporation for Public Broadcasting and the Public Broadcasting Service, That—

In order to effect a vigorous partnership in behalf of the independence and diversity of public television and to improve the excellence of its programs;

To enhance the development, passage by Congress, and approval by the Executive branch of a long-range financing program that would remove public broadcasting from the political hazards of annual authorizations and appropriations;

To further strengthen the autonomy and independence of local public television stations; and

To reaffirm that public affairs programs are an essential responsibility of public broadcasting,

the Boards of the Corporation for Public Broadcasting (CPB) and the Public Broadcasting Service (PBS) do hereby jointly adopt the following agreement:

1. CPB will, in consultation with PBS, other interested parties, and the public, decide all CPB funded programs through a CPB program department. The consultation prior to CPB's decision is vital so that the CPB programming department will understand what the licensees' needs are and thus avoid any possibility that CPB will fund programs that the licensees do not want. By such a consultation, well in advance of CPB program decisions, time and vitally needed dollars can be saved and the public can be best served. In the event that the PBS program department dissents from any particular program decision of the CPB program department, the PBS program department may appeal to the chief executives of CPB and PBS. Should these executives fail to agree, final appeal may be made to the respective chairmen of the two organizations whose joint decision will be final.

2. All non-CPB funded programs, accepted under PBS Broadcast Journalism Standards and normal PBS procedures, will have access to the interconnection.

3. Should there be any conflict of opinion as to balance and objectivity of any programs, regardless of the source of funding, either group can appeal to a monitoring committee consisting of three CPB trustees and three PBS trustees. It will take four votes of this committee to bar a program's access to the interconnection.

4. PBS, on behalf of the stations, will prepare a draft schedule of programs for interconnection. The draft schedule will be for one year divided into four quarters. It will be resubmitted each quarter for the ensuing four quarters. To preserve the mutual interests of both CPB and PBS, CPB will be advised and consulted in the development of the draft schedule, and when each four quarter schedule is completed, it shall be submitted for

approval of CPB. In the event that the CPB program department does not agree to the draft schedule, it may appeal to the chief executives of CPB and PBS. Should these executives fail to agree, the issue shall be presented for final decision to the board chairmen of CPB and PBS. Should they fail to agree, they shall choose a third person to whom the issue will be presented and whose decision shall be final. Emergency scheduling decisions will be made in accordance with procedures approved by the chairmen of the CPB and PBS boards. In any event, the draft and final schedules shall reflect the arrangements of programs of interconnection service to stations, and shall not be regarded as a schedule of programs for broadcast by the stations.

5. There is hereby established a Partnership Review Committee consisting of an equal number of trustees of CPB and PBS. Such committee shall assess the working of the partnership on a regular basis with formal meetings to be held not less than four times per year. For a five-year period beginning with the adoption of this joint resolution, this committee will be charged with the responsibility of making recommendations to the boards for any modifications which they may deem desirable.

6. CPB and PBS will formalize an annual contract for the physical operation of the interconnection not later than August 31, 1973. Physical operation of the interconnection will be by PBS and will be funded by CPB. Any dispute as to the terms of the contract will be resolved by the chairmen of CPB and PBS no later than September 30, 1973. CPB will continue to finance PBS activities as it has in the past until September 30, 1973. Following that date, PBS will finance its own activities, receiving from CPB only the funds necessary for the physical interconnection services which it will render under the contract.

7. CPB and PBS hereby agree that CPB will provide the mutually desired bedrock of localism by unrestricted grants to the public television stations, under a formula accepted by CPB and PBS, aggregating annually not less than 30% at a \$45 million level, increasing proportionately to: 40% at a \$60 million level, 45% at a \$70 million level and 50% at an \$80 million level. CPB and PBS will express this commitment to the Congress in connection with the pending legislation.

Authorizations-Appropriations—Non-Federal Financial Support

The following table shows the steady increase in the Federal funding of the Corporation for Public Broadcasting and the corresponding increases which have taken place in non-Federal financial support of public broadcasting:

[In millions of dollars]

| Fiscal year: | Authorization | Appropriation | Non-Federal financial support |
|--------------|---------------|---------------|-------------------------------|
| 1969----- | 9 | 5.0 | (1) |
| 1970----- | 20 | 15.0 | 122.4 |
| 1971----- | 35 | 23.0 | 155.5 |
| 1972----- | 35 | 35.0 | 174.5 |
| 1973----- | 45 | 35.0 | 199.2 |
| 1974----- | 55 | 47.5 | 223.2 |
| 1975----- | 65 | 62.0 | (2) |

¹ Not available.

² Continuing resolution.

LONG-RANGE, INSULATED FINANCING FOR CPB

Committee Position

The quest for long-range, insulated financing for public broadcasting and its importance is abundantly documented in the reports of this Committee. Pertinent excerpts follow:

CORPORATION FINANCING

The bill reserves the question of permanent financing for consideration during the next session of Congress. It is felt that since there are no precedents upon which to base judgments, a clearer view than is possible at the present time as to the Corporation's future needs can be obtained after it has gained operational experience.

Estimates of future requirements of the Corporation (from \$40 million in fiscal year 1969 to \$160 million in fiscal year 1980), including the portion expected from Federal sources, were furnished by HEW and the Carnegie Commission. In addition, various proposals were made for permanent financing of the Corporation. However, most witnesses agreed that starting funds should now be appropriated and that the decision on the structure of future financing should await further study and experience.

Although funds for fiscal year 1968 are herein authorized by direct appropriation, some members of the committee believe that this type of financing should not be used in the future.

The hearings make it evident that a decision regarding the permanent financing is largely dependent upon the nature and operations of the Corporation. The composition of the Board is not yet evident. The operational policies are not yet set. It is difficult to make long-range predictions of financial requirements or the most desirable means of fulfilling these needs until the Corporation is in existence. Although both the Carnegie Commission and HEW have made projections of future financial requirements (see App. IV and V), they still are not those of the Corporation, and the views of the Directors of the Corporation will be of invaluable assistance in helping to shape the final provisions for permanent financing.

The method of permanent financing is partially dependent upon the level of support which can be expected from private sources. The Corporation will need time to contact individuals, businesses, foundations, and local governments and survey the possibility of annual campaigns for the benefit of educational broadcasting stations and the Corporation. In the past decade there has been substantial support for ETV and this is expected to continue. It was testified that the private sector is eager to play its part. The newly formed National Citizens Committee for Public Television as well as similar State commissions will assist in marshalling support. The Columbia Broadcasting System has promised a gift of \$1 million when the Corporation is organized. The Communication Workers of America, AFL-CIO, have pledged \$100,000 to the Corporation.

HEW supplied information to the committee predicting private contributions to educational television of \$20 million by 1973, assuming that vigorous fundraising is undertaken. (See App. V.) It could not be stated with certainty how much of this amount would be allocated to the Corporation, but HEW believes \$5 million is a reasonable estimate. The Carnegie Commission reported that in 1980 the Corporation could expect an additional \$4 million annually from foundation sources. The Carnegie Commission further reported that State and local governments appropriated \$33 million for ETV in 1965-66 and that State and local governments, foundations, other private sources, and the general public can be expected to contribute \$75 million annually by 1980. However, witnesses were unanimous in their opinions that private contributions and support from local and State governments will be wholly inadequate to sustain a workable noncommercial broadcasting system. Other sources of revenue are essential.

When the Corporation is organized, one of its principal responsibilities will be to provide funds to local stations. Studies will be necessary to determine the proper level of this support. HEW submitted projections which show that local stations may require corporation grants of \$10 million in fiscal year 1969 and \$31 million in fiscal year 1970.

In view of the many uncertainties with regard to both the estimated fund requirements and the possible sources of support, the committee is forced to reject all suggestions for permanent financing at this time and await more specific information from the Corporation. President Johnson has requested that Congress wait until next year for his proposals and recommendations on permanent financing. At that time detailed budgets can be proposed showing staff commitments, the degree of public and private support expected, and the costs of selected approaches to initial operations in the areas of program acquisition and interconnection of stations, and most importantly, what operating grants will be necessary to sustain the operations of the local stations. The committee believes it is perfectly workable to establish the Corporation this year with 1 year's financing and resolve the issue of long-range financing after further study and experience. (House report no. 572, 90th Congress, first session, August 21, 1967, pages 20-21.)

* * * * *

As enacted, the Public Broadcasting Act of 1967 authorized the appropriation of \$9 million for fiscal year 1968 to support the Corporation until a long-range plan for financing could be formulated and placed in operation.

In his education message to the Congress dated February 5, 1968, the President stated:

We have acted also to launch an historic educational force in American life: public broadcasting—noncommercial radio and television service devoted first and foremost to excellence.

Last year the Congress authorized the Corporation for Public Broadcasting. This year we must give it life.

Last year I stressed the importance of a long-range financing plan which would ensure that public broadcasting would be vigorous, independent and free from political interference or control. The problem involved is complex. It concerns the use of the most powerful communications medium in the world today. It should not be resolved without the most thorough study and consultation.

I am asking the Secretary of Health, Education, and Welfare, the Secretary of the Treasury and the Director of the Bureau of the Budget—who have been studying this problem since the law was enacted—to work with the Board of Directors of the Corporation for Public Broadcasting and the appropriate Committees of the Congress to formulate a long-range financing plan that will promote and protect this vital new force in American life.

In hearings held on this legislation, your committee was assured by representatives of the Bureau of the Budget, the Treasury Department, and the Department of Health, Education, and Welfare that work is underway on formulating a long-range financing plan for the Corporation and should be completed this year. (House report no. 1281, 90th Congress, 2d session, August 4, 1968, p. 2).

* * * * *

LONG-RANGE FINANCING FOR CPB

Two Administrations have promised a plan of long-range financing for the Corporation.

President Johnson, in his education message to Congress in February 1968 stated:

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In his budget message to the Congress dated January 29, 1971, President Nixon stated "Legislation will be proposed to provide an improved financing arrangement for the Corporation." Yet no long-range financing proposal has been forthcoming from either Administration. Your committee believes that it is imperative that a plan of long-range or permanent financing for the Corporation be provided at the earliest possible date. The Committee is most hopeful that the Director of the Office of Telecommunications

Policy will achieve his expectation and have a long-range financing plan to propose by June 30, 1973. The Committee also looks forward to the proposal for long-range financing that the Board of Directors of CPB has directed its staff to develop with all elements of the industry for presentation to the Congress and the Administration before the close of 1972. (House report 92-979, April 11, 1972, pages 13-14)

LONG-RANGE FINANCING

The bill which your Committee recommends for passage once again does not achieve long-range insulated financing for CPB. Both Presidents Johnson and Nixon promised to provide to the Congress a long-range financing plan. This two-year bill with increased funding levels will to a great extent aid in system planning and enhance its independence, but it is no substitute for the kind of insulation from governmental or other interference with overall policy or day-to-day operations which Congress and the Carnegie Commission envisioned as critical if public broadcasting is to be truly viable and independent.

Again the Committee restates its firm belief in the critical importance of considering at the earliest possible date a long-range financing plan. The Director of the Office of Telecommunications Policy has told us that the new partnership has solved a great many of the problems that he saw in public broadcasting which the Administration felt must be solved before it could recommend a plan. While the record of both Administrations since 1967 in coming forward with a plan as promised has been nonexistent, we look with encouragement on OTP's readiness to work with Congress and the public broadcasting industry's Long-Range Financing Task Force to come up with a plan as soon as possible. CPB has told us that such a plan will be available in September of 1973. The Committee urges the Administration and the public broadcasting community to meet this deadline and get on the road to ensuring that this important enterprise will be able to do its job in the fashion that Congress and the American people hoped it would in 1967. (House report 93-324, June 22, 1973, p. 8)

Task Force on Long-Range Financing

In accord with its commitment to the Committee to make recommendations with respect to long range financing, the CPB in April 1972, began to take steps toward establishing a Long Range Financing Task Force. The Task Force held its first meeting in August 1972 and continued to meet until its report was issued in September 1973. In the course of its considerations the Task Force considered numerous means of funding public broadcasting including—

- a dedicated excise tax on sale of radio and TV receivers;
- a tax on commercial radio and TV station gross revenues, net revenue or advertising revenue;
- a tax on CATV subscription revenues or net revenues;

- a charge for access to the broadcast spectrum;
- a set-aside of portion of income taxes paid by commercial radio and TV stations and CATV operators;
- a dedicated excise tax on residential electric or telephone bills;
- using proceeds from profits of operating a domestic satellite system;

a "user charge" to be paid by families owning radio or TV sets; a Public Broadcasting Development Bank financed by bond sales; and a loan guarantee proposal.

The Task Force rejected each of these alternatives and adopted the following recommendations:

1. Federal support of public broadcasting from general tax revenues should be authorized by Congress for a period of no less than five years, and a schedule of appropriations for the same period of time should be made part of the authorization.
 2. The level of Federal support in any fiscal year should match non-Federal support for public broadcasting activities for the second preceding fiscal year on a one-to-two ratio, up to reasonable, established ceilings as follows:

| Fiscal year: | |
|--------------|---------------|
| 1975 | \$100,000,000 |
| 1976 | 125,000,000 |
| 1977 | 150,000,000 |
| 1978 | 175,000,000 |
| 1979 | 200,000,000 |

3. Federal support available for any fiscal year should remain available throughout succeeding fiscal years until expended.

4. The distribution of matching funds should be made by the Corporation for Public Broadcasting in accordance with procedures promulgated by the Corporation and agreed upon by bona fide representatives of noncommercial educational radio and television licensees.

5. Beyond the funds provided in this matching plan, Federal funds for broadcasting facilities should be provided by the Congress.

6. Operational and facilities funds should be made available for disbursement at the beginning of each year.

OTP Draft Legislation

The White House Office of Telecommunications Policy utilizing the efforts of the Task Force undertook the drafting of legislation providing long-range financing for the Corporation. Draft legislation was finally sent to the Congress on July 16, 1974 and introduced as H.R. 16139, 93rd Congress. Because of the press of other legislative matters the legislation was not acted on in the 93rd Congress.

On February 13, 1975, the legislation was resubmitted to the Congress with a letter from the Acting Director of the Office of Telecommunications Policy. The following portions of that letter are particularly pertinent:

BACKGROUND

The establishment of a source of funding to provide long-term, insulated financing has long been seen as an essential goal if public broadcasting is to fulfill its potential of offering diverse and excellent educational radio and television programming, free of governmental influences. Even before the enactment of the Public Broadcasting Act of 1967, the Carnegie Commission on Educational Television, in recognition of the uniquely sensitive relationship between program content and Federal funding, recommended a plan of permanent financing that would insulate the Corporation and public broadcasting from possible pressures that might naturally result from the annual budgeting and appropriation process.

Since 1967, however, the Congress has quite properly chosen not to institute a long-range funding plan, in view of questions regarding the structure of the public broadcasting system and the policies of the Corporation and the Public Broadcasting Service (PBS). Now, many of these questions have been resolved. Public broadcasting is making important contributions to the nation's life by providing educational and cultural programs of diversity and excellence. The important role of local stations in the hierarchy of the system has been acknowledged in principles and policies adopted by the Corporation and the other national entities that represent local stations.

INSULATED FUNDING

The time has come, therefore, to affirm the Federal commitment to the principle of public broadcasting with a long-term financing plan that acknowledges its progress and recognizes its potential. The bill the Administration submits today provides for a five-year authorization and appropriation covering fiscal years 1976 through 1980, building upon the current year authorization and appropriation, which continue the increases in funding for the Corporation over the past five years. This multi-year appropriation provision will minimize the possibility of any government scrutiny of or influence on programming that might occur in the course of the usual annual budgetary, authorization and appropriation process. In addition, it will enable the Corporation and local stations to undertake advance program planning with assurance as to the level of Federal funding available in the foreseeable future.

The authorization and appropriation of funds for the Corporation would be based upon matching fund principles that have worked successfully in providing both private foundation and government funds to public broadcasting in the past. There would be a 40 percent Federal match of the entire public broadcasting system's non-Federal income, so that \$1.00 in Federal funds would be appropriated for every \$2.50 received by the Corporation, stations and other public broadcasting entities in the form of private contributions and State and local government support. The matching formula would establish a Federal commitment to provide substantial support to the public broad-

casting system while providing an incentive for encouraging continued and increased non-Federal support. The matching principle also assures that Federal assistance does not become a dominant force in the system; a risk that no one in public broadcasting or government is prepared to take. As an additional safeguard in this regard, the bill imposes ceilings on the permissible appropriation for each fiscal year, beginning at \$70 million in fiscal year 1976 and reaching \$100 million in fiscal year 1980. In view of the system's growth and development in recent years, ceiling are sufficiently high to permit continued growth and still offer the system meaningful incentive to increase non-Federal financial support in view of the record of non-Federal contributions in recent years. At the same time, ceiling comport with sound fiscal policy in light of the fact that this would be the Congress first venture into multiyear appropriations for public broadcasting.

Moreover, the Corporation would remain fully accountable to the public and to the Congress for its use of public funds, in that the bill requires that officials of the Corporation make themselves available for annual oversight hearings before appropriate congressional committees. Several existing provisions in the Public Broadcasting Act also assure continued public accountability. For example, the General Accounting Office is authorized to audit the books of the Corporation, as well as the records of any recipient of a grant from the confirmation by the Senate; and the ultimate safeguard, of course, is the congressional prerogative to amend the funding provisions of the Act at any time.

* * * * *

Presidential Statement

The following statement of President Ford in transmitting the legislation to the Congress should also be noted:

OFFICE OF THE WHITE HOUSE PRESS SECRETARY,

THE WHITE HOUSE,

February 13, 1975.

STATEMENT BY THE PRESIDENT

The Administration today sent a bill to the Congress that will appropriate Federal funds for the Corporation for Public Broadcasting over a five-year period, starting with \$70 million in fiscal 1976 and reaching \$100 million by 1980. To assure that Federal support does not dominate public broadcasting and to encourage continued non-Federal contributions, the Federal funds would be provided on a matching basis—with one Federal dollar for every \$2.50 in non-Federal revenues up to the annual ceiling.

Since enactment of the Public Broadcasting Act of 1967, the Federal Government has supported the growth and development of noncommercial educational radio and television through annual appropriations. During this time, public broadcasting has developed and matured into a far-reaching, effective medium for bringing high quality educational and cultural programming to millions of Americans.

A recurring question in public broadcasting has been how to reconcile Government funding with the possibility of Government control. On the one hand, if Federal funds are used to support public broadcasting, the Government must be able to evaluate how the funds are spent. To do otherwise would be irresponsible. On the other hand, strict accountability by public broadcasting to the Government can lead to Government direction of programming, which is contrary to the principles of free expression on which our Nation was founded. It is this issue alone which requires that the Congress consider a five-year appropriation for public broadcasting.

This bill is a constructive approach to the sensitive relationship between Federal funding and freedom of expression. It would eliminate the scrutiny of programming that could be associated with the normal budgetary and appropriations processes of the Government. At the same time, it would still permit periodic review of public broadcasting by the Congress. I believe that it will assure the independence of noncommercial radio and television programming for our Nation; and, long-term Federal funding will add stability to the financing of public broadcasting which may enhance the quality of its programming. I urge the Congress to enact it promptly.

SECTION-BY-SECTION EXPLANATION OF H.R. 6461, AS REPORTED

SECTION 1

This section provides that the legislation may be cited as the "Public Broadcasting Financing Act of 1975".

SECTION 2

Subsection 396(k) of the Act is amended to establish a five-year Federal financing plan for the Corporation for Public Broadcasting and to assure that a reasonable portion of the fund appropriated to the Corporation is distributed directly to local stations.

Paragraph (3) of Subsection 396(k) would establish a "Public Broadcasting Fund" in the Treasury, to which there would be authorized for appropriation, for fiscal years 1976-1978, amounts equal to 40 percent of the total non-Federal financial support received by public broadcasting entities during each second-preceding fiscal year, and for fiscal years 1979 and 1980, amounts equal to 33½ percent of the total non-Federal financial support received by such entities during fiscal years 1977 and 1978, respectively. A one-year time lag is necessary to accumulate the information for determining the amount on which the match is to be based. The three-month period between July 1, 1976, and September 30, 1976, which is the transition period between the July 1 Federal fiscal year and the new October 1 fiscal year, is treated as a separate authorization period pursuant to section 502(a) of Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). The basis for the 40 percent match for this three-month period is one-fourth of the non-Federal contributions to public broadcasting entities during fiscal year 1975. The appropriation for each fiscal year could not exceed the following ceilings: \$88 million

in fiscal year 1976; \$103 million in fiscal year 1977; \$121 million in fiscal year 1978; \$140 million in fiscal year 1979; and 160 million in fiscal year 1980. Finally, the appropriation for the three-month transition period could not exceed \$22 million.

Paragraph (4) would appropriate to the Public Broadcasting Fund the amounts authorized by paragraph (3). These funds would, of course, be actually appropriated into the Public Broadcasting Fund. Amounts otherwise appropriated to departments and agencies of the Federal Government and paid to public broadcasting entities pursuant to a grant or contract would not be considered for this purpose. Amounts appropriated to the Fund would remain available until expended and would be used solely for the expenses of the Corporation. Under the committee amendment (described above) a significant portion of those amounts and of the amounts distributed to on-the-air public broadcasting stations (see discussion of paragraph (5) below) would have to be used for the development and dissemination of instructional programming. This paragraph also sets forth the procedure whereby the amounts appropriated each year would be disbursed from the Public Broadcasting Fund to the Corporation. The Corporation would be required to determine the amount of non-Federal financial support received by public broadcasting entities during each second preceding year, and to certify that amount to the Treasurer of the United States. The Treasurer, upon receipt of such certification, would pay from the Fund to the Corporation the amount of the appropriation.

For this purpose the Corporation has established procedures to be followed by public broadcasting entities making reports to the Corporation with respect to non-Federal financial support received by them. Each such report would have to be certified by the chief executive officer of the entity (which in most instances will be a public broadcasting station manager) and then have it independently verified by an outside financial organization, usually a firm of certified public accountants. Since these reports will be used by the Corporation for making certifications to the Secretary of the Treasury and will be the basis for funds being appropriated into the Public Broadcasting Fund, section 1001 of title 18, United States Code, will apply to these reports of the public broadcasting entities. Section 1001 provides:

§ 1001. Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or devise a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

It should also be noted that the CPB pursuant to section 396(1)(3)(B) of the Act now audits recipients of assistance from it at least once every 5 years and is taking steps to increase the frequency of such audits to at least once every 3 years.

Paragraph (5) would require the Corporation to set aside a specified percentage of the appropriated funds for distribution to on-the-air noncommercial educational broadcast stations. The statutory percentage for distribution to stations would be 40 percent for the fifteen

month period from July 1, 1975 to September 30, 1976 and in any fiscal year in which the appropriation was \$88 million or more but less than \$121 million; 45 percent at an appropriation level of \$121 million or more but less than \$160 million; and 50 percent at an appropriation level of \$160 million. The statutory percentage is expressed as a minimum, so that the Corporation could reserve a greater amount than that specified in the bill.

Paragraph (6) sets forth the method for distributing the funds reserved pursuant to paragraph (5). The Corporation would be required to establish, and review annually, after consultation with the licensees and permittees of on-the-air educational stations, criteria and conditions for the distribution of these funds. In each fiscal year, the Corporation would be required to divide the funds into two portions, one to be distributed to television stations and one to be distributed to radio stations. Each licensee or permittee of an on-the-air educational television station would receive a basic grant from the portion reserved for television. The amount of this basic grant would be the same for each station, and would be determined annually by the Corporation in consultation with the stations. The balance of the amount reserved for television stations would be distributed among licensees and permittees of such stations as are eligible to receive additional grants under criteria established by the Corporation in consultation with the stations. These additional grants would be apportioned among eligible stations on the basis of a formula designed to (a) provide for the financial needs of stations in relation to the communities and audiences they undertake to serve and (b) stimulate non-Federal financial support for station activities. The bill does not prescribe a precise formula for the distribution of additional grants, but rather states these two objectives that the formula is to achieve. The details of the formula, as well as the weight assigned to each factor, would be determined by the Corporation in consultation with the stations.

A somewhat different distribution mechanism is established for noncommercial educational radio stations. Many such stations are licensed to educational institutions for purposes of training students in broadcasting and do not render a direct service to the general public. Accordingly, only those stations that are eligible according to public interest criteria established by the Corporation would receive grants from the portion of funds reserved for distribution to radio stations. The bill does provide, however, that each such eligible radio station would receive a basic grant. As with television stations funds in addition to the basic grant would be distributed to eligible radio stations according to a formula that would stimulate non-Federal income and reflect the needs of stations in relation to the audiences they serve.

The bill assures that licensees and permittees of stations will play a significant role in the decisionmaking processes relating to distribution of funds to stations. The Corporation would be required to consult with licensees and permittees (including their authorized representatives) in (a) apportioning the funds between radio and television, (b) determining the amount of the basic grant to stations, (c) establishing eligibility criteria for radio stations and for additional grants to television stations, and (d) establishing the formula for

apportioning additional grants among stations, including the right to be assigned to the statutory objectives of stimulating non-Federal income and reflecting the needs of stations in relation to the audiences they serve.

In order to assure that Federal funds do not become a dominant factor in the financing of stations, this paragraph also provides that the funds distributed according to this subsection may not exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which the distribution is made. This limitation would not apply to grants made by the Corporation under developmental programs designed to meet special needs of particular stations.

Paragraph (7) provides that the funds distributed to stations may be used at their discretion for purposes related to the provision of non-commercial educational television and radio programs. Several examples of such purposes are set forth, including: producing, broadcasting or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast or other dissemination of educational television and radio programs; developing and using non-broadcast communications technologies (such as cable television and communication satellites) for educational television or radio program transmission purposes.

This list of purposes for which funds may be used by stations is not meant to be exhaustive. For example, although not specifically mentioned, it is intended that these funds could be used for the payment of dues or assessments to organizations which represent the interests of stations. One purpose for listing several typical uses of the funds is to make it clear that stations may undertake the development and use of non-broadcast methods of transmitting programs to the public. In this regard, the term "dissemination" is intended to mean delivery of programs to viewers and listeners of non-broadcast technologies.

SECTION 3

Subsection 396(g)(2)(H) is amended to permit the Corporation to conduct research, demonstrations, or training in the use of non-broadcast communications technologies, as discussed above, for the dissemination of educational television or radio programs.

SECTION 4

A provision is added to subsection 396(i) of the Act, which pertains to the annual report of the Corporation. The new provision states that the officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the annual report of the Corporation, the report of any audit made by the Comptroller General pursuant to subsection 396(l) of the Act, or any other matter which any such committee may determine. Even with long-term Federal financing, the Corporation remains fully

accountable to the public and to the Congress for its use of public funds. In view of the multi-year appropriation provision of the bill, this addition will provide the opportunity for appropriate Congressional review of the Corporation and its activities. This will facilitate review of such matters as employment of, and programming for, minorities and women and ascertainment of community problems, needs, and interests in the field of public broadcasting.

SECTION 5

The provision in the bill for appropriations amounting to 40 percent of the non-Federal income of public broadcasting entities and the limitation on the amount of funds that may be distributed to a station, expressed as a percentage of non-Federal income, necessitate the inclusion of two new definitions in the Act.

The term "public broadcasting entity" is defined to mean the Corporation for Public Broadcasting, any licensee or permittee of a non-commercial educational broadcast station, and any nonprofit institution engaged primarily in the production, acquisition, distribution or dissemination of educational television or radio programs. Examples of the latter category include program production organizations, such as the Children's Television Workshop, and organizations providing program distribution services to stations such as the Public Broadcasting Service and National Public Radio.

The term "non-Federal financial support" is defined to mean the total value of cash and fair market value of property and services (except for personal services of volunteers) received as gifts, grants, bequests, donations, or other contributions for the construction or operation of non-commercial educational broadcast stations, or for the production, acquisition, distribution or dissemination of educational television or radio programs and related activities. The definition includes such funds received from any source other than (1) the Federal Government or (2) any public broadcast entity. The latter exception is intended to eliminate the double counting of funds circulated within the public broadcasting system. Thus, for example, income from a non-Federal source received in the first instance by a national public broadcasting organization and then distributed to stations or other public broadcasting entities would be counted only once.

In addition, the term is defined to include income received for public broadcasting purposes from State and local governments and educational institutions, as well as contract payments from such entities in exchange for services or materials relating to the provision of educational or instructional television or radio programs. Excluded from the definition are contract payments for such services from sources other than State and local governments and educational institutions, as well as contract payments in exchange for commercial services which might be provided by public broadcasting entities.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

During the 94th Congress, the Subcommittee on Communications held one day of overview hearings on public broadcasting in addition to five days of hearings on this legislation. The Committee has not received an oversight report with respect to public broadcasting from

either its own Subcommittee on Oversight and Investigations or the Committee on Government Operations.

The Committee has reviewed the substantial progress that has been made since the enactment of the Public Broadcasting Act of 1967. In less than eight years, a highly complex and sophisticated structure has been created which attempts to provide a broad and balanced public service to the many segments and interests of American society, and does so with a high degree of success. It is necessary only to look at public broadcasting's achievement in the development and presentation of children's programming, in the arts and humanities, and in coverage of public affairs to realize the significance of this service to the American people. Moreover, a start has been made in the development of programs to serve special interest audiences, including the many minorities in our population. Furthermore, the availability of these programs has been enhanced by the development and operation of an interconnection system and by the creation of many new stations to serve areas of the country previously denied access to programs of this quality. One of the best indications of the success of all these efforts has been the growing interest and direct financial support from a large segment of the American public.

Nevertheless, the Committee believes that much remains to be done in order to achieve a system which is responsive to the maximum degree possible to the special interests and needs of many Americans. The Committee has thus given special attention to certain areas of concern wherein special efforts can render public broadcasting a better and more useful public service. The Committee feels that this legislation—providing as it does for insulation, planning, stability, and adequate financial support over a five-year period—provides public broadcasting with the ability to address these areas of concern effectively.

The Committee intends to engage in oversight of public broadcasting's federally supported activities on at least an annual basis and feels that the following findings and recommendations will serve as appropriate goals for that oversight process. In addition, certain reports must be developed to assist the Committee in performing its oversight functions.

Ascertainment

The FCC is long overdue in requiring public broadcasting stations to engage in ascertainment of the problems, needs, and interests of their service areas. It is the feeling of the Committee that a formal ascertainment process applicable to public broadcasting stations is necessary in order to insure that the highest standard of community service is achieved by those stations. However, the Committee believes that the ascertainment process itself should be simplified as much as possible in order to minimize the cost to the licensee.

The Committee also recommends that each public broadcasting licensee develop, as soon as possible, local initiatives for improving ascertainment of community needs and for providing greater community input to decisions on programs.

Board Meetings

The Committee recommends that meetings of the Board of Directors of the Corporation for Public Broadcasting and of the boards of other public broadcasting entities be open to the public. The Committee

feels this procedure is imperative if the public is to have access to the decision-making processes which guide public broadcasting.

Employment Practices

While a serious effort is being made by most public broadcasting entities with respect to providing equal employment opportunities in professional and policymaking positions for members of minority groups and women, the Committee feels that much more remains to be done and should be done as soon as possible. Suggestions were made to the Committee by responsible representatives of minority and women's groups during the hearings which deserve attention.

The Committee recommends that the Corporation for Public Broadcasting significantly expand its efforts to assist licensees in assuring equal employment opportunity for women and minorities and that PBS and APRS compile and make available to CPB for dissemination to the public detailed statistics as to equal employment opportunity efforts on the local station level. These steps are important if oversight is to be facilitated and if progress is to be more readily measured.

The Committee recommends that CPB, PBS, APRS, and NPR strengthen their affirmative action programs to insure equal employment opportunities for qualified women and minority employees and candidates for employment, and that all public broadcasting entities take immediate steps to recruit qualified women and minority candidates for responsible positions within their organizations.

The Committee also recognizes that some problems exist with regard to the wages paid employees in public broadcasting. The Committee recommends that management and labor consider these problems carefully and meet to discuss ways in which they can be effectively dealt with. The Committee calls upon CPB, PBS, NPR, APRS, the licensees, and the various unions of broadcast employees to cooperate fully in this matter.

Program Production

The Committee is concerned that program decisions on all levels be made with greater public participation. CPB, PBS, and NPR should inform the public about the procedures by which they establish program funding priorities, carry out program development and select pilot programs. Formal input with regard thereto should be sought from the Special Assistant to the President of CPB for Minority Affairs and from its Advisory Council of National Organizations (ACNO), and recommendations submitted should be acted upon by the CPB Board.

The Committee makes the following specific recommendations concerning program development:

- CPB should concentrate its piloting efforts on making certain that the broadest possible range of national programming is available. Research should be undertaken to determine if programs are effectively reaching the audiences for which they are designed. More attention should be given to development and piloting of programs for women, minorities, and the elderly and near-elderly. These programs should recognize the special educational and public service needs of these groups.

- CPB should insure that decisions regarding the expenditure of its funds for program support reflect the needs of women and minorities, whether such decisions are made directly by CPB, shared with

others, or made entirely by CPB grantees. For example, the functions of the Station Program Cooperative should be responsive to these needs as long as it continues to be a mechanism for making program decisions.

- Corporate and other sources of grants to public broadcasting should be encouraged to make those grants for general purposes rather than earmarking them for the production, acquisition, or presentation of specific programs.

- CPB should compile an annual report on the number and length of programs produced abroad which are carried by PBS, the cost of such programs, and the number of repeat showings of such programs. While the Committee recognizes that many fine programs presently distributed by PBS and NPR are produced abroad, it is apparent that programs of the same high caliber can be produced domestically, and the Committee wishes to encourage the development of such programs as more funds are made available to public broadcasting.

- The Committee recommends that the CPB carefully evaluate the report on "Public Broadcasting and Education" which has been submitted to it by the Advisory Council of National Organizations and seriously consider implementing appropriate recommendations, especially in the areas of early childhood and adult education.

AGENCY REPORTS

The Committee received no written reports on this legislation from any department or agency of the Federal government. However, see the statement of the President in submitting the antecedent of this legislation to the Congress which appears above in this report.

COST ESTIMATE

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of this legislation:

Assuming that the amounts of non-Federal financial support received by public broadcasting entities reach the levels shown in the second column from the left in the table below, the amounts of appropriation under the legislation for each of the next five fiscal years is shown in the right-hand column in that table:

[In thousands of dollars]

| Base fiscal year | Non-Federal financial support for public broadcasting | Ratio of non-Federal support to Federal appropriations | Appropriation for fiscal year | Maximum amount which could be appropriated |
|------------------|---|--|-------------------------------|--|
| 1974..... | 1 223,200 | 2.5:1 | 1976 | 88,000 |
| 1975..... | 220,000 | 2.5:1 | 1976 | 22,000 |
| 1976..... | 257,500 | 2.5:1 | 1977 | 103,000 |
| 1977..... | 302,500 | 2.5:1 | 1978 | 121,000 |
| 1978..... | 420,000 | 3:1 | 1979 | 140,000 |
| Total..... | 480,000 | 3:1 | 1980 | 160,000 |
| | | | | 634,000 |

¹ Actual.

² July 1 to Sept. 30.

No estimate of the cost of carrying out this legislation was received from the Congressional Budget Office or any agency of the Federal government.

INFLATION IMPACT STATEMENT

Pursuant to Rule XI 2(1)(4) of the House of Representatives, the Committee makes the following statement with regard to the inflationary impact of the bill as reported:

There has been Federal funding for the Corporation for Public Broadcasting over the last 7 fiscal years at progressively higher levels (see table showing appropriations for the CPB above, p. 27). The authorizations/appropriations contained in the legislation herein reported continue that progression. The difference between the amount appropriated for fiscal year 1975 (\$62 million) and the amount which would be authorized/appropriated under the legislation for fiscal year 1976 (\$88 million) is \$16 million. This is .000043 of proposed total outlays for fiscal year 1976 as determined under the conference report on H. Con. Res. 218 (H. Rept. 94-198), the First Concurrent Resolution on the Fiscal Year 1976 Budget. Your committee is unaware of any inflationary impact on the economy that this would have.

Authorizations/appropriations for the four succeeding fiscal years under the legislation are similarly increased. Because the amounts involved represent such a small portion of the expected total budgetary outlays for those fiscal years, there is unlikely to be any inflationary impact on the economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

PART IV—GRANTS FOR EDUCATIONAL TELEVISION BROADCASTING FACILITIES

TITLE III—PROVISIONS RELATING TO RADIO

SUBPART B—CORPORATION FOR PUBLIC BROADCASTING

CONGRESSIONAL DECLARATION OF POLICY

Sec. 396. (a) The Congress hereby finds and declares—

(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instructional purposes;

(2) that expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programming depend on freedom, imagination, and initiative on both the local and national levels;

(3) that the encouragement and support of noncommercial educational radio and television broadcasting, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

(4) that it furthers the general welfare to encourage noncommercial educational radio and television broadcast programming which will be responsive to the interest of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

(5) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational radio and television service available to all the citizens of the United States;

(6) that a private corporation should be created to facilitate the development of educational radio and television broadcasting and to afford maximum protection to such broadcasting from extraneous interference and control.

CORPORATION ESTABLISHED

(b) There is authorized to be established a nonprofit corporation, to be known as the "Corporation for Public Broadcasting", which will not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

BOARD OF DIRECTORS

(c)(1) The Corporation shall have a Board of Directors (hereinafter in this section referred to as the "Board"), consisting of fifteen members appointed by the President, by and with the advice and consent of the Senate. Not more than eight members of the Board may be members of the same political party.

(2) The members of the Board (A) shall be selected from among citizens of the United States (not regular fulltime employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the country, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

(3) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

(4) The term of office of each member of the Board shall be six years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B)

the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, five at the end of two years, five at the end of four years, and five at the end of six years. No member shall be eligible to serve in excess of two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has qualified.

(5) Any vacancy in the Board shall not affect its power, but shall be filled in the manner in which the original appointments were made.

ELECTION OF CHAIRMAN; COMPENSATION

(d)(1) The President shall designate one of the members first appointed to the Board as Chairman; thereafter the members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as Vice Chairman or Vice Chairmen.

(2) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this subpart be entitled to receive compensation at the rate of \$100 per day including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by law (section 5703 of Title 5) for persons in the Government service employed intermittently.

OFFICERS AND EMPLOYEES

(e)(1) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation, other than the Chairman and any Vice Chairman, may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation. All officers shall serve at the pleasure of the Board.

(2) Except as provided in the second sentence of subsection (c)(1) of this section, no political test of qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION

(f)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(3) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

PURPOSES AND ACTIVITIES OF THE CORPORATION

(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are, among others, not specifically named—

(A) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

(B) to contract with or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programming costs of such stations, particularly innovative approaches thereto, and other costs of operation of such stations;

(D) to establish and maintain a library and archives of noncommercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such services on a local, State, regional, and national basis;

(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to non-commercial educational television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.

(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation may not own or operate any television or radio broadcast station, system, or network, community antenna television system, or interconnection or program production facility.

AUTHORIZATION FOR FREE OR REDUCED RATE INTERCONNECTION SERVICE

(h) Nothing in this chapter or in any other provision of law shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for noncommercial educational television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.

REPORT TO CONGRESS

(i) The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate. The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.

RIGHT TO REPEAL, ALTER, OR AMEND

(j) The right to repeal, alter, or amend this section at any time is expressly reserved.

FINANCING

(k)(1) There are authorized to be appropriated for expenses of the Corporation \$50,000,000 for the fiscal year ending June 30, 1974, and \$60,000,000 for the fiscal year ending June 30, 1975.

(2) In addition to the sums authorized to be appropriated by paragraph (1) of this subsection, there are authorized to be appropriated for payment to the Corporation for each fiscal year during the period

July 1, 1970, to June 30, 1975, amounts equal to the amount of total grants, donations, bequests, or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation under subsection (g)(2)(A) of this section during such fiscal year; except that the amount appropriated pursuant to this paragraph for any fiscal year may not exceed \$5,000,000.

(3) There is hereby established in the Treasury a fund which shall be known as the "Public Broadcasting Fund," administered by the Secretary of the Treasury. There are authorized to be appropriated to such fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1978, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975, and for each of the two fiscal years ending during the period beginning October 1, 1978, and ending September 30, 1980, an amount equal to 33½ per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year; except that the amount so appropriated shall not exceed \$88,000,000 for the fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976, through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

(4) There are hereby appropriated to the Public Broadcasting Fund, out of any moneys in the Treasury not otherwise appropriated, for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, and for the period July 1, 1976, through September 30, 1976, such amounts as are authorized to be appropriated by paragraph (3) of this subsection, which shall remain available until expended, and a significant portion of such funds, including those funds distributed pursuant to paragraph 5 of this subsection, shall be utilized for the development and dissemination of instructional programming. Such funds shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse from the Public Broadcasting Fund the amount appropriated to the fund for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on the air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more, but less than \$121,000,000; not less than 45 per centum in each fiscal year in which the

amount disbursed is \$121,000,000 or more, but less than \$160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is \$160,000,000.

(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on-the-air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

(iii) assure that each eligible licensee and permittee of a non-commercial educational radio station receives a basic grant.

(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programing, including but not limited to the following: producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes.

RECORDS AND AUDIT

(I)(1)(A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made

available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(B) The report of each such independent audit shall be included in the annual report required by subsection (i) of this section. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented by a reasonably detailed statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2)(A) The financial transactions of the Corporation for any fiscal year during which the Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(3)(A) Each recipient of assistance by grant or contract, other than a fixed price contract awarded pursuant to competitive bidding procedures, under this section shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) The Corporation or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are per-

tinent to assistance received under this section. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.

SUBPART C—GENERAL

DEFINITIONS

SECTION 397. For the purposes of sections 390–399 of this title—
 (1) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The term “construction”, as applied to educational television broadcasting facilities, or educational radio broadcasting facilities means the acquisition and installation of transmission apparatus (including towers, microwave equipment, boosters, translators, repeaters, mobile equipment, and video-recording equipment) necessary for television broadcasting or radio broadcasting, as the case may be, including apparatus which may incidentally be used for transmitting closed circuit television programs, but does not include the construction or repair of structures to house such apparatus. In the case of apparatus the acquisition and installation of which is so included, such term also includes planning therefor.

(3) The term “Secretary” means the Secretary of Health, Education, and Welfare.

(4) The terms “State educational television agency” and “State educational radio agency” mean, with respect to television broadcasting and radio broadcasting, respectively. (A) a board or commission established by State law for the purpose of promoting such broadcasting within a State, (B) a board or commission appointed by the Governor of a State for such purpose if such appointment is not inconsistent with State law, or (C) a State officer or agency responsible for the supervision of public elementary or secondary education or public higher education within the State which has been designated by the Governor to assume responsibility for the promotion of such broadcasting; and, in the case of the District of Columbia, the term “Governor” means the Board of Commissioners of the District of Columbia and, in the case of the Trust Territory of the Pacific Islands, means the High Commissioner thereof.

(5) The term “nonprofit” as applied to any foundation, corporation, or association, means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) The term “Corporation” means the Corporation authorized to be established by subpart B of this part.

(7) The term “noncommercial educational broadcast station” means a television or radio broadcast station, which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of enactment of the Public Broadcasting Act of 1967, is eligible to be licensed or is licensed by the Commission as a noncommercial radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corpora-

tion, or association or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.

(8) The term “interconnection” means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus, or equipment for the transmission and distribution of television or radio programs to noncommercial educational television or radio broadcast stations.

(9) The term “educational television or radio programs” means programs which are primarily designed for educational or cultural purposes.

(10) The term “non-Federal financial support” means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

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

(B) as gifts, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production acquisition, distribution or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

(11) The term “public broadcasting entity” means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution or dissemination of educational television and radio programs.



PUBLIC BROADCASTING FINANCING ACT OF 1975

JULY 22, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FLOOD, from the Committee on Appropriations,
submitted the following

ADVERSE REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 6461]

The Committee on Appropriations, to whom was referred the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting and for other purposes, having considered the same, reports unfavorably thereon, and recommends that the bill do not pass as referred to the Committee.

EXPLANATION OF COMMITTEE ACTION

H.R. 6461 was originally reported from the Committee on Interstate and Foreign Commerce on May 22, 1975 and was sequentially referred to the Committee on Appropriations for consideration of such provisions of it as fall within the jurisdiction of the Committee under rule X, clause 1(b). That clause provides that the Committee on Appropriations shall have jurisdiction with respect to "appropriation of the revenue for the support of the Government".

The provision in H.R. 6461 which falls within the jurisdiction of the Committee on Appropriations is the paragraph beginning on line 3 of page 3 and ending on line 25 of page 3 of the bill, and particularly that portion of the paragraph which states "(4) There are hereby appropriated to the Public Broadcasting Fund, out of any moneys in the Treasury not otherwise appropriated, for each of the fiscal years

during the period beginning July 1, 1975, and ending September 30, 1980, and for the period July 1, 1976, through September 30, 1976, such amounts as are authorized to be appropriated by paragraph (3) of this subsection, which shall remain available until expended."

This provision makes appropriations for 5 fiscal years, ending in 1980. The Committee is opposed to its inclusion in H.R. 6461, and will propose to delete it if H.R. 6461 is brought up for consideration in the House in its present form. Elimination of this language would leave the authorizations, the matching requirements, and the other essential features of the bill intact, and would permit appropriations to carry out the intent of H.R. 6461 to be made following its enactment. This will not result in any significant delay in availability of funds for public broadcasting since the Committee is prepared to act on appropriations for the Corporation for Public Broadcasting as soon as the enactment of the authorizing legislation appears imminent. While the Committee has rejected the provision in H.R. 6461 for automatic appropriations for a five year period ending September 30, 1980, it does not in principle oppose advance appropriations for public broadcasting, and *will* include appropriations for the 3 fiscal years ending September 30, 1978 in an appropriation bill if and when H.R. 6461, or similar legislation, is enacted. Under this timetable, appropriations for fiscal year 1979 would be considered in the next session of Congress, in connection with the appropriations bill for fiscal year 1977, and appropriations for fiscal year 1980 would be considered by the first session of the 95th Congress, and so on.

ANNUAL REVIEW BY CONGRESS

The Committee believes that the practice of annual review of appropriations of public funds is one of the most important responsibilities of the Congress, and should not be abandoned, except under most unusual circumstances. H.R. 6461 would exempt the Corporation for Public Broadcasting from that annual review and provide it with appropriations for a five-year period, contingent upon certain non-Federal matching requirements and limited by appropriation ceilings in the bill. The Secretary of the Treasury would automatically pay to the Corporation for each of the fiscal years 1976 through 1980 \$1.00 in Federal funds for every \$2.50 in non-Federal funds received by the public broadcasting system during each second-preceding fiscal year, except that in fiscal years 1979 and 1980 \$3.00 in non-Federal funds would be required to obtain \$1.00 in Federal funds. The maximum amounts, as established by the appropriation ceilings in the bill, that could be paid to the Corporation under this procedure for each of the five fiscal years are as follows: \$88 million for 1976, \$103 million for 1977, \$121 million for 1978, \$140 million for 1979, and \$160 million for 1980. For the three-month transition period between fiscal years 1976 and 1977, the maximum amount is \$22 million. In other words, H.R. 6461, as reported from the Commerce Committee, would appropriate as much as \$634,000,000 over a five-year period for the Corporation for Public Broadcasting, which would become available automatically each year without further action by the Congress. The Committee is not persuaded that the budgetary problems of the Corporation for Public Broadcasting are sufficiently different from those of other publicly supported agencies and institutions to justify such a radical departure from the normal appropriation process.

CONGRESSIONAL CONTROL OF THE BUDGET

Congress has recently reaffirmed its support of the concept of annual review and control of Federal expenditures with the enactment of the Congressional Budget and Impoundment Control Act of 1974. One of the principal reasons for the passage of that act was to make Congressional consideration of the budget more orderly and comprehensive. It was obvious that Congressional consideration of the President's budget had become too fragmented, and that the Congress needed to get better control over the procedures it uses to make decisions on the budget. The Report of the House Committee on Rules in the Ninety-third Congress (House Report 93-658), accompanying the bill which was to become the Budget and Impoundment Control Act, was quite straightforward in its assessment of the Congressional budget process. The following excerpts from pages 22 and 23 of that Report describe the problems with the legislative budget process which gave rise to the budget control legislation:

The excessive fragmentation of the budget process in Congress makes it difficult for Congress to effectively assess program priorities or to establish overall budget policy. At the very least, priority-setting means that competing claims on the budget are decided in some comprehensive manner rather than in isolation from one another. This is not now the case, for Congress not only acts on the various appropriation measures over a period of many months, but it also separately deals with the many spending measures that are escorted through the backdoor. Nor does it explicitly decide how big the budget should be or whether there should be a surplus or deficit. Rather the total is the sum of many individual actions, most of which are taken without any real cognizance of their impact on the economy.

The signs are everywhere that the legislative budget machinery is in disrepair. One indication is the portion of the budget which is beyond effective control by Congress. The official estimate is that 75 percent of the budget "is relatively uncontrollable under existing law," a percentage that has climbed steeply in recent years. In fact, uncontrollables are the fastest rising part of the budget and each year they claim a large share of any new funds that may be available.

* * * Budget uncontrollability is closely tied to another recent development, the increased use of backdoor spending outside the regular appropriations process. . . . More than \$100 billion in spending derives from permanent appropriations which become available without any current action by Congress * * *

Often there is sound reason for the use of backdoors, but the problem is that they contribute greatly to the fragmentation of the appropriations process . . . the aggregate effect of all backdoors has been to sharply reduce the portion of the budget that goes through the regular appropriations process. In fiscal 1974, for example, an estimated 56 percent of all spending is outside the appropriations process.

The Report of the House Committee on the Budget to accompany the first concurrent resolution on the budget for fiscal year 1976 (House Report 94-145) discusses the problem of uncontrollability of the budget. The Report states on page 56 that:

* * * \$133 billion or 36% of the \$368 billion in outlays will result from permanent authority already made available by existing laws. Lesser amounts of \$51 billion and \$72 billion will result from prior authority and entitlement legislation. A total of \$256 billion or 69% of the \$368 billion budget total included in the estimate of the Budget Committee is mandatory under existing law. The portion of the outlays designated as relatively controllable is approximately \$113 billion, or 31% of the total.

On page 42, the Budget Committee, in discussing general revenue sharing which also results from a permanent authorization and appropriation (through December of 1976), states that:

Of major concern to the Committee is the serious problem posed by the existence of large "back-door" financed programs, such as revenue sharing, which restrict the ability of Congress to achieve the goal of budget control.

It is clear that the proposed long-range financing for public broadcasting as contained in H.R. 6461 would establish another backdoor spending or "uncontrollable" program, which would be exempt from competition with other programs for Federal dollars. Once the five-year appropriations were enacted, the Congress and the Executive Branch, for all practical purposes, would lose control over them. The Corporation for Public Broadcasting would be removed from the annual appropriations process and the fiscal discipline which results from that process. Since such a large percentage of the Federal budget is already "uncontrollable", it does not seem prudent to place yet another large Federal program in that category. Quite the contrary, it would seem wise for the Congress to *regain* control of some programs which are now considered "uncontrollable".

INSULATION

H.R. 6461 is designed to "insulate" public broadcasting from the legislative process. It provides that "officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress". However, as a practical matter, in order to influence the purposes for which public money is spent, Congress would be required to amend or repeal the law, or to rescind the appropriations. The oversight and accountability associated with the annual appropriations process would disappear.

The Labor-HEW Subcommittee on Appropriations heard detailed testimony on this bill after it was reported out by the Commerce Committee and referred by the Speaker to the Appropriations Committee. The Subcommittee received testimony from the chairman and ranking minority member of the Subcommittee on Communications of the Commerce Committee, the Office of Telecommunications Policy in the Executive Office of the President, the Corporation for Public Broadcasting, and representatives of the public broadcasting industry.

The primary argument in favor of the proposed long-range financing plan, according to its proponents, is that it would remove the budget of the Corporation for Public Broadcasting from the annual appropriations process, thereby eliminating the "political hazards" associated with that process. The case for "insulated funding" is made in the statement of the Corporation for Public Broadcasting prepared for the hearings conducted on this bill by the Labor-HEW Appropriations Subcommittee on July 9, as follows:

* * * it is related to considerations fundamental to our nation: the First Amendment freedoms of speech and of the press.

Under the Public Broadcasting Act, public broadcasting must be afforded "maximum protection . . . from extraneous interference and control." Although the private, non-government status of the Corporation was conceived by Congress as a means of providing protection to public broadcasters, CPB was given only part of the shield necessary to insulate itself and the stations from the potential of political interference in day to day operations. A critical part of the shield, insulated, long-range funding, was missing. . .

The five-year authorizations and appropriations in H.R. 6461 would go a long way toward eliminating both the risk of and the appearance of undue interference with and control of public broadcasting.

The Committee has carefully considered the merits of this argument, but it is not convinced that a five-year appropriation outside of the normal appropriations process is warranted simply because the potential for governmental interference with public broadcasting exists. The Committee does not believe that "the risk of and the appearance of undue interference", however that may be defined, is sufficient reason for such a drastic departure from the normal appropriations process.

Each year, the Committee and the Congress consider, and act upon, billions of dollars in appropriations for grants and loans to both private and public educational institutions. Such respected institutions of higher education as Gallaudet College, Howard University, and the National Technical Institute for the Deaf receive most of their operating funds directly from the Federal government through annual appropriations. Local school districts throughout the Nation now receive substantial amounts of Federal aid each year. Persuasive arguments could be made for insulating these institutions from potential political interference resulting from their dependence upon annual appropriations. Nevertheless, such arguments do not outweigh Congress' responsibility to the electorate to assure that public funds are wisely and effectively spent.

LONG-RANGE PLANNING

It is also maintained that public broadcasting requires multi-year funding in order to have adequate lead time to develop quality programming. The Committee recognizes the merit of this argument but it is also aware that widely acclaimed programs such as *Sesame Street* and *The Electric Company* have been produced with the use

Federal funds derived from the regular appropriations process. There is no doubt that any Federal agency, or other entity receiving Federal funds, could argue that long-range planning would be improved if it were given appropriations for five years at a time. But the Committee submits that the purpose of the appropriations process is to give the people, through their elected representatives in the Congress, an opportunity to find out how their tax dollars are being spent and to change the way they are being spent should the need arise. The Committee believes that a five-year appropriation, for all intents and purposes, would prohibit the Congress from performing those essential tasks.

ADVANCE APPROPRIATIONS

At the same time, however, the Committee does recognize that advance appropriations for the Corporation for Public Broadcasting, similar to those provided for many education and training programs administered by the Department of Health, Education, and Welfare could help to improve the planning and management of public broadcasting. Accordingly, as soon as H.R. 6461, or similar authorizing legislation, is enacted, the Committee will recommend appropriations for fiscal year 1976, and advance appropriations for fiscal years 1977 and 1978, and would expect that Congress would consider additional advance appropriations each year thereafter.

The Committee favors increased support for public broadcasting from *all* sources, including the Federal government. The record since fiscal year 1969, the year in which the Corporation was established, reflects ample evidence that the Committee has been generous in providing funds for public broadcasting. The appropriation for the Corporation rose from \$5,000,000 in fiscal year 1969 to \$62,000,000 in fiscal year 1975. There is no reason to believe that the appropriation will not continue to grow substantially in the years ahead. For these reasons, the Committee does not oppose the enactment of H.R. 6461, or similar legislation, if paragraph 4 of the bill is amended to remove the appropriation language appearing on lines 3 through 10 of page 3.

ADDITIONAL VIEWS OF THE HONORABLE DAVE OBEY

I do not believe that anyone can seriously question my support for public broadcasting. In my state legislative days, I was the author of the legislation which established an integrated educational television network in Wisconsin. But I most strongly support the position of the Appropriations Committee on this matter if for no other reason than to preserve an intelligent Congressional budget-making system.

More importantly, I want to challenge some of the assumptions which underlie this piece of legislation:

1. I do not believe we can justify removing public broadcasting from the same economic pressures, the same competition for federal dollars, faced by every other segment of society. That would be unfair; it would breed elitism in a field which cannot afford it; and it would be bad fiscal policy.

Under the Full Employment Act of 1946, we have an obligation to try to manage the economy and fine-tune it as best we can to assure economic stability. But this bill would add yet another item to the ever growing list of "uncontrollables" in the federal budget, thereby making that fiscal management responsibility even more difficult.

2. Most importantly—at the risk of appearing to oppose motherhood, apple pie and Arthur Godfrey—let me raise a dissenting voice by suggesting that the "insulation from political pressure" so fervently endorsed by the advocates of this bill in this form might in fact be an unhealthy thing in a competitive democracy. I want the public broadcasters of this country to remain independent of any and all political pressures. But I do not honestly think that structural niceties can preserve that independence.

Insulation does not preserve freedom in a competitive democracy or in any other institution that I know of. Guts and commitment may, but insulation does not. And I think it is healthy to have *every* segment of our society hanging in there battling for our freedoms: freedom of expression, freedom of association, freedom of religion—all of the freedoms guaranteed to us on paper by the Constitution, but preserved for us in the last analysis by our active and continuous vigilance.

The insulation for public broadcasters sought in this bill would remove from the shoulders of one important group in our society the direct necessity to remain in the fray. I think that would be bad for the country because we need all the people we can get to participate daily in the battle to preserve our constitutional freedoms. And we best fight that battle if *our* freedoms, and not just the other guy's, are in danger of being lost or diluted.

I just happen to have a suspicion that the less the American people—and especially their opinion leaders—are insulated in any way from the potential venality of their elected officials, the more attention they are likely to pay in the first place to the character and judgement of the people they elect to exercise power. That is the fundamental reason that leads me to strongly support the position of the Appropriations Committee on this matter.

DAVE OBEY.

ADDITIONAL VIEWS OF THE HONORABLE LOUIS STOKES

I concur in the action of Chairman Flood and the Subcommittee in rejecting the attempted encroachment upon the jurisdiction of the Appropriations Committee by a legislative committee. Given the established committee system in the House of Representatives, as currently constituted, it is imperative that we scrupulously respect and maintain the jurisdictional integrity of the various committees. To do otherwise would be to invite confusion, uncertainty and, eventually, legislative chaos.

Chairman Flood is to be commended for the thoroughness of the inquiry into the merits of the Public Broadcasting Financing Act of 1975. The hearing, lasting some seven and one-half hours, elicited extensive data and information concerning the progress, plans and needs of Public Broadcasting.

Significantly, however, neither the testimony presented or elicited during the entire hearing, nor materials subsequently submitted, made a convincing case for long-term, "insulated" funding of the Corporation for Public Broadcasting (CPB). The major thrust of the presentations, i.e., the need to shield Public Broadcasting from undue political pressures inherent in the regular Federal budget—appropriations process, simply did not stand the test. Indeed, under close questioning by members of the Committee, including my personal inquiries, the principal industry representatives, Messrs. Robert S. Benjamin of CPB and Ralph Rogers of the Public Broadcasting Service (PBS), quite candidly admitted that they have experienced no incidents of interference or pressure from members of the Committee or other Members of Congress. This leads me to the inescapable conclusion that the real justification for "insulation" is that Public Broadcasting executives are too busy to be burdened with appearing before the Committee annually, to account for their use of the public funds they have received.

It cannot be reasonably doubted that Public Broadcasting, as an educational, noncommercial communications medium, is vital to the social and economic welfare of our nation. Nonetheless, it is imperative that the Congress insist upon accountability by those who would spend Federal funds, however good or noble the purpose for which such funds are expended: to do otherwise would amount to dereliction of a constitutional duty by the Congress itself.

Moreover, given the poor record of Public Broadcasting in the areas of equal employment of minorities and women, and balanced programming reflecting their particular needs and interests, the Committee and the Congress would do well to insist upon continuing Congressional oversight in order to insure more substantial progress in these extremely important and neglected areas of public concern.

The vigorous and steady growth of Public Broadcasting, which I will continue to strongly support, gives testimony to the probability that Congressional oversight has served, however incidentally, as an aid and not a hindrance to this important industry.

LOUIS STOKES.

PUBLIC BROADCASTING FINANCING ACT OF 1975

DECEMBER 11, 1975.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted
the following

CONFERENCE REPORT

[To accompany H.R. 6461]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Broadcasting Financing Act of 1975".

SEC. 2. Subsection 396(k) of the Communications Act of 1934 is amended by inserting after paragraph (2), the following paragraphs:

"(3) There is hereby established in the Treasury a fund which shall be known as the 'Public Broadcasting Fund' administered by the Secretary of the Treasury. There are authorized to be appropriated to such fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975; except that the amount so appropriated shall not exceed \$88,000,000 for the

fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976, through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

"(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

"(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more, but less than \$121,000,000; not less than 45 per centum in each fiscal year in which the amount disbursed is \$121,000,000 or more, but less than \$160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is \$160,000,000.

"(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on-the-air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

"(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a non-commercial educational radio station receives a basic grant.

"(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programming, including but not limited to the following: producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programming purposes."

SEC. 3. Subsection 396(g)(2)(H) of the Communications Act of 1934 is amended by deleting the period after "broadcasting" and inserting the following: "and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs."

SEC. 4. Subsection 396(i) of the Communications Act of 1934 is amended by adding at the end thereof the following sentence: "The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine."

SEC. 5. Section 397 of the Communications Act of 1934 is amended by inserting, after paragraph (9), the following paragraphs:

"(10) The term 'non-Federal financial support' means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television or radio programs."

And the Senate agree to the same.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN M. MURPHY,
CHARLES J. CARNEY,
GOODLOE E. BYRON,
LOUIS FREY, Jr.,
EDWARD R. MADIGAN,

Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
VANCE HARTKE,
HOWARD BAKER,
J. GLENN BEALL,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House bill and the Senate amendment thereto differed from one another in the following three significant substantive respects: (1) matching requirements for Federal funding, (2) a provision relating to instructional programming, and (3) a provision affecting the status of the Corporation for Public Broadcasting (CPB) under the Civil Rights Act of 1964. There follows a discussion of these differences and the action taken by the committee of conference with respect to each of them.

MATCHING REQUIREMENTS FOR FEDERAL FUNDING

Both the House bill and the Senate amendment thereto provided that authorizations of appropriations for each fiscal year in the period from July 1, 1975, through September 30, 1980, would be based on the total amount of non-Federal financial support received by all public broadcasting entities during the fiscal year second preceding each such fiscal year. Of course, both versions and the conference substitute would impose a ceiling on the maximum amount authorized to be appropriated for each such fiscal year.

The Senate amendment provided that for any such fiscal year, \$1 would be authorized to be appropriated for every \$2.50 in non-Federal financial support received by all public broadcasting entities during the second preceding fiscal year.

The House bill contained the same \$1 to \$2.50 matching provisions for the first three fiscal years covered by the legislation (1976, 1977,

(5)

and 1978). For fiscal years 1979 and 1980, however, the House bill would have authorized \$1 to be appropriated for every \$3 in non-Federal financial support received by public broadcasting entities during fiscal years 1977 and 1978, respectively.

The Managers on the part of the Senate voiced serious concern about the impact of this provision on public broadcasters generally and smaller public broadcasting stations in particular. It was their fear that the higher House bill formula would make it difficult, if not impossible, for public broadcasting to achieve the maximum amount authorized for each of the last two fiscal years.

In adopting the matching provisions of the Senate version, the conferees from each House wish to make clear that it is their intention to closely monitor non-Federal financial support received by public broadcasting entities in the future for the purpose of determining if it would be feasible and in the public interest to increase the matching requirement to the ratio provided for in the House bill.

INSTRUCTIONAL PROGRAMMING

Proposed section 396(k)(4) of the House bill would have required that a significant portion of the funds disbursed to CPB and a significant portion of the funds distributed by CPB to noncommercial educational radio and television broadcast stations pursuant to the proposed section 396(k)(5) of the Act be utilized for the development and dissemination of instructional programming.

The Senate amendment had no comparable provisions. The conference substitute contains no provisions relating to instructional programming.

The omission of the provisions in the House bill relating to instructional programming does not reflect a lack of commitment on the part of the Managers from either House to the principle that instructional programming must be an important part of public broadcasting. Educational instruction was the primary purpose of the original non-commercial educational broadcast stations and the Midwest Program on Airborne Television Instruction (MPATI) experiment. It also was a basic thrust of the Carnegie Report on which the Public Broadcasting Act of 1967 was based. Indeed, it is the sense of the Managers from both Houses that this policy is already embodied in the Act as section 396(a)(1). That provision was enacted as a part of the Public Broadcasting Act of 1967. It provides as follows:

Sec. 396. (a) The Congress hereby finds and declares—

(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, *including the use of such media for instructional purposes;* (italic supplied)

It is the expectation of the conferees that CPB will, in keeping with this clear policy, ensure that a significant portion of the funds it distributes for programming purposes will be used for the development of instructional programming. There should be no drift by CPB away from this mandate of the Congress.

CIVIL RIGHTS ACT LANGUAGE

The Civil Rights Act language contained in the House bill was as follows:

SEC. 3. Subsection 396(b) of the Communications Act of 1934 is amended by adding at the end thereof the following: "The Corporation shall be subject to the provisions of titles VI, VII, and IX of the Civil Rights Act of 1964, in the same manner and to the same extent as Federal departments and agencies".

The conferees on the part of the Senate strongly objected to the inclusion of this language. Their objections were based on a technical problem in the amendment and on a concern that the House language would place the Corporation for Public Broadcasting in the posture of a Federal department or agency responsible for the promulgation and enforcement of civil rights regulations. The Senate conferees stated that placing CPB in such a posture would be in clear conflict with the intent of the Congress to establish CPB as a private corporation as set forth in section 396(b) of the Act.

Moreover, the Senate conferees were of the view that existing Federal agencies mandated to enforce the civil rights laws should be required to implement those laws with regard to public broadcasting, rather than placing this responsibility on the CPB.

The conferees on the part of the House also expressed concern about the technical problem in the language and about the effect of the language, since it had been raised for the first time during debate in the House with no opportunity for considering it during hearings on the legislation.

The House conferees committed themselves to hold hearings as soon as practicable on the questions raised by this language in the House version and to explore fully the underlying problems of discrimination against minorities and women in public broadcasting. The Senate conferees made a commitment to hold similar oversight hearings.

It is the intention of the conferees that these hearings focus on (1) identifying and documenting precisely where problems of discrimination exist; (2) determining whether the appropriate Federal departments or agencies (including, but not limited to, the Federal Communications Commission; the Department of Health, Education and Welfare; the Justice Department; and the Equal Employment Opportunity Commission) are effectively carrying out their existing anti-discrimination enforcement responsibilities; (3) identifying the appropriate responsibilities of the various public broadcasting entities with respect to non-discrimination in employment opportunity and the provision of services; and (4) considering, if necessary, legislative initiatives to deal with any continuing problems.

The conferees stated their concern that, despite some improvement, discrimination in the employment practices of CPB, PBS, and the public television and radio stations appears to be continuing. They further agree that the Congress should press for an immediate end to such discrimination.

On the basis of this agreement and of the commitment to hearings, the conferees agreed not to include the House language in the conference substitute.

TESTIMONY OF CPB BEFORE CONGRESSIONAL COMMITTEES

Both versions of the legislation contained provisions clarifying the duty of officers and directors of CPB to be available to testify before appropriate Committees of the Congress. The Senate amendment provided that the officers and directors would be available to testify "annually". The House version contained no such limitation and left the determinations to the committees as to how often such testimony would be required.

The conference substitute is the same in this respect as the House bill.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN M. MURPHY,
CHARLES J. CARNEY,
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HOWARD BAKER,
J. GLENN BEALL,

Managers on the Part of the Senate.



LONG-RANGE FUNDING FOR PUBLIC BROADCASTING

MARCH 21 (legislative day, MARCH 21), 1975.—Ordered to be printed

Mr. PASTORE, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 893]

The Committee on Commerce, to which was referred the bill (S. 893) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SUMMARY OF THE LEGISLATION

S. 893 has three principal purposes relating to the Corporation for Public Broadcasting and the system of noncommercial educational radio and television stations:

- (1) To provide long-term Federal financing for the Corporation for Public Broadcasting by means of a five-year authorization and appropriation;
- (2) To assure that a portion of Federal funds is distributed directly to local noncommercial educational broadcast stations; and
- (3) To expand the scope of the Public Broadcasting Act of 1967 to include the development and use of non-broadcast communications technologies for the distribution and dissemination of educational radio and television programming.

BACKGROUND AND NEED FOR LEGISLATION

In enacting the Public Broadcasting Act of 1967, the Congress expressed its desire to foster the growth of noncommercial educational broadcasting as a source of high quality programming responsive to the educational needs and interests of our diverse population and supplementing the existing commercial broadcast system.

To implement this general purpose, the 1967 Act established the Corporation for Public Broadcasting to guide the development and programming of educational broadcasting.

Underlying the creation of the Corporation were two fundamental concerns. First, the Congress sought to insure that the Federal Government would not intrude public broadcasting's development and programming through an extraneous interference or control derived from its financing of the system. And secondly, there was a need to establish a nationwide structure for the growth of the public broadcasting system which would emphasize the critical role of local stations in serving the specific educational needs and interests of their particular communities.

In addition to meeting the imperative financial and operating needs of the public broadcasting system, S. 893 would also reaffirm and strengthen these fundamental principles upon which the system is based.

The Financial and Operating Needs of the System

It was never intended that the Corporation for Public Broadcasting be permanently funded through the annual authorization and appropriation process. Rather, this was to be an interim procedure pending submission of a long-term financing plan by the Administration to the Congress.

Thus, in his Health and Education Message to the Congress of February 28, 1967, the President stated:

I recommend that Congress enact the Public Television Act of 1967 to—

Create a Corporation for Public Television authorized to provide support to noncommercial television and radio. Provide \$9 million in fiscal 1968 as initial funding for the Corporation.

Next year, after careful review, I will make further proposals for the Corporation's long-term financing.¹

Similarly, in its Report accompanying the legislation implementing the President's recommendation (i.e., the Public Broadcasting Act of 1967), your Committee observed:

Title II provides an authorization of \$9 million for the Corporation for the fiscal year 1968. Financing is, of course, one of the complex issues in the development of public broadcasting, and the \$9 million is only "seed" money, designed to get the Corporation off the ground. Much more money will be required in future years if the Corporation is to accomplish the task before it. The President said in his message to Congress, recommending the legislation that: "Next year, after careful review, I will make further proposals for the Corporation's long-term financing."²

¹ "Health and Education Message from the President of the United States," p. 8, 90th Cong., 1st sess. H. Doc. 68 (1967).

² "Report of the U.S. Senate Committee on Commerce to Accompany S. 1168," p. 8, 90th Cong., 1st sess., S. Rept. 222 (1967).

However, prior to submission in the last Congress of legislation similar to that reported here by your Committee,³ no such Administration proposals were forthcoming, and the Corporation has relied on periodic authorizations and appropriations. The following table sets forth the Federal funding which the Corporation has received:

| | [In millions of dollars] | 1- or 2-yr authorization | Authorization | Appropriation |
|--------------|--------------------------|-----------------------------|---------------|---------------|
| Fiscal year: | | | | |
| 1969 | 1 yr. | 9 | | 5.0 |
| 1970 | 1 yr. | 20 | | 15.0 |
| 1971 | | 35 | | 23.0 |
| 1972 | 2 yr. | 35 | | 35.0 |
| 1973 | | 65 | | 65.0 |
| 1974 | 2 yr., vetoed | 90 | | 45.0 |
| 1973 | 1 yr. | 45 | 135.0 | |
| 1974 | | 55 | 47.5 | |
| 1975 | | 65 | 62.5 | |

¹ Continuing resolution.

The financial and related operating needs of public broadcasting vis-a-vis its listening and viewing audience have greatly expanded since 1967. As indicated in testimony received by your Committee at hearings on similar legislation before the last Congress,⁴ there are now 405 noncommercial educational radio and television stations capable of reaching three-fourths of the total population of the United States. In 1967, there were only 124 stations in the entire system; today there are 250 public television stations alone. During the winter of 1974, evening programs of the Public Broadcasting Service (PBS) were viewed or listened to by 32 percent of the total population capable of receiving them. PBS children's programs during the same period had a 26 percent share of the total potential audience. When corrected for duplication, these statistics show that PBS evening and children's programs were viewed or listened to by 42 percent of the total population capable of receiving those programs, or approximately 27.8 million households. Assuming 1.7 persons per household, viewers and listeners of the PBS evening and children's programs during the winter of 1974 totalled 41,000,000. Most importantly, these statistics reflect an annual increase in PBS listening and viewing of approximately 15 percent over 1973.

This significant growth of the public broadcasting system and the substantial increases in its audiences highlight the need for long-term Federal financing to maintain and further expand its program service to the American people.

³ See S. 3825, 93d Cong., 2d sess. (introduced July 29, 1974). Hearings on the bill were held on Aug. 6, 1974, before the Subcommittee on Communications, see "Hearings on S. 3825, Senate Committee on Commerce," serial No. 93-97, 93d Cong., 2d sess., and the bill reported favorably, see "Report of the U.S. Senate Committee on Commerce to Accompany S. 3825," 93d Cong., 2d sess., S. Rept. 93-1113 (Aug. 20, 1974). Because of the appropriation provision of the bill, it was referred to the Senate Committee on Appropriations where action could not be taken before adjournment of the 93d Congress.

S. 893, as referred to your committee, is identical to S. 3825, as introduced in the last Congress, with the exception of minor changes to conform with the new Federal fiscal year provisions of the Congressional Budget Act of 1974 (Public Law 93-344).

⁴ See "Hearings on S. 3825, Senate Committee on Commerce," serial No. 93-97, p. 26 (statement of Hon. Clarence J. Brown, U.S. Representative from the Seventh District of Ohio) and p. 30 (testimony by Mr. Henry Loomis, president, Corporation for Public Broadcasting), 93d Cong., 2d sess. (Aug. 6, 1974).

In particular, long-term funding is critically needed to assure financial stability within public broadcasting, and thereby permit the advance planning necessary for effective program development and production. As the President of the Corporation for Public Broadcasting, Mr. Henry Loomis, told your Committee in 1973, series programming requires the projection of budget costs over more than one year and lead time is essential:

The production of programs for presentation by local public broadcasting stations is, and should be, a careful, time-consuming process. It takes time to consult with 147 television licensees and 138 qualified radio stations on their program needs, to analyze and react to their recommendations and their proposals, to decide upon production centers, to negotiate for rights, to produce a pilot, to produce the final series, schedule and present them for use by the stations.

Compressing their entire cycle into a single year means compromising on the quality of the final product. Series like BBC's "Henry VIII" and "Civilisation" cannot be planned and produced in one year. It took almost three years of research, planning, and development before the first "Sesame Street" series could be aired.⁵

Absent reasonable assurance as to the levels of Federal funding available over a multi-year period, the Corporation and local educational stations can undertake this kind of advance planning on only the most limited scale.

Other operating needs and objectives of public broadcasting call for the financial stability which only a multi-year appropriation and authorization can provide. Without long-term funding, it is difficult for public broadcasting to maintain and attract a sufficient level of creative talent vis-a-vis the more financially secure commercial broadcast industry. Long-term funding would also enable the Corporation to realize the objective of decreasing its dependence on foreign programming sources. And, the development of new and innovative program services, such as specialized programming for the handicapped, including television captioning for the deaf and increased radio programming designed especially for the blind, is similarly contingent on long-term committed investment.

Your Committee believes that long-term Federal funding for public broadcasting is thus essential to meet the pressing current needs of the system and to ensure that its full potential for excellence in both the quantity and quality of its service will be realized in the future.

The Need for Insulated Funding

The Public Broadcasting Act of 1967 established the principle that while Federal funding was both necessary and proper to assist in the development of public broadcasting, such funding should not be allowed to serve as a potential vehicle for extraneous governmental control over the system's programming.

⁵ "Hearings on S. 1090 and S. 1228, Senate Committee on Commerce," p. 42, serial No. 93-10, 93d Cong., 1st sess. (1973).

In this regard, your Committee's Report on that legislation contained the following statement:

Your committee has heard considerable discussion about the fear of Government control or interference in programming if S. 1160 is enacted. We wish to state in the strongest terms possible that it is our intention that local stations be absolutely free to determine for themselves what they should or should not broadcast. As President Johnson said in his message of February 28:

"Noncommercial television and radio in America, even though supported by Federal funds, must be absolutely free from any Federal Government interference over programming."

Dr. James Killian, who headed the Carnegie Commission on Educational Television, came to the same conclusion when referring to the findings of his group when he said:

"The Commission categorically affirmed that the Corporation for Public Television must be private and nongovernmental, that it must be insulated to the greatest possible degree from threat and political control."⁶

In providing a five-year authorization and appropriation, S. 893 would assure public broadcasting of the Federal funding levels available for its long-range development thereby reaffirming and strengthening this critical principle of independence.

While your Committee recognizes the paramount congressional responsibility for designating and overseeing the disbursement and use of public funds, it nonetheless believes that this legislation represents a necessary accommodation of that responsibility with essential objectives and needs of public broadcasting. As the former Director of the Office of Telecommunications Policy, Dr. Clay T. Whitehead, stated to your Committee at hearings on similar legislation before the last Congress:

* * * Congress has an inescapable responsibility for holding the recipients of tax dollars accountable for their use of public funds. This is a valid and necessary governmental responsibility even when the recipient of such funds operate a communications medium.

Annual appropriations, however, are just as unacceptable as permanent appropriations, because there is insufficient insulation between the budgetary and appropriations processes and sensitive programming judgments. A multi-year appropriation represents a reasonable balance between the conflicting objectives of insulated financing and government fiscal responsibility.⁷

It should be emphasized that the legislation retains significant safeguards against any potential for the abuse or misuse of a multi-year

⁶ "Report of the U.S. Senate Committee on Commerce To Accompany S. 1160", p. 11, 90th Cong., 1st sess., S. Rept. 222 (1967).

⁷ "Hearings on S. 3825, Senate Committee on Commerce", p. 12, serial No. 93-07, 93d Cong., 2d sess. (1974).

appropriation. The Corporation for Public Broadcasting would remain fully accountable in that its officials would be required to be available for annual oversight hearings before appropriate committees of the Congress. In addition, the Corporation's directors are subject to Senate confirmation. The ultimate safeguard is, of course, the Congressional prerogative of amending the funding provisions of the Act at any time.

By determining the annual authorization and appropriation based on a formula of a 40 percent Federal match of the entire public broadcasting system's non-Federal income, the legislation further insures that Federal funding will not dominate the system but rather will provide a needed stimulus for non-Federal support. Under this formula, \$1.00 in Federal funds would be appropriated for every \$2.50 received by the Corporation, stations, and other public broadcasting entities from State and local governmental and private sources. No more than 28 percent of public broadcasting's total income will be derived from Federal funds. By providing that Federal support will increase only as nationwide non-Federal support grows, the legislation ties Federal funding of the system to a rough but meaningful measure of its effectiveness.

As a further necessary safeguard of sound fiscal policy, the legislation stipulates ceilings on the maximum authorization and appropriation permitted for each fiscal year. However, as discussed below, your Committee believes that the particular ceilings proposed by S. 893, as introduced, do not adequately allow for the continued growth of the public broadcasting system and therefore fail to provide the desired insulation and incentive for increasing non-Federal support.

The Principle of Localism

The Public Broadcasting Act of 1967 also emphasized the importance of local stations in the national public broadcasting structure and their role in providing programming specifically responsive to the needs and interests of their particular communities.

Developments in the relationship of the Corporation for Public Broadcasting and local stations, including the 1973 Partnership Agreement between the Corporation and the Public Broadcasting Service and the formation of the National Station Cooperative, have given specific content to this fundamental policy.

S. 893 would build upon these developments and provide further needed support for the principle of localism in public broadcasting. As Dr. James R. Killian, Jr., Chairman of the Carnegie Commission on Educational Television and a director of the Corporation for Public Broadcasting since its inception, told your Committee at hearings in 1973: "* * * the prime enemies of localism are the one-year appropriation and inadequate funds."⁸ If local stations are to fulfill their intended role in the public broadcasting system, they must be assured of long-term funding levels adequate to justify increased programming investment commitments.

In addition to providing a five-year authorization and appropriation for the Corporation for Public Broadcasting, the legislation in-

sures that a reasonable portion of each annual appropriation to the Corporation (from 40 to 50 percent depending on the level of such appropriation) will be designated for distribution to local educational television and radio stations. In this regard, it should be noted that the Corporation has already committed itself, by agreement with local television station representatives, to distribute greater amounts of its appropriation to those stations.

Other provisions also insure that the licensees and permittees of local stations will play a substantial role in the decision-making processes concerning the distribution of funds within the national structure.

The legislation further provides that the amount of Federal funds annually apportioned to each local station may not exceed one-half of that station's total non-Federal support base thereby further promoting financial independence at the local level.

Your Committee believes that these aspects of the legislation are essential to preserve and strengthen the principle of localism and to promote its objectives of program diversity and excellence within the nationwide public broadcasting system.

Development and Use of New Technology

S. 893 would authorize the Corporation for Public Broadcasting, either directly or through grants or contracts, to conduct research, demonstrations, or training with respect to the use of non-broadcast communication technologies for the dissemination of educational television or radio programs. The legislation would also permit local stations to use the distributed Federal funds for the development and use of such technologies in transmitting programs to their audiences.

Your Committee believes that such authorizations are necessary to allow public broadcasting to share in the development and use of advanced communications, including cable television and satellite, and thereby improve its service to its listening and viewing public.

In summary, although limited by the uncertainty of the annual appropriation process and the restraints of underfunding, public broadcasting has greatly enriched the quality of our national and local life. If there is regret with respect to the record since 1967, it comes from considering what benefits the medium could have provided the American people had it been properly funded.

It is the hope of your Committee that this legislation will mark the beginning of a new and strengthened commitment to public broadcasting.

HEARINGS

No hearings were held on S. 893; however, hearings on virtually identical legislation were held by your Committee in the second session of the last Congress.⁹

At those hearings, your Committee heard testimony from more than twenty witnesses, and also received numerous written testimony supporting the legislation.

⁸ See references at note 3, *supra*.

⁹ "Hearings on S. 1090 and S. 1228, Senate Committee on Commerce," serial No. 93-10, p. 43, 93d Cong., 1st sess. (1973).

Among those testifying in favor of enactment were: A spokesman for the Administration, a member of Congress, the FCC, the Chairman and Board members of the Corporation for Public Broadcasting, the presidents of National Public Radio and the Association of Public Radio Stations, and the Chairman and members of the Board of Governors of the Public Broadcasting Service.

Several witnesses were concerned with the Corporation's responsibility to women, ethnic and other minorities in the area of equal employment opportunity.

The cause of equal employment opportunity is, of course, one that deserves the full attention, encouragement, and support of Public Broadcasting.

Your Committee was informed by letter (Appendix A) that the Board of Directors of the Corporation has adopted a strengthened, comprehensive equal employment opportunity policy regarding both grant applicants and grant recipients. Your Committee was also informed by letter (Appendix B) that the Public Broadcasting Service has instituted a Committee of the Board through which it intends to make service to minorities and women a priority at both the national and local level. In this regard, the Committee of the Board is presently undertaking substantive projects in the areas of programming and employment.

COMMITTEE AMENDMENTS

With the exception of minor modifications to conform with the new Federal fiscal year provisions of the Congressional Budget Act of 1974 (Public Law 93-344), S. 893, as introduced and referred to your Committee, would have provided virtually the same authorization and appropriation ceilings as the prior legislation submitted to the last Congress:

| | |
|---|--------------|
| Fiscal year ending June 30, 1976 | \$70,000,000 |
| Transition period from July 1, 1976, through Sept. 30, 1976 | 17,500,000 |
| Fiscal year ending Sept. 30, 1977 | 80,000,000 |
| Fiscal year ending Sept. 30, 1978 | 90,000,000 |
| Fiscal year ending Sept. 30, 1979 | 95,000,000 |
| Fiscal year ending Sept. 30, 1980 | 100,000,000 |

Based on the testimony received at the hearings in the last Congress, review of its prior report, and independent consideration of the present legislation, your Committee has adopted an amendment which would increase the annual authorization and appropriation ceilings contained in new Section 396(k)(2)(3) as added by Section 2 of the bill. So amended, the ceilings are as follows:

| | |
|---|--------------|
| Fiscal year ending June 30, 1976 | \$88,000,000 |
| Transition period from July 1, 1976, through Sept. 30, 1976 | 22,000,000 |
| Fiscal year ending Sept. 30, 1977 | 103,000,000 |
| Fiscal year ending Sept. 30, 1978 | 121,000,000 |
| Fiscal year ending Sept. 30, 1979 | 140,000,000 |
| Fiscal year ending Sept. 30, 1980 | 160,000,000 |

A second amendment would make a corresponding upward adjustment in the minimum amount of each annual appropriation which must be reserved by the Corporation for distribution to educational broadcast stations under new Section 396(k)(2)(5) as added by Section 2 of the bill. So amended, the statutory percentage for distribu-

tion to stations would be 40 percent for the period July 1, 1976 through September 30, 1976 and in any fiscal year in which the Federal appropriation is \$88,000,000 or more but less than \$121,000,000; 45 percent at an appropriation level of \$121,000,000 or more but less than \$160,000,000; and 50 percent at an appropriation level of \$160,000,000.

If the 40 percent matching principle is to work properly to achieve the desired degree of insulated funding, the appropriation ceilings must be set high enough to allow the Federal appropriations to be determined by the full amount of non-Federal funds generated by the match. It is your Committee's judgment that the ceilings provided in the bill, as introduced, are too low and do not reasonably allow for the continued growth of the public broadcasting system. Thus, although the legislation prescribes a match of one Federal dollar for each 2.5 non-Federal dollars of public broadcasting support, the ceilings in the bill limit the maximum annual Federal appropriations to an amount which is substantially less than 40 percent of the non-Federal support reasonably expected in the applicable fiscal year.

To illustrate, in fiscal year 1973, actual reported non-Federal income of public broadcasting was \$199 million. The system's non-Federal income in fiscal year 1974 is expected to be close to or in excess of \$220 million.¹⁰ Applying the prescribed 1 to 2.5 Federal match ratio, such non-Federal income would justify a Federal appropriation in fiscal year 1976 of \$88 million. The bill, as introduced, however, would have limited the Federal appropriation in that fiscal year to \$70 million.

Your Committee therefore believes that the increased ceilings embodied in its amendments are essential to provide the desired incentive to increase non-Federal support and ensure fully insulated funding based on the continued growth of the system.

Your Committee has also adopted certain technical amendments which do not affect the substance of the legislation.

CONCLUSION

This legislation in essence fulfills a long-standing promise to public broadcasting and represents a commitment which is long overdue.

As amended, S. 893 provides a level and vehicle for Federal funding which will reaffirm and strengthen the fundamental principles underlying the public broadcasting system's creation in 1967. It ensures the insulation of Federal funding necessary to preserve and protect independent programming determinations; recognizes and supports a continued commitment to the concept of localism within the national public broadcasting structure; and provides the financial stability and means needed for the system to realize its full potential for excellence and diversity of service to its listening and viewing audience.

In your Committee's judgment, public broadcasting has developed to the point where this legislation is no longer merely desirable. The fulfillment of the promise embodied in S. 893 is essential if public broadcasting is to fulfill its promise to the American people.

¹⁰ See letter to Senator John O. Pastore from Robert S. Benjamin, chairman of the board, Corporation for Public Broadcasting; Ralph B. Rogers, chairman of the board, Public Broadcasting Service; and William H. Kling, chairman of the board, Association of Public Radio Stations, dated Mar. 5, 1975, and attached to this report as Appendix C.

SECTION-BY-SECTION ANALYSIS

This Act may be cited as the "Public Broadcasting Financing Act of 1975."

SECTION 2

Subsection 396(k) is amended to establish a five-year Federal financing plan for the Corporation for Public Broadcasting, and to assure that a portion of the funds appropriated to the Corporation is distributed directly to local stations.

Paragraph (3), as amended, of Subsection 396(k) would establish a "Public Broadcasting Fund" in the Treasury, to which there would be authorized for appropriation, for fiscal years 1976-1980, amounts equal to 40 percent of the total non-Federal financial support received by public broadcasting entities during each second-preceding fiscal year. A one-year time lag is necessary to accumulate the information for determining the amount on which the 40 percent match would be based. The three-month period between July 1, 1976, and September 30, 1976, which is the transition period between the July 1 Federal fiscal year and the new October 1 fiscal year, is treated as a separate authorization period pursuant to section 502(a) of Public Law 93-344. The basis for the 40 percent match for this three-month period is one-fourth of the non-Federal contributions to public broadcasting during fiscal year 1975. The appropriation for each fiscal year could not exceed the following ceilings: \$88 million in fiscal year 1976; \$103 million in fiscal year 1977; \$121 million in fiscal year 1978; \$140 million in fiscal year 1979; and \$160 million in fiscal year 1980. Finally, the appropriation for the three-month transition period could not exceed \$22 million.

Paragraph (4) would appropriate to the Public Broadcasting Fund the amounts authorized by paragraph (3). Amounts appropriated to the Fund would remain available until expended. This paragraph also sets forth the procedure whereby the amounts appropriated each year would be disbursed from the Public Broadcasting Fund to the Corporation, and requires that the funds be used solely for the expenses of the Corporation. The Corporation would be required to determine the amount of non-Federal financial support received by public broadcasting entities during each second preceding year, and to certify that amount to the Secretary of the Treasury. The Secretary, upon receipt of such certification, would pay from the Fund to the Corporation the amount of the appropriation, i.e., 40 percent of the certified non-Federal income or the statutory ceiling, whichever is less.

Paragraph (5) would require the Corporation to set aside a specified percentage of the appropriated funds for distribution to on-the-air non-commercial educational broadcast stations. The statutory percentage for distribution to stations would be 40 percent for the fifteen-month period from July 1, 1975, to September 30, 1976, and in any fiscal year in which the appropriation was \$88 million or more but less than \$121 million; 45 percent at an appropriation level of more than \$121 million but less than \$160 million; and 50 percent at an appropriation level of \$160 million. The statutory percentage is expressed as a minimum, so that the Corporation could reserve a greater amount than that specified in the bill.

Paragraph (6) sets forth the method for distributing the funds reserved pursuant to paragraph (5). The Corporation would be required to establish, and review annually, after consultation with the licensees and permittees of on-the-air educational stations, criteria and conditions for the distribution of these funds. In each fiscal year, the Corporation would be required to divide the funds into two portions, one to be distributed to television stations and one to be distributed to radio stations. Each licensee or permittee of an on-the-air educational television station would receive a basic grant from the portion reserved for television. The amount of this basic grant would be the same for each station, and would be determined annually by the Corporation in consultation with stations. The balance of the amount reserved for television stations would be distributed among licensees and permittees of such stations as are eligible to receive additional grants under criteria established by the Corporation in consultation with stations. These additional grants would be apportioned among eligible stations on the basis of a formula designed to (a) provide for the financial needs of stations in relation to the communities and audiences they undertake to serve and (b) stimulate non-Federal financial support for station activities. The bill does not prescribe a precise formula for the distribution of additional grants, but rather states these two objectives that the formula is to achieve. The details of the formula, as well as the weight assigned to each factor, would be determined by the Corporation in consultation with stations.

A somewhat different distribution mechanism is established for non-commercial educational radio stations. Many such stations are licensed to educational institutions for purposes of training students in broadcasting and do not render a direct service to the general public. Accordingly, only those stations that are eligible according to public interest criteria established by the Corporation would receive grants from the portion of funds reserved for distribution to radio stations. The bill does provide, however, that each such eligible radio station would receive a basic grant. As with television stations, funds in addition to the basic grant would be distributed to eligible radio stations according to a formula that would stimulate non-Federal income and reflect the needs of stations in relation to the audiences they serve.

The bill assures that licensees and permittees of stations would play a significant role in the decision-making processes relating to distribution of funds to stations. The Corporation would be required to consult with licensees and permittees (including their authorized representatives) in (a) apportioning the funds between radio and television, (b) determining the amount of the basic grant to stations, (c) establishing eligibility criteria for radio stations and for additional grants to television stations and (d) establishing the formula for apportioning additional grants among stations, including the weight to be assigned to the statutory objectives of stimulating non-Federal income and reflecting the needs of stations in relation to the audiences they serve.

This paragraph also provides that the funds distributed according to this subsection may not exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which the distribution is made. This limitation would not apply to grants made by the Cor-

poration under development programs designed to meet special needs of particular stations.

Paragraph (7) provides that the funds distributed to stations may be used at their discretion for purposes related to the provision of non-commercial educational television and radio programming. Several examples of such purposes are set forth, including: producing, broadcasting or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast or other dissemination of educational television and radio programs; developing and using non-broadcast communications technologies (such as cable television and communications satellites) for educational television or radio programming purposes.

This list of purposes for which funds may be used by stations is not meant to be exhaustive. For example, although not specifically mentioned, it is intended that these funds could be used for the payment of dues or assessments to organizations which represent the interests of stations. One purpose for listing several typical uses of the funds is to make it clear that stations may undertake the development and use of non-broadcast methods of transmitting programs to the public. In this regard, the term "dissemination" is intended to mean delivery of programs to viewers and listeners by means of non-broadcast technologies.

SECTION 3

Subsection 396(g)(2)(H) is amended to permit the Corporation to conduct research, demonstrations, or training in the use of non-broadcast communications technologies, as discussed above, for the dissemination of educational television or radio programs.

SECTION 4

A provision is added to Subsection 396(i) of the Act, which pertains to the annual report of the Corporation. The new provision states that the officers and directors of the Corporation shall be available to testify annually before appropriate committees of the Congress with respect to the annual report of the Corporation and with respect to the report of any audit made by the Comptroller General pursuant to subsection 396(l) of the Act. Even with long-term Federal financing, the Corporation remains fully accountable to the public and to the Congress for its use of public funds. In view of the multi-year appropriation provision of the bill, this addition will provide the opportunity for annual Congressional review of the Corporation and its activities.

SECTION 5

The provision in the bill for appropriations amounting to 40 percent of the non-Federal income of public broadcasting entities and the limitation on the amount of funds that may be distributed to a station, expressed as a percentage of non-Federal income, necessitates the inclusion of two new definitions in the Act.

The term "public broadcasting entity" is defined to mean the Corporation for Public Broadcasting, any licensee or permittee of a non-commercial educational broadcast station, and any nonprofit institution engaged primarily in the production, acquisition, distribution or dissemination of educational television or radio programs. Examples of the latter category include program production organizations, such as the Children's Television Workshop, and organizations providing program distribution services to stations such as the Public Broadcasting Service and National Public Radio.

The term "non-Federal financial support" is defined to mean the total value of cash and fair market value of property and services (except for personal services of volunteers) received as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution or dissemination of educational television or radio programs and related activities. The definition includes such funds received from any source other than (1) the Federal Government or (2) any public broadcasting entity. The latter exception is intended to eliminate the double counting of funds circulated within the public broadcasting system. Thus, for example, income from a non-Federal source received in the first instance by a national public broadcasting organization and then distributed to stations or other public broadcasting entities would be counted only once.

In addition, the term is defined to include income received for public broadcasting purposes from State and local governments and educational institutions, as well as contract payments from such entities in exchange for services or materials relating to the provision of educational or instructional television or radio programs. Excluded from the definition are contract payments for such services from sources other than State and local governments and educational institutions, as well as contract payments in exchange for commercial services which might be provided by public broadcasting entities.

COST ESTIMATE

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the cost of this legislation will be a maximum total of \$634,000,000 for the five fiscal years 1976-1980 plus the three-month transition period between July 1, 1976 and September 30, 1976. The Committee knows of no cost estimate by any Federal agency which is at variance with its estimate.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

§ 396. Corporation for Public Broadcasting—Congressional declaration of policy.

* * * * *

PURPOSES AND ACTIVITIES OF THE CORPORATION; POWERS UNDER THE DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT

(g) (1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are, among others not specifically named—

(A) to obtain grants from and to make contracts with the individuals and with private, State, and Federal agencies, organizations, and institutions;

(B) to contract with or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programming costs of such stations, particularly innovative approaches thereto, and other costs of operation of such station;

(D) to establish and maintain a library and archives of non-commercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such service on a local, State, regional, and national basis;

(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to noncommercial educational television or radio broadcasting [I] and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.

* * * * *

REPORT TO CONGRESS

(i) The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate. *The officers and directors of the Corporation shall be available to testify annually before appropriate committees of the Congress with respect to such report and with respect to the report of any audit made by the Comptroller General pursuant to subsection 396(l).*

* * * * *

FINANCING

(k) (1) There is authorized to be appropriated for expenses of the Corporation \$50,000,000 for the fiscal year ending June 30, 1974, and \$60,000,000 for the fiscal year ending June 30, 1975.

(2) In addition to the sums authorized to be appropriated by paragraph (1) of this subsection, there are authorized to be appropriated for payment to the Corporation for each fiscal year during the period July 1, 1970, to June 30, 1975, amounts equal to the amount of total grants, donations, bequests, or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation under subsection (g) (2) (A) of this section during such fiscal year; except that the amount appropriated pursuant to this paragraph for any fiscal year may not exceed \$5,000,000.

(3) There is hereby established in the Treasury a fund which shall be known as the "Public Broadcasting Fund," administered by the Secretary of the Treasury. There are authorized to be appropriated to said Fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to forty (40) percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976 through September 30, 1976 an amount equal to ten (10) percent of the total

amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1974; Provided, however, that the amount so appropriated shall not exceed \$88,000,000 for the fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976 through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

(4) There are hereby appropriated to the Public Broadcasting Fund, out of any moneys in the Treasury not otherwise appropriated, for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, and for the period July 1, 1976 through September 30, 1976, such amounts are authorized to be appropriated by paragraph (3) of this subsection, which shall remain available until expended. Such funds shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse from the Public Broadcasting Fund the amount appropriated to the Fund for each of the fiscal years and for the period July 1, 1976 through September 30, 1976 pursuant to the provisions of this subsection.

(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than forty (40) percent of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975 through September 30, 1976 and in each fiscal year in which the amount disbursed is \$88,000,000 or more but less than \$121,000,000; not less than forty-five (45) percent in each fiscal year in which the amount disbursed is \$121,000,000 or more but less than \$60,000,000; and not less than fifty (50) percent in each fiscal year in which the amount disbursed is \$160,000,000.

(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on the air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

(iii) assure that each eligible licensee and permittee of a noncommercial educational radio station receives a basic grant.

(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programming, including but not limited to: producing, acquiring, broadcasting or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast or other dissemination of educational television and radio programs; developing and using non-broadcast communications technologies for educational television or radio programming purposes.

SUBPART C.—GENERAL PROVISIONS

§ 397. Definitions.

For the purposes of sections 390–399 of this title—

(10) The term "non-Federal financial support" means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

(11) The term "public broadcasting entity" means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television and radio programs.

APPENDIX A

CORPORATION FOR PUBLIC BROADCASTING,
Washington, D.C., August 13, 1974.

Senator JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Senate Committee on Commerce, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Board and management of the Corporation for Public Broadcasting, I want to thank you and the Subcommittee for your prompt scheduling and conduct of hearings on S. 3825, to provide five-year, insulated federal support for public broadcasting. Our Board, and I personally, are deeply grateful for the leadership and constructive attitude of the Subcommittee evident throughout the hearings.

We are also grateful for the opportunity you have provided for us to comment upon certain matters mentioned before the Subcommittee by other witnesses.

Several of the witnesses before your Committee were concerned with CPB's responsibilities to women and ethnic and other minorities. For example, reference was made during the hearings to the CPB leadership role in effecting equal employment opportunities for minorities and women in public broadcasting. One witness argued that CPB should assume a regulatory role in this area. You questioned this point, and we believe you are entirely correct. The Corporation is not a government agency, and does not possess regulatory or judicial authority in the equal employment opportunity area. In our opinion, it should not.

On the other hand, the Board is keenly aware that the cause of equal employment opportunity is one that deserves the full attention, encouragement, and support of CPB. The Board's awareness of its own opportunities to enhance equal employment opportunity in the public broadcasting community has prompted a number of significant achievements in this regard. Not the least of these is the Board's adoption on March 1, 1974, of a strengthened, comprehensive equal employment opportunity policy regarding both grant applicants and grant recipients. A copy of this policy is attached to this letter. CPB is committed to the full, contractual enforcement of this policy by all grant applicants and recipients. We believe that this policy is consistent with CPE's private status, statutory mandate to "facilitate the full development of noncommercial educational radio and television broadcasting", and its commitment to assist in the attainment of the equal employment opportunity goals of the public broadcasting community.

Another witness before your committee gave statistics to support a contention that black employment is at a lower level in public broad-

casting than in commercial broadcasting. We have checked the study cited as well as statistics published by the Research Branch of the Federal Communications Commission. These sources do not support the statement made. They show that the percentage of minority employment in public broadcasting is slightly higher than in commercial broadcasting. We can supply additional details if the Committee wishes. We agree, however, that the record is far from satisfactory, and we are attempting to improve it.

For example, CPB is pleased to note that its Minority Training Program, now in its third year is, even under continuing resolution funding for CPB, enjoying increased financial support. Since its inception, the program has assisted 51 public television and radio stations to employ 53 minority persons in internships designed to equip these persons for specific positions of responsibility at the individual stations. By agreeing to pay half the salary and benefits of minority candidates who will acquire on-the-job training for these positions, CPB is engaging in an upward mobility program that is already accomplishing significant results.

One or more witnesses suggested that CPB data regarding the employment of minorities and women in public broadcasting become a part of CPB's statutory Annual Report, or that specific legislative oversight hearings on this matter be conducted regularly. CPB is, of course, prepared to furnish this data to the Committee and the public on a regular basis, and is always ready to participate in whatever oversight hearings Congressional committees with jurisdiction may require. We believe, however, that the data involved, complex and voluminous as it is, should not be incorporated in the Annual Report presently required in the Public Broadcasting Act of 1967 as amended. The Corporation, in cooperation with the Office of Education, publishes annual statistical compilations containing this data. We believe that these are the appropriate means for its dissemination.

The record also demonstrates a misunderstanding on the part of some witnesses regarding the report of CPB's Advisory Panel on Essentials for Effective Minority Programming. This panel, chaired by a Board member, Dr. Gloria Anderson, submitted its final report to the CPB Board in May 1974. The Report was also furnished to your Committee and to other legislative units concerned with the issues treated in the Report, to the general press, and to 1,022 persons representing minority interest groups, public broadcasting stations, the Advisory Council of National Organizations, and others. The CPB Board has already indicated its preliminary approval for the general thrust of the Report. Full Board consideration of the recommendations contained in the Report is presently scheduled for a September 1974 meeting. We will, of course, be pleased to furnish a follow-up on the Board's considerations as soon as possible.

We will be pleased to furnish whatever additional information your Committee may require, including any details that you would like to have in connection with the matters referred to in this letter.

Sincerely,

HENRY LOOMIS.

CORPORATION FOR PUBLIC BROADCASTING—STATEMENT OF POLICY ON
EQUAL OPPORTUNITY AND CPB ASSISTANCE

I. POLICY

It is the policy of the Corporation for Public Broadcasting: (1) to fully comply with all applicable laws and regulations, including laws and regulations prohibiting discrimination against any person on the basis of race, color, religion, national origin, age, or sex, and (2) to require that each recipient of assistance from the Corporation whether in cash or in kind, comply with all such laws and regulations.

II. CPB ROLE AND COOPERATION WITH GOVERNMENT AGENCIES

The Corporation for Public Broadcasting is a private, non-profit Corporation. Because CPB is neither a government agency nor a law enforcement body, it does not have the legal authority to investigate and adjudicate complaints based upon allegedly discriminatory practices by recipients of its assistance that such agencies and bodies do. CPB will, however, promptly refer all such complaints received by it to a government agency with jurisdiction for any proceedings that may be appropriate. Further, the Corporation will cooperate fully with every agency with jurisdiction to inquire into allegedly discriminatory practices of recipients of CPB assistance.

III. LAWS AND REGULATIONS APPLICABLE

Applicable laws and regulations prohibiting discrimination against persons on the basis of race, color, religion, national origin, age, or sex may be federal, state or local, and may vary from recipient to recipient and from jurisdiction to jurisdiction. Each applicant or recipient of CPB assistance shall inform itself of the laws and regulations applicable to it, and the Corporation shall not undertake to so inform the applicant or recipient, unless a law or regulation requires that the Corporation do so, and then the Corporation shall undertake to inform the applicant or recipient only to the extent the law requires.

IV. SUSPENSION OR CANCELLATION OF CPB ASSISTANCE

Whenever a court or government agency with jurisdiction shall determine finally that a recipient of assistance from the Corporation is in violation of federal, state or local laws and regulations, prohibiting discrimination on the basis of race, color, religion, age, national origin or sex, and notice of such determination is given in writing to the Corporation by the court, agency, or any other person and officially certified, the Corporation shall promptly notify the recipient that unless the recipient shall demonstrate to the satisfaction of the Corporation within 30 days that the violation has been fully corrected or that the recipient is in full compliance with all remedial provisions of such final determination, the Corporation shall suspend or cancel all assistance to the recipient.

Whenever such final determination is appealed or otherwise challenged in an appropriate forum, whether or not the effect of such

determination is stayed pending appeal, the Corporation shall notify the recipient that, unless the recipient can show cause to the contrary within 30 days, the Corporation shall suspend or cancel CPB assistance. If the Corporation decides to suspend such assistance, then all sums that would otherwise have been payable to the recipient shall be held by the Corporation pending completion of the appellate process, but the provision of in kind assistance shall not be suspended or cancelled pending the appeal.

V. APPLICANTS INELIGIBLE TO RECEIVE CPB ASSISTANCE

An applicant for assistance from the Corporation whom a court or government agency with jurisdiction has determined finally to be in violation of any federal, state or local law or regulation prohibiting discrimination on the basis of race, color, religion, national origin, age, or sex shall be ineligible for assistance from the Corporation, unless the applicant shall demonstrate to the satisfaction of the Corporation that the violation has been fully corrected or that it is in full compliance with all remedial provisions of such final determination.

VI. EFFECTIVE DATE

The provisions of this policy statement shall become effective with respect to assistance granted or applications for assistance filed or pending on or after March 1, 1974.

APPENDIX B

PUBLIC BROADCASTING SERVICE,
Washington, D.C., August 9, 1974.

Hon. JOHN O. PASTORE,
Chairman, Senate Commerce Committee Subcommittee on Communications, New Senate Office Building, Washington, D.C.

DEAR SENATOR PASTORE: Among one of the most important and difficult problems we face, one which was addressed by some of the witnesses at the hearing for S 3825 last Tuesday, is how best to serve the special needs of minority persons and women.

Each station, PBS & CPB must come to grips with the questions of which type of services to provide and how to evaluate the success and merit of these services. Just as there is very little consensus among white males as to their beliefs and lifestyles, so also are there vast differences of opinions among minority persons and women as to how their needs can best be met by the media. This lack of consensus, however, must not forestall our efforts to meet these needs.

PBS has recently instituted a Committee of the Board through which we intend to make service to minorities and women a priority at both the national and local level. The Committee expects very soon to undertake substantive projects in the areas of programming and employment.

We readily concede that minorities and women are not adequately represented on public television staffs. This is a situation which we

deplore, and which the system is attempting to correct. PBS has adopted a strong affirmative action plan by which we hope to increase substantially the number of minority persons and women in increasingly influential positions at PBS. This plan has served as a model for similar plans at several of our member stations. (The PBS Affirmative Action Plan is attached.)

CPB has been engaged for some years now in making it possible for several stations throughout the country to initiate training programs for minority persons. One of the largest independent efforts by an individual station is the minority training program at WNET in New York, which grew out of production of the "Black Journal" series. We receive reports from our members that one of the largest problems they face with regard to minority hiring is the lure of higher salaries from commercial enterprises for high level minority employees. Promising and talented new minority staff members are no sooner trained than they are hired away by more affluent employers.

We note with little satisfaction that, according to the FCC's 1973 figures, public television's percentage of female employees is higher than their percentage in commercial television. (Public Television Employment figures are attached.) We are aware that about two-thirds of women in public broadcasting are relegated to positions of little responsibility. At PBS, however, we are making an effort to bring women into fields which have traditionally been considered for men only. For example, we have been training 4 women to work on our technical staff, and one, a Black woman, was recently promoted to the position of technician.

The problem of bringing minority persons and women into positions on our Board of Governors and Board of Managers is more difficult, since the Boards are elected from individual station Boards and staffs. In effect, not even PBS has control over the composition of its Boards and to assume such control would be to interfere with the essentially representational structure of PBS. The problem is further complicated by the fact that many individual station Boards are made up of the trustees of the Universities or governmental organizations to which the station is licensed and over which the local stations can exercise no control of the selection process.

This does not mean, however, that the "public" does not have a voice in PBS. The lay persons who make up the Board of Governors are not broadcasting professionals, but are members of the public whose job is to see that the public is served by their public television station. Public television licensees have both a moral responsibility and a legal mandate to reflect their local communities in their programming and hiring policies.

PBS fully supports the concept that public television licensees must ascertain the needs of their communities. Licensees are currently required to carry out such ascertainment insofar as it is necessary for their operation in the public interest, convenience and necessity. While PBS would welcome FCC guidelines on ascertainment, we oppose the adoption for public television of the ascertainment primer which commercial stations use.

PBS also opposes any measure which would make CPB an enforcer of federal laws, as was suggested by 2 witnesses, on Tuesday. We agree

with CPB's statement in a letter to Congressman Harley O. Staggers of July 20, 1973 that the enforcement of anti-discrimination provisions of laws "is not and should not be the function of CPB or any other private person. This is a governmental function that should be carried out by a duly constituted federal government or agency. CPB's congressional charter requires it to promote the development of noncommercial broadcasting and to foster diverse programming. CPB was not intended by Congress to be a federal policeman." 119 Cong. Rec. H. 6450 (July 20, 1973). Congress accepted that view and the House rejected an amendment to the 1973 appropriation bill which would have required CPB to police the equal employment laws.

PBS supports CPB's position in this matter. CPB has neither the facilities nor the expertise to assume police powers. Moreover, were CPB to take on some of the duties of a governmental agency, which it is not, it—and the programs it develops—will become increasingly subject to governmental control.

In programming, as in employment, public television has begun to fulfill its potential to serve audiences too long ignored by all television broadcasters. Determining which programs best meet minority and female needs is a major task in itself. Should we adopt a somewhat separatist approach, and develop programs exclusively by, exclusively for, and exclusively about a particular target group? Are minorities and women best served by general audience programs which show them interacting with the so-called white establishment in non-stereo-typed racial ethnic or sexual roles? Is a program which deals with problems facing the urban poor a "minority program" regardless of the racial balance of the reporters? These are questions on which reasonable people disagree.

At present, PBS tries to offer all of these types of programs through national distribution. The number of prime-time hours of PBS programming for minority persons and women has increased from 101 hours in 1972 to 169 hours in 1974. (A list of the 1974 programs for minorities and women is attached.)

Since corporate underwriting of this type of programming is very difficult to obtain however, further increases will depend in large part upon our success in obtaining adequate federal funding. PBS, through the Board Committee, is also investigating methods of providing incentives to the stations to increase their minority program development. We hope that our cooperative program market plan, rather than being a disincentive to the development of minority programs, as one witness suggested, will prove to be a vehicle whereby more such programs developed by local stations will find national distribution.

One must recognize that the station program cooperative was not meant to provide a panacea for all the program needs of the stations. The cooperative plan was designed to provide only a portion of the national program needs of the stations. Even if it were designed to fulfill all the needs of the stations, it could not. The stations do not have enough money to buy through the cooperative all the programs they want and need. In a number of cases hard economics dictated that a station pass up the purchase of nationally produced programs for minorities and women in order to have the money to continue to produce programs for minorities and women in their community in their

own studies. These are painful choices but ones necessitated by the system's chronic underfinancing.

Programming is the service which public television can most uniquely provide to minority persons and women. Individual stations are making hard efforts to provide this service on a local level. For example, a station in the midwest has offered the following programs in recent months: a special entitled, "Jerry" about the experience of an inner-city black youth contrasted with the environment of an Iowa farm boy; the three-month series, "Black Perspective on the News"; two programs on "Africa Reports"; a tennis profile of Arthur Ashe; a special on the prison system involving many blacks; the special, "Trial: The City and County of Denver vs. Watson"; "The Descendants" exploring the African heritage; "Gondola", a play featuring an attorney crusading to save two black youths wrongly accused of a crime; a Bill Moyers' special on the "Challenge of Poverty"; interviews with Sarah Vaughan, Roosevelt Greer, Julian Bond, Mrs. Martin Luther King, Jr., Martina Arroyo and Wilt Chamberlain; two "Religious America" features on black churches; an examination of school busing; our own local series on "Policemen: Images and Realities" which explored how the police are viewed by the black community; "Man and His Music" included an exploration of the origins of Jazz from African roots; an in-depth exploration of Sickle Cell Anemia; a special on The Alvin Ailey Dance Theater of Harlem; and a moving performance of Lorraine Hansberry's "To Be Young, Gifted and Black." In addition, the station's Instructional Programming, structured specifically for classroom use, has had four regular series dealing wholly or in part with the black experience: "Americans ALL," "Other Families, Other Friends," "Reflection in Black," and "History of Black Americans." This station also regularly carried, in addition, the three minority-oriented series "Black Journal," "Interface," and "Soul."

In conclusion, I want to assure you again of the sense of urgency we feel with regard to improving our service to minority persons and women. We cannot promise miracles. We can only express our deep commitment to improving this service substantially in as short a time as possible. We hope that speedy passage of S. 3825 will hasten this improvement.

Sincerely,

HARTFORD N. GUNN, Jr.,
President.

PUBLIC BROADCASTING SERVICE—EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the Public Broadcasting Service (hereafter "Service") to provide equal opportunity in employment for all qualified persons and to avoid discrimination in employment because of race, color, religion, sex, age or national origin. This policy will be implemented by affirmative action on the part of all officials, managerial personnel and employees of PBS. Notice of this policy shall be given to all Service employees.

I. RECRUITING

A. When positions are to be filled, qualified applicants will be sought without regard to race, color, religion, sex, age or national origin.

B. Notices shall be posted in the Service's employment offices in accordance with federal, state and local law, informing applicants of their equal employment rights and their right to notify cognizant governmental agencies if they believe that they have been the victim of discrimination.

C. The Service's employment application form will carry a notice in bold type informing applicants that discrimination because of race, color, religion, sex, age or national origin is prohibited and that they should notify the Service's Equal Employment Opportunity Officer if they feel that discrimination has been practiced against them and that they have the right to refer their complaints to their local Equal Employment Opportunity Commission office.

D. A continuing relationship shall be established with referral sources likely to produce minority applicants, including colleges and universities in the vicinity of the Service's offices with substantial minority enrollment, minority and human relations organizations, and minority leaders and spokesmen. It shall be made clear to these sources that the Public Broadcasting Service seeks referrals of qualified minority applicants for employment.

E. Service employees shall be encouraged to refer minority applicants for employment.

F. When employment agencies are asked to refer applicants for employment, it shall be made clear that applications from members of minority groups are specifically encouraged.

G. When advertisements are placed seeking applicants for employment, media with significant circulation among minority groups in the recruiting area shall be included. All employment advertisements shall identify the Public Broadcasting Service as an "Equal Opportunity Employer."

II. SELECTION AND HIRING OF NEW EMPLOYEES

A. All individuals making hiring decisions shall consider all applicants without discriminating on the basis of race, color, national origin, age, religion, or sex.

B. The Service will comply in all respects with employee selection procedure guidelines issued by the U.S. Equal Opportunity Employment Commission, including the avoidance of selection techniques or tests which have the effect of discriminating against minority applicants.

C. All applications for employment shall be processed promptly.

1. All applicants shall be requested to complete written application forms.

2. If an applicant is rejected, the hiring office involved shall
 (a) advise the applicant in writing of the reason for the rejection;
 (b) send a copy of the rejection notice to the organization which referred the applicant, if any; (c) retain a copy of the rejection notice.

D. The Service shall maintain a special file known as the "Affirmative Action File."

1. All applications from members of minority groups which are not accepted or are rejected shall be placed in the Affirmative Action File. The file shall consist of the applications of all minority group applicants not hired who are qualified for any position with the Service and also of those whose qualifications have not been established.

2. When employment vacancies occur for which no minority group applicant is presently available, the Service will consult the Affirmative Action File and will give every consideration to the hiring of applicants from that file before turning to outside sources.

3. The maintenance and use of the Affirmative Action File does not require the exclusion from consideration of any other applicant, nor does it imply a quota system for the hiring of members of any specific racial or ethnic group.

III. PLACEMENT AND PROMOTION OF EMPLOYEES

A. All placement and promotion shall be made on the basis of individual ability performance and the staffing needs of the Service. All minority group employees shall be considered for positions without discrimination.

B. The Service will continuously review the personnel records of minority group employees to identify their skills and qualifications for advancement. Employees found to have advancement potential will be encouraged to apply for better paid positions.

IV. WORKING CONDITIONS AND BENEFITS

A. All rates of pay and fringe benefits for employees shall be determined without regard to race, color, religion, sex, age or national origin.

B. All qualified employees in a department or section shall be advised whenever there is an opportunity to perform overtime work in the department or section.

C. Access to all Public Broadcasting Service programs (such as training programs and recreational activities) and facilities shall be without regard to race, color, religion, sex, age or national origin.

V. IMPLEMENTATION

A. The success of the Equal Employment Opportunity Policy of the Public Broadcasting Service is the responsibility of all officials and employees of the Service.

B. The President of the Public Broadcasting Service shall designate a person to be Equal Employment Opportunity Officer. The Equal Employment Opportunity Officer shall in turn designate a Deputy Equal Employment Officer in charge of Enforcement and a

Deputy Equal Employment Officer in charge of Complaints in each city where the Service has offices. In cities other than the principal place of business, the Equal Employment Officer may designate one Deputy for both functions.

1. The Deputy Equal Employment Officer in charge of Enforcement shall maintain the Affirmative Action File; be informed of all job openings; review this Policy with all personnel responsible for hiring no less frequently than quarterly; and generally review the practices of the Service covered by this Policy.

2. The Deputy Equal Employment Officer in charge of Complaints shall be the person to whom employees may come if they believe they have been the subject of discrimination.

C. The Equal Employment Opportunity Officer, with the assistance of the Deputy Equal Employment Opportunity Officers, shall:

1. Review all job areas within the Service in which there is little or no minority representation to insure that the situation is not the result of discrimination;

2. Review any seniority practices of the Service to insure that they do not have a discriminatory effect in practice; and

3. Maintain a continuing review of this Equal Employment Opportunity Policy and revise it as necessary to insure equal employment opportunity within the Public Broadcasting Service.

D. Each year, no later than May 31, the Equal Employment Opportunity Officer shall prepare a report for the President to include the following:

1. A statistical employment report prepared in accordance with the format of FCC Form 395;

2. An evaluation of the Service's Equal Opportunity Employment Policy, including comments on its operation in practice and any recommended changes; and

3. A summary of all complaints concerning discrimination made during the past year to the Equal Employment Opportunity Officer or any Deputy Equal Employment Opportunity Officer and the disposition of each such complaint.

VI. COMPLAINT PROCEDURE

A. Any person who believes that he or she has been the victim of discrimination because of race, color, religion, sex, age or national origin, may make a complaint to the Public Broadcasting Service.

B. Each complaint shall be in writing and signed by the complainant and shall state with specificity the date and nature of the alleged discrimination.

C. Complaints shall be submitted to the Deputy Equal Employment Opportunity Officer in charge of Complaints in the city where the discrimination complained of is thought to have taken place. The Deputy shall investigate the complaint and shall hold a hearing unless the complainant does not wish to have a hearing. If there is no hearing, the Deputy shall advise the complainant in writing of his determina-

tion of the case within 15 days after receipt of the complaint. If there is a hearing, the hearing shall commence within 15 days of receipt of the complaint by the Deputy, and the Deputy's decision shall be rendered within 7 days after completion of the hearing.

D. If the Deputy Equal Employment Opportunity Officer finds the complaint justified, he shall recommend remedial action to the appropriate authority. If he finds the complaint not justified, he shall so notify the complainant and shall also notify the complainant that review of the determination may be obtained by submitting a written request to the Equal Employment Opportunity Officer within 30 days.

E. Upon receipt of a request for review, the Equal Employment Opportunity Officer shall review the original complaint and the Deputy Equal Employment Opportunity Officer's decision and shall then make a determination of the case. The Equal Employment Opportunity Officer's decision shall be made known to the complainant in writing within 15 days of receipt of the request for review. The letter shall be closed with the following paragraph: If you still believe you have not been given an equal opportunity in employment, you have the right to seek assistance from the Equal Employment Opportunity Commission. Their offices in Washington, D.C., are located at 1800 G Street, N.W., Washington, D.C. 20506.

F. No person shall be penalized, disciplined or the object of any reprisal because of the fact that he submitted a complaint concerning discrimination.

MINORITY EMPLOYMENT REPORT FOR U.S. BROADCASTING SERVICES BY STATES—NUMBER OF EMPLOYEES

| State community, market or metro area | Total employees | Total females | Minorities (including female employees) | | | | |
|---------------------------------------|-----------------|---------------|---|--------|----------|-----------------|------------------|
| | | | Total | Negro | Oriental | American Indian | Spanish-American |
| U.S. broadcasting totals: | | | | | | | |
| Commercial television | 45,742 | 10,694 | 6,096 | 3,835 | 375 | 183 | 1,703 |
| Commercial radio | 62,697 | 14,488 | 6,606 | 4,153 | 240 | 314 | 1,899 |
| FM radio | 5,431 | 1,170 | 540 | 388 | 20 | 23 | 109 |
| Noncommercial television | 6,983 | 2,045 | 719 | 502 | 70 | 22 | 125 |
| Noncommercial radio | 2,277 | 579 | 255 | 189 | 14 | 12 | 40 |
| Broadcasting headquarters | 13,830 | 4,025 | 1,923 | 1,229 | 183 | 16 | 495 |
| All classes for U.S. broadcasting | 136,960 | 33,001 | 16,139 | 10,296 | 902 | 570 | 4,371 |

MINORITY AND WOMEN'S PROGRAMMING HOURS FOR FISCAL YEAR 1974

| | Time (hours) | Hours repeated within the week |
|---|-----------------|--------------------------------------|
| Programming by, for and/or about blacks | 79.0 | 25.0 |
| Programming by, for and/or about other minorities | 57.5 | 1.0 |
| Programming by, for and/or about women | 32.5 | 8.5 |
| Total | 169.0 | 30.5 |

PROGRAMMING BY, FOR AND/OR ABOUT BLACKS

| | Time (hours) | Hours repeated within the week |
|--|-----------------|--------------------------------------|
| Black Journal | 16.0 | |
| Interface | 8.0 | |
| Black performers | 8.0 | 8.0 |
| Black Perspective on the News | 6.5 | |
| Specials of the Week: Black Life: Mrs. Martin Luther King; Newport Jazz Festival: A Tribute to Louis Armstrong; The Trial of Henry Flipper; Mabel Mercer, Bobbi Short and friends; Soul: Alvin Ailey: Memories and Visions On the Road with Duke Ellington | 5.5 | 5.5 |
| Jazz Set | 4.5 | 1.5 |
| Homewood | 2.0 | |
| Evening at Pops | 7.0 | 7.0 |
| Firing Line: Politics and Black Progress; What Now for the Ghetto | 2.0 | |
| Just Jazz | 2.5 | 2.0 |
| Bill Moyers Journal: John Hope Franklin; Maya Angelou | 1.5 | |
| Free Stage | 1.0 | |
| One of a Kind | 1.0 | |
| Advocates: Should Colleges give Preferential Treatment to Minority Group Applicants? | 1.0 | |
| Decade of Change | 1.0 | |
| Black Political Power | 1.0 | |
| Black is a Beautiful Woman | 1.0 | |
| Religious America | 1.0 | |
| Boboquivari | 1.0 | |
| Arthur Prysock | .5 | .5 |
| Cosby on Prejudice | .5 | |
| Lightnin Hopkins | .5 | |
| Washington Connection: Busing | .5 | |
| Washington Straight Talk: Andrew Brimmer | .5 | |
| Devout Young | .5 | |
| Towers of Frustration | .5 | .5 |
| Sessions | 3.5 | 3.0 |
| Total | 79.0 | 25.0 |

PROGRAMMING BY, FOR AND/OR ABOUT OTHER MINORITIES

| | Time (hours) | Hours repeated within the week |
|---------------------------------|-----------------|--------------------------------------|
| Carrascolendas | 36.5 | |
| Killers | 10.0 | |
| Looma | .5 | |
| American Indian Days | 1.0 | 1.0 |
| Menominee | 1.0 | 1.0 |
| Religious America | .5 | |
| Sesame Street "En Todas Partes" | .5 | |
| America Tropical | .5 | |
| Total | 57.5 | 1.0 |

PROGRAMMING BY, FOR AND/OR ABOUT WOMEN

| | Time (hours) | Hours repeated within the week |
|--|-----------------|--------------------------------------|
| Woman | 19.5 | 4.5 |
| Firing Line: Abortion; Germaine Greer; ERA | 3.0 | |
| Specials of the Week: Cambridge Debate on Women's Lib; Growing Up Female | 2.5 | 2.5 |
| What's The Big Idea?: Why Women Don't Succeed; The Making of Presidents By Wives and Mothers | 2.0 | |
| Bill Moyers Journal: ERA; Lillian Hellman | 2.0 | |
| Book Beat: Male Chauvinism; A Woman Alone; A Different Woman | 1.5 | |
| Woman Alive | 1.0 | 1.0 |
| Fear Woman | .5 | |
| Joyce at 34 | .5 | .5 |
| Total | 32.5 | 8.5 |

APPENDIX C

CORPORATION FOR PUBLIC BROADCASTING,
Washington, D.C., March 5, 1975.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Senate Committee on
Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee now has under consideration S. 893, the Public Broadcasting Financing Act of 1975. Except for technical changes, this Bill as proposed by the Administration is identical to the Administration Bill proposed last year (S. 3825, 93rd Congress, Public Broadcasting Financing Act of 1974). On behalf of public broadcasting, we urge that your Committee consider S. 893 at an early date and that it approve the Bill with the same amended ceilings included in S. 3825 when that Bill was reported out on August 20, 1974.

Last year, as you recall, you and your colleagues accepted the unanimous conviction of the public broadcasting community that the ceilings in the Bill as introduced were too low to allow the primary feature of this funding approach—the matching grant principle—to work effectively.

Your Committee Report, No. 93-1113 of August 20, 1974, stated:

If the matching grants principle is to provide incentives for increased non-Federal funding, these ceilings must be high enough so that it is realistic to expect them to provide such incentives.

The matching provisions of the Bill allocate \$1.00 Federal for each \$2.50 of non-Federal income raised by public broadcasting. In fiscal year 1973, the verified income from non-Federal sources was almost \$200 million; in fiscal year 1974, although we do not have a final tally, it is clear that the total will be approximately \$220 million. Applying the 1:2.5 ratio, with 1974 serving as a base year for the determination of the fiscal 1976 appropriation, the fiscal year 1976 Federal allocation would be \$88 million—or \$18 million above the initial ceiling contained in the Administration Bill.

We are pleased that the President has restated the principle of insulated funding for public broadcasting in his transmittal letter. In the 1967 report of the Carnegie Commission, the essentiality of insulated funding was similarly recognized. The considerations involved are fundamental to our nation: first amendment freedoms of speech and of the press.

The ceilings in any "insulated, long-range financing bill," containing the matching concept, therefore must be high enough to permit the match to work so appropriations will be determined by the amount generated by the match. It is the arithmetical nature of arriving at the appropriations level that is the heart of true insulation, coupled with the multi-year feature of this Bill. Conversely, a ceiling in the Bill, lower than that which could be achieved by a one to two and one-half ratio, would really defeat the purpose stated in the Administration's transmittal. We feel this makes the Administration's recommended ceilings no better than a request for annual appropriations. This would

not achieve the desired insulation. Your Committee's action last August in support of higher ceilings—\$88 million for fiscal year 1976, up to \$160 million for fiscal 1980, clearly recognized these principles and is endorsed by all facets of public broadcasting.

The matching principle contained in the legislation not only provides insulation and incentive for the system to raise non-Federal funds, but also offers a gauge of the effectiveness of the system itself. If public broadcasting is proving a worthwhile service, it will be able to increase its local and national non-Federal support and thus earn additional Federal dollars with which to provide still better service to the American people.

All of us in public broadcasting are keenly aware of the understanding support that your colleagues and you have extended to us over the years. Please let us know if there is anything we can do to facilitate your consideration of this very important legislation.

Very truly yours,

ROBERT S. BENJAMIN,
Chairman of the Board,
Corporation for Public Broadcasting.

RALPH B. ROGERS,
Chairman of the Board,
Public Broadcasting Service

WILLIAM H. KLING,
Chairman of the Board,
Association of Public Radio Stations.

Calendar No. 433

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-447

LONG-RANGE FUNDING FOR
PUBLIC BROADCASTING

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 2584

TO AMEND CERTAIN PROVISIONS OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, TO PROVIDE LONG-TERM FINANCING FOR THE CORPORATION FOR PUBLIC BROADCASTING, AND FOR OTHER PURPOSES



NOVEMBER 6, 1975.—Ordered to be printed

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(III)

Calendar No. 433

94TH CONGRESS
1st Session

SENATE

{ REPORT
No. 94-447

LONG RANGE FUNDING FOR PUBLIC BROADCASTING

NOVEMBER 6, 1975.—Ordered to be printed

Mr. PASTORE, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 2584]

The Committee on Commerce, to which was referred the bill (S. 2584) to amend certain provisions of the Communications Act of 1934, as amended, to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, having considered the same, reports favorably thereon without an amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

S. 2584 has three principal purposes relating to the Corporation for Public Broadcasting and the system of noncommercial educational radio and television stations:

- (1) To provide long-term Federal financing for the Corporation for Public Broadcasting by means of a 5-year appropriation authorization;
- (2) To assure that a portion of Federal funds is distributed directly to local noncommercial educational radio and television broadcast stations; and
- (3) To expand the scope of the Public Broadcasting Act of 1967 to include the development and use of nonbroadcast communications technologies for the distribution and dissemination of educational radio and television programming.

SUMMARY OF LEGISLATION

S. 2584 would—

- (1) Authorize to be appropriated for the operation of the Corporation for Public Broadcasting (CPB) for 5 fiscal years in the period beginning July 1, 1975, and ending September 30, 1980,

(1)

an amount equal to 40 percent of the amount of non-Federal financial support received by public broadcasting entities in the second year preceding each such fiscal year. This authorization would be subject to the following limitations:

| Fiscal year or period : | <i>Limitation</i> |
|--|-------------------|
| 1976 | \$88,000,000 |
| July 1, 1976-September 30, 1976 ¹ | 22,000,000 |
| 1977 | 103,000,000 |
| 1978 | 121,000,000 |
| 1979 | 140,000,000 |
| 1980 | 160,000,000 |

¹ Transitional period from fiscal year beginning July 1 to fiscal year beginning October 1 as provided in title V of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

(2) Require that of the amounts appropriated to the CPB the following portions be distributed directly to, and in consultation with, on-the-air noncommercial educational radio and television broadcasting stations for their programing, operation, and maintenance:

Not less than 40 percent or more of amounts appropriated for the period July 1, 1975, through September 30, 1976, through September 30, 1976, and for any fiscal year in which the amount appropriated is \$88 million or more but less than \$121 million;

Not less than 45 percent or more of the amount for any fiscal year in which the amount appropriated is \$121 million or more but less than \$160 million; and

Not less than 50 percent or more of the amount for any fiscal year in which the amount appropriated is \$160 million. The funds distributed under the bill to any public broadcasting station for any fiscal year could not exceed an amount equal to one-half of the station's total non-Federal financial support during the second preceding fiscal year. This would assure that no public broadcasting station was mainly supported by Federal funds.

(3) Authorize the CPB to engage in the development and use of nonbroadcast communications technologies such as cable television and communications satellites for the distribution and dissemination of educational radio and television programs.

BACKGROUND AND NEED FOR LEGISLATION

This is a 5-year appropriation authorization bill to provide long-range funding for public broadcasting in the United States.

On March 21, the Senate Commerce Committee reported S. 893, a bill to amend certain provisions of the Communications Act of 1934, to provide long-term financing for the Corporation for Public Broadcasting. That bill included language making a 5-year appropriation as well as a 5-year authorization. S. 893 was then referred to the Senate Committee on Appropriations where it has been awaiting actions by the House Appropriations Committee.

S. 2584 is in every significant way a duplicate of the earlier legislation, S. 893, except S. 2584 deletes the actual appropriating language contained in S. 893. The committee now believes the appropriation and authorization functions with respect to long-term funding for public

broadcasting should be considered in separate legislation. The Corporation for Public Broadcasting is currently functioning on a continuing resolution tied to last year's funding levels. The basic programing decisions for the next broadcast season must be made within the next few months by the entire public broadcasting system. So it is important that this authorizing legislation be quickly enacted to allow public broadcasting the opportunity to plan for the future months.

In addition to meeting the imperative financial and operating needs of the public broadcasting system, S. 2584, would also reaffirm and strengthen the fundamental principles upon which the public broadcasting system is based.

In the Public Broadcasting Act of 1967, the Congress expressed its desire to foster the growth of noncommercial educational broadcasting as a source of high quality programing responding to the educational needs and interests of our diverse population and supplementing the existing commercial broadcast system.

To implement this general purpose, the 1967 Act established the Corporation for Public Broadcasting to guide the development and programing of educational broadcasting.

Underlying the creation of the Corporation were two fundamental concerns. First, the Congress sought to insure that the Federal Government would not intrude on public broadcasting's development and programing through extraneous interference or control derived from its financing of the system. Second, the Congress wanted to establish a nationwide structure to foster and accommodate the needed growth of the public broadcasting system which would emphasize the critical role of local radio and television stations in serving the specific educational needs and interests of their particular communities.

The financial and operating needs of the system

The financial and related operating needs of public broadcasting vis-a-vis its listening and viewing audience have greatly expanded since 1967. As indicated in testimony received by your committee at hearings on similar legislation before the last Congress,¹ there are now 405 noncommercial educational radio and television stations capable of reaching three-fourths of the total population of the United States. In 1967, there were only 124 radio and television stations in the entire system; today there are 250 public television stations alone. During the winter of 1974, evening television programs of the Public Broadcasting Service (PBS) were viewed or listened to by 32 percent of the total population capable of receiving them. PBS children's programs during the same period had a 26 percent share of the total potential audience. When corrected for duplication, these statistics show that PBS evening and children's programs were viewed or listened to by 42 percent of the total population capable of receiving those programs, or approximately 27.8 million households. Assuming 1.7 persons per household, viewers of the PBS evening and children's programs during the winter of 1974 totaled 41 million. Most importantly, these statistics reflect an annual increase in PBS listening and viewing of approximately 15 percent over 1973.

¹ See "Hearings on S. 3825, Senate Committee on Commerce," serial No. 93-97, p. 26 (statement of Hon. Clarence J. Brown, U.S. Representative from the Seventh District of Ohio) and p. 30 (testimony by Mr. Henry Loomis, president, Corporation for Public Broadcasting), 93d Cong., 2d sess. (Aug. 6, 1974).

In this current television season, two public broadcasting television programs, a series entitled "Jenny" based on the life of the mother of Winston Churchill and a special entitled "The Incredible Machine," have achieved approximately a 30 percent share of the total national television viewing audience. These two programs are excellent examples of public television at its best. They are high quality, informative and a challenge to the commercial networks to do better. These results are possible only if public television is adequately funded.

This significant growth of the public broadcasting system and the substantial increases in its audiences highlight the need for long-term Federal financing to maintain and further expand its program service to the American people.

The following table sets forth the Federal funding which the Corporation has received:

| | Authorization period | Authorization | Appropriation |
|---------------------|----------------------|---------------|---------------|
| Fiscal year: | | | |
| 1969 | 1 yr. | 9 | 5.0 |
| 1970 | 1 yr. | 20 | 15.0 |
| 1971 | 2 yr. | 35 | 23.0 |
| 1972 | | 35 | 35.0 |
| 1973 | 1 yr (2 yr vetoed) | | 45 |
| 1974 | 2 yr. | 55 | 47.5 |
| 1975 | | 65 | 62.5 |

¹ Continuing resolution.

Federal support must grow with the development of the public broadcast system. At the same time, Federal support must never become the predominant source of funding for public broadcasting. The committee has determined that appropriate levels of Federal support for public broadcasting in any fiscal year should reflect:

- (1) The projected effects of inflation;
- (2) An allowance for growth in the public television system to the extent stations are currently planned for activation;
- (3) An allowance for growth in the public radio system at rates consistent with past growth;
- (4) The projected historical growth of existing broadcast entities; and
- (5) Ceilings which provide adequate incentives to the system to seek the maximum practical non-Federal financial support.

In reviewing these factors, the committee has determined public broadcasting requires appropriation authorization ceilings above the amounts requested by the administration but substantially below the recommendations of the Task Force on the Long Range Financing of Public Broadcasting made in 1973.

In addition to increased funding, public broadcasting has a critical need for long-term financial stability. Advance planning is essential for effective program development and production. As the President of the Corporation for Public Broadcasting, Mr. Harry Loomis, told the committee in 1973, program series production requires the projection of budget costs over more than one year. Adequate lead time is mandatory:

The production of programs for presentation by local public broadcasting stations is, and should be, a careful, time-

consuming process. It takes time to consult with 147 television licensees and 138 qualified radio stations on their program needs, to analyze and react to their recommendations and their proposals, to decide upon production centers, to negotiate for rights, to produce a pilot, to produce the final series, schedule and present them for use by the stations.

Compressing their entire cycle into a single year means compromising on the quality of the final product. Series like BBC's "Henry VIII" and "Civilisation" cannot be planned and produced in 1 year. It took almost 3 years of research, planning, and development before the first "Sesame Street" series could be aired.²

Absent reasonable assurance as to the levels of Federal funding available over a multi-year period, the Corporation and local educational stations can undertake this kind of advance planning on only the most limited scale.

Other operating needs and objectives of public broadcasting call for the financial stability which only a multi-year authorization can provide. Without long-term funding, it is difficult for public broadcasting to maintain and attract a sufficient level of creative talent vis-a-vis the more financially secure commercial broadcast industry. Long-term funding would also enable the Corporation to realize the objective of decreasing its dependence on foreign programming sources. And, the development of new and innovative program services, such as specialized programming for the handicapped, including television captioning for the deaf and increased radio programming designed especially for the blind, is similarly contingent on long-term committed investment.

The Congress did not intend for the Public Broadcasting Act of 1967 to impose annual authorizations and appropriation on the Corporation for Public Broadcasting as a permanent process. Rather, this was to be an interim procedure pending submission of a long-term financing plan by the Administration to the Congress.

Thus, in his Health and Education Message to the Congress on February 28, 1967, the President stated:

I recommend that Congress enact the Public Television Act of 1967 to—

Create a Corporation for Public Television authorized to provide support to noncommercial television and radio. Provide \$9 million in fiscal 1968 as initial funding for the Corporation.

Next year, after careful review, I will make further proposals for the Corporation's long-term financing.³

Similarly, in its report accompanying the legislation implementing the President's recommendation (i.e., the Public Broadcasting Act of 1967), your committee observed:

Title II provides an authorization of \$9 million for the Corporation for the fiscal year 1968. Financing is, of course, one of the complex issues in the development of public broad-

² "Hearings on S. 1000 and S. 1228, Senate Committee on Commerce," p. 42, serial No. 93-10, 93d Cong., 1st sess. (1973).

³ "Health and Education, Message from the President of the United States," p. 8, 90th Cong., 1st sess., H. Doc. 68 (1967).

casting, and the \$9 million is only seed money, designed to get the Corporation off the ground. Much more money will be required in future years if the Corporation is to accomplish the task before it. The President said in his message to Congress, recommending the legislation that: "Next year, after careful review, I will make further proposals for the Corporation's long-term financing."⁴

However, prior to 1974 no such administration proposals were forthcoming, and the Corporation has relied on periodic authorizations and annual appropriations.⁵

The committee believes that long-term Federal funding for public broadcasting is thus essential to meet the pressing current needs of the system and to ensure that its full potential for excellence in both the quantity and quality of its service will be realized in the future.

The need for insulated funding

The Public Broadcasting Act of 1967 established the principle that while Federal funding was both necessary and proper to assist in the development of public broadcasting, such funding should not be allowed to serve as a potential vehicle for extraneous governmental control over the system's programing.

The committee's report on that legislation contained the following statement:

Your committee has heard considerable discussion about the fear of Government control or interference in programming if S. 1160 is enacted. We wish to state in the strongest terms possible that it is our intention that local stations be absolutely free to determine for themselves what they should or should not broadcast. As President Johnson said in his message of February 28:

"Noncommercial television and radio in America, even though supported by Federal funds, must be absolutely free from any Federal Government interference over programming."

Dr. James Killian, who headed the Carnegie Commission on Educational Television, came to the same conclusion when referring to the findings of his group when he said:

"The Commission categorically affirmed that the Corporation for Public Television must be private and nongovernmental, that it must be insulated to the greatest possible degree from threat and political control."⁶

As the former Director of the Office of Telecommunications Policy, Dr. Clay T. Whitehead, stated to the Committee at hearings on similar legislation before the last Congress:

⁴ "Report of the U.S. Senate Committee on Commerce to Accompany S. 1168," p. 8, 90th Cong., 1st sess., S. Rept. 222 (1967).

⁵ See S. 3825, 93d Cong., 2d sess. (introduced July 29, 1974). Hearings on the bill were held on Aug. 6, 1974, before the Subcommittee on Communications, see "Hearings on S. 3825, Senate Committee on Commerce," serial No. 93-97, 93d Cong., 2d sess., and the bill reported favorably, see "Report of the U.S. Senate Committee on Commerce to Accompany S. 3825," 93d Cong., 2d sess., S. Rept. 93-1113 (Aug. 20, 1974). Because of the appropriation provision of the bill, it was referred to the Senate Committee on Appropriations where action could not be taken before adjournment of the 93d Congress.

⁶ "Report of the U.S. Senate Committee on Commerce To Accompany S. 1160," p. 11, 90th Cong., 1st sess., S. Rept. 222 (1967).

* * * Congress has an inescapable responsibility for holding the recipients of tax dollars accountable for their use of public funds. This is a valid and necessary governmental responsibility even when the recipient of such funds operate a communications medium.

Annual appropriations, however, are just as unacceptable as permanent appropriations, because there is insufficient insulation between the budgetary and appropriations processes and sensitive programing judgments. A multi-year appropriation represents a reasonable balance between the conflicting objectives of insulated financing and government fiscal responsibility.⁷

The committee reported S. 893, a combined 5-year appropriation and authorization bill for CPB. Companion legislation in the House of Representatives, H.R. 6461, was also favorably reported by the Committee on Interstate and Foreign Commerce on May 22, 1975, and was referred to the Committee on Appropriations. But, the House Appropriations Committee reported the bill unfavorably on July 22, 1975.

The House Appropriations Committee opposed H.R. 6461 because it objected to the inclusion of appropriations in the authorization legislation. The Appropriations Committee had no objection to the authorization language, the matching requirements, or the other essential features of the bill. The House Appropriations Committee stated in the body of its report that it would make appropriations to carry out the intent of H.R. 6461 following its enactment. The House Appropriations Committee apparently does not intend to delay in any way the availability of funds for public broadcasting. But, the House committee did object to the automatic appropriation for the 5-year period ending September 30, 1980, as proposed by H.R. 6461. It " * * * does not in principle oppose advance appropriations for public broadcasting, and will include appropriations for the 3 fiscal years ending September 30, 1974, in an appropriation bill if and when H.R. 6461, or similar legislation, is enacted."

The committee now proposes this 5-year appropriation authorization bill for the Corporation for Public Broadcasting with the expectation that the respective Appropriations Committees of the House and Senate will proceed immediately to consider appropriations for the Corporation under the authorizing legislation.

It should be emphasized that S. 2584 embodies significant safeguards against any potential for the abuse or misuse of a multi-year appropriation the Corporation might receive. The Corporation for Public Broadcasting would remain fully accountable in that its officials would be required to be available for annual oversight hearings before appropriate committees of the Congress. In addition, the Corporation's directors are subject to Senate confirmation.

By determining the annual authorization based on a formula of a 40-percent Federal match of the entire public broadcasting system's non-Federal income, the legislation further insures that Federal funding will not dominate the system but rather will provide a needed

⁷ "Hearings on S. 3825, Senate Committee on Commerce," p. 12, serial No. 93-97, 93d Cong., 2d sess. (1974).

stimulus for non-Federal support. Under this formula, \$1.00 in Federal funds would be authorized for every \$2.50 received by the Corporation, stations, and other public broadcasting entities from State and local governmental and private sources. No more than 28 percent of public broadcasting's total income could be derived from Federal funds. By providing that Federal support will increase only as nationwide non-Federal support grows, the legislation ties Federal funding of the system to a rough but meaningful measure of its effectiveness.

If the 40 percent matching principle is to work properly to achieve the desired degree of insulated funding, the authorization ceilings must be set high enough to allow Federal expenditures to be determined by the full amount of non-Federal funds generated by the match. It is the committee's judgment that the ceilings provided in S. 893, as introduced, were too low and would not have allowed for the continued growth of the public broadcasting system. Thus, that bill prescribed a match of one Federal dollar for each 2.5 non-Federal dollars of public broadcasting support, but the ceilings in the bill limited the maximum annual Federal appropriation to an amount which is substantially less than 40 percent of the non-Federal support reasonably expected in the applicable fiscal year.

To illustrate, in fiscal year 1973, actual reported non-Federal income of public broadcasting was \$199 million. The system's non-Federal income in fiscal year 1974 is expected to be close to or in excess of \$220 million.⁸ Applying the prescribed 1 to 2.5 Federal match ratio, such non-Federal income would justify a Federal appropriation in fiscal year 1976 of \$88 million. S. 893 as introduced, however, would have limited the Federal appropriation in that fiscal year to \$70 million.

The committee therefore believes that the increased ceilings originally embodied in S. 893, and now in S. 2584 are essential to provide the desired incentive to increase non-Federal support and insure fully insulated funding based on the continued growth of the system.

As a further necessary safeguard of sound fiscal policy, the legislation stipulates ceilings on the maximum authorization permitted for each fiscal year. However, as discussed above, the committee believes that the particular ceilings originally requested by the administration do not adequately allow for the continued growth of the public broadcasting system and therefore fail to provide the desired insulation and incentive for increasing non-Federal support.

The principle of localism

The Public Broadcasting Act of 1967 also emphasized the importance of local stations in the national public broadcasting structure and their role in providing programming specifically responsive to the needs and interests of their particular communities.

Developments in the relationship of the Corporation for Public Broadcasting and local stations, including the 1973 Partnership Agreement between the Corporation and the Public Broadcasting Service and the formation of the National Station Program Cooperative, have given specific content to this fundamental policy.

⁸ See letter to Senator John O. Pastore from Robert S. Benjamin, chairman of the board, Corporation for Public Broadcasting; Ralph B. Rogers, chairman of the board, Public Broadcasting Service; and William H. Kling, chairman of the board, Association of Public Radio Stations, dated Mar. 5, 1975, and attached to this report in appendix C.

S. 2584 would build upon these developments and provide further needed support for the principle of localism in public broadcasting. As Dr. James R. Killian, Jr., Chairman of the Carnegie Commission on Educational Television and a director of the Corporation for Public Broadcasting since its inception, told the committee at hearings in 1973: " * * * the prime enemies of localism are the 1-year appropriation and inadequate funds."⁹ If local stations are to fulfill their intended role in the public broadcasting system, they must be assured of long-term funding levels adequate to justify increased programming investment commitments.

In addition to providing a 5-year authorization for the Corporation for Public Broadcasting, the legislation insures that a reasonable portion of each annual appropriation to the Corporation (from 40 to 50 percent depending on the level of such appropriation) will be designated for distribution to local educational television and radio stations.

Other provisions require CPB to consult with local radio and television licensees and permittees on the criteria and conditions regarding the distribution of funds to the local licensees. This insures that the licensees and permittees of local stations will play a substantial role in the decisionmaking processes concerning the distribution of funds within the national structure.

The legislation further provides that the amount of Federal funds annually apportioned to each local station may not exceed one-half of that station's total non-Federal support base thereby further promoting financial independence at the local level.

The committee believes that these aspects of the legislation are essential to preserve and strengthen the principle of localism and to promote its objectives of program diversity and excellence within the nationwide public broadcasting system.

Development and use of new technology

S. 2584 would authorize the Corporation for Public Broadcasting, either directly or through grants or contracts, to conduct research, demonstrations, or training with respect to the use of nonbroadcast communication technologies for the dissemination of educational television or radio programs. The legislation would also permit local stations to use the distributed Federal funds for the development and use of such technologies in transmitting programs to their audiences.

The Committee believes that such authorizations are necessary to allow public broadcasting to share in the development and use of advanced communications, including cable television and satellite, and thereby improve its service to its listening and viewing public.

CONCLUSION

This legislation begins to fulfill a longstanding promise to public broadcasting and represents a commitment which is long overdue.

S. 2584 provides a level for Federal funding which will reaffirm and strengthen the fundamental principles underlying the public broadcasting system's creation in 1967. It endorses the need to insulate Federal funding to the extent necessary to preserve and protect in-

⁹ "Hearings on S. 1090 and S. 1228, Senate Committee on Commerce," serial No. 93-10, p. 43, 93d Cong., 1st sess. (1973).

dependent programing determinations; recognizes and supports a continued commitment to the concept of localism within the national public broadcasting structure; and provides the financial stability and means needed for the system to realize its full potential for excellence and diversity of service to its listening and viewing audience.

HEARINGS

No hearings were held on S. 2584; however, hearings on similar legislation were held by the committee in the second session of the last Congress.¹⁰

At those hearings, the committee heard testimony from more than 20 witnesses, and also received numerous written testimony supporting the legislation.

Among those testifying in favor of enactment were: A spokesman for the Office of Telecommunications Policy, a Member of Congress, the FCC, the Chairman and Board members of the Corporation for Public Broadcasting, the presidents of National Public Radio and the Association of Public Radio Stations, and the chairman and members of the Board of Governors of the Public Broadcasting Service.

Several witnesses were concerned with the Corporation's responsibility to women, ethnic and other minorities in the area of equal employment opportunity.

The cause of equal employment opportunity is, of course, one that deserves the full attention, encouragement, and support of Public Broadcasting.

The committee was informed by letter (appendix A) that the Board of Directors of the Corporation has adopted a strengthened, comprehensive equal employment opportunity policy regarding both grant applicants and grant recipients. The committee was also informed by letter (appendix B) that the Public Broadcasting Service has instituted a committee of the Board through which it intends to make service to minorities and women a priority at both the national and local level. In this regard, the Committee of the Board is presently undertaking substantive projects in the areas of programing and employment.

SECTION-BY-SECTION ANALYSIS

This act may be cited as the "Public Broadcasting Financing Act of 1975."

SECTION 2

Subsection 396(k) is amended to establish a 5-year Federal authorization for the Corporation for Public Broadcasting, and to assure that a portion of the funds authorized for the Corporation is distributed directly to local stations.

Paragraph (3), as amended, of subsection 396(k) would establish a "Public Broadcasting Fund" in the Treasury, to which there would be authorized for appropriation, for fiscal years 1976-80, amounts equal to 40 percent of the total non-Federal financial support received by public broadcasting entities during each second-preceding fiscal year. A 1-year time lag is necessary to accumulate the information for

determining the amount on which the 40 percent match would be based. The 3-month period between July 1, 1976, and September 30, 1976, which is the transition period between the July 1 Federal fiscal year and the new October 1 fiscal year, is treated as a separate authorization period pursuant to section 502(a) of Public Law 93-344. The basis for the 40 percent match for this 3-month period is one-fourth of the non-Federal contributions to public broadcasting during fiscal year 1975. The authorization ceiling for each fiscal year is as follows: \$88 million in fiscal year 1976; \$103 million in fiscal year 1977; \$121 million in fiscal year 1978; \$140 million in fiscal year 1979; and \$160 million in fiscal year 1980. Finally, the authorization ceiling for the 3-month transition period is \$22 million.

Paragraph (4) sets forth the procedure whereby the amounts authorized and subsequently appropriated each year would be disbursed from the Public Broadcasting Fund to the Corporation, and requires that the funds be used solely for the expenses of the Corporation. The Corporation would be required to determine the amount of non-Federal financial support received by public broadcasting entities during each second preceding year, and to certify that amount to the Secretary of the Treasury. The Secretary, upon receipt of such certification, would be authorized to pay from the fund to the Corporation the amount of the appropriation or 40 percent of the certified non-Federal income, whichever is less.

Paragraph (5) would require the Corporation to set aside a specified percentage of the funds authorized for distribution to on-the-air non-commercial educational broadcast stations. The statutory percentage for distribution to stations would be 40 percent for the 15-month period from July 1, 1975, to September 30, 1976, and in any fiscal year in which the funds available were \$88 million or more but less than \$121 million; 45 percent at a level of more than \$121 million but less than \$160 million; and 50 percent at a level of \$160 million. The statutory percentage is expressed as a minimum, so that the Corporation could reserve a greater amount than that specified in the bill.

Paragraph (6) sets forth the method for distributing the funds reserved pursuant to paragraph (5). The Corporation would be required to establish, and review annually, after consultation with the licensees and permittees of on-the-air educational stations, criteria and condition for the distribution of these funds. In each fiscal year, the Corporation would be required to divide the funds into two portions, one to be distributed to television stations and one to be distributed to radio stations. Each licensee or permittee of an on-the-air educational television station would receive a basic grant from the portion reserved for television. The amount of this basic grant would be the same for each station, and would be determined annually by the Corporation in consultation with stations. The balance of the amount reserved for television stations would be distributed among licensees and permittees of such stations as are eligible to receive additional grants under criteria established by the Corporation in consultation with stations. These additional grants would be apportioned among eligible stations on the basis of a formula designed to (a) provide for the financial needs of stations in relation to the communities and audiences they undertake to serve and (b) stimulate non-Federal financial support for station activities. The bill does not prescribe a

¹⁰ See references at note 5, *supra*.

precise formula for the distribution of additional grants, but rather states these two objectives that the formula is to achieve. The details of the formula, as well as the weight assigned to each factor, would be determined by the Corporation in consultation with stations.

A somewhat different distribution mechanism is established for non-commercial educational radio stations. Many such stations are licensed to educational institutions for purposes of training students in broadcasting and do not render a direct service to the general public. Accordingly, only those stations that are eligible according to public interest criteria established by the Corporation would receive grants from the portion of funds reserved for distribution to radio stations. The bill does provide, however, that each such eligible radio station would receive a basic grant. As with television stations, funds in addition to the basic grant would be distributed to eligible radio stations according to a formula that would stimulate non-Federal income and reflect the needs of stations in relation to the audiences they serve.

The bill assures that licensees and permittees of stations would play a significant role in the decisionmaking processes relating to distribution of funds to stations. The Corporation would be required to consult with licensees and permittees (including their authorized representatives) in (a) apportioning the funds between radio and television, (b) determining the amount of the basic grant to stations, (c) establishing eligibility criteria for radio stations and for additional grants to television stations and (d) establishing the formula for apportioning additional grants among stations, including the weight to be assigned to the statutory objectives of stimulating non-Federal income and reflecting the needs of stations in relation to the audiences they serve.

This paragraph also provides that the funds distributed according to this subsection may not exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which the distribution is made. This limitation would not apply to grants made by the Corporation under development programs designed to meet special needs of particular stations.

Paragraph (7) provides that the funds distributed to stations may be used at their discretion for purposes related to the provision of non-commercial educational television and radio programing. Several examples of such purposes are set forth, including: producing, broadcasting or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast or other dissemination of educational television and radio programs; developing and using non-broadcast communications technologies (such as cable television and communications satellites) for educational television or radio programing purposes.

This list of purposes for which funds may be used by stations is not meant to be exhaustive. For example, although not specifically mentioned, it is intended that these funds could be used for the payment of dues or assessments to organizations which represent the interests of stations. One purpose for listing several typical uses of the funds is to make it clear that stations may undertake the development and use of nonbroadcast methods of transmitting programs to the public. In this regard, the term "dissemination" is intended to mean delivery of programs to viewers and listeners by means of nonbroadcast technologies.

SECTION 3

Subsection 396(g)(2)(H) is amended to permit the Corporation to conduct research, demonstrations, or training in the use of nonbroadcast communications technologies, as discussed above, for the dissemination of educational television or radio programs.

SECTION 4

A provision is added to subsection 396(i) of the act, which pertains to the annual report of the Corporation. The new provision states that the officers and directors of the Corporation shall be available to testify annually before appropriate committees of the Congress with respect to the annual report of the Corporation, with respect to the report of any audit made by the Comptroller General pursuant to subsection 396(l) of the Act, or with respect of any other matter which may be appropriate. Even with long-term Federal financing, the Corporation remains fully accountable to the public and to the Congress for its use of public funds. This section will provide the opportunity for annual Congressional review of the Corporation and its activities in any manner Congress believes proper.

SECTION 5

The provision in the bill for Federal support of public broadcasting amounting to 40 percent of the non-Federal income of public broadcasting entities and the limitation on the amount of funds that may be distributed to a station, expressed as a percentage of non-Federal income, necessitates the inclusion of two new definitions in the act.

The term "public broadcasting entity" is defined to mean the Corporation for Public Broadcasting, any licensee or permittee of a non-commercial educational broadcast station, and any nonprofit institution engaged primarily in the production, acquisition, distribution or dissemination of educational television or radio programs. Examples of the latter category include program production organizations, such as the Children's Television Workshop, and organizations providing program distribution services to stations such as the Public Broadcasting Service and National Public Radio.

The term "non-Federal financial support" is defined to mean the total value of cash and fair market value of property and services

(except for personal services of volunteers) received as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution or dissemination of educational television or radio programs and related activities. The definition includes such funds received from any source other than (1) the Federal Government or (2) any public broadcasting entity. The latter exception is intended to eliminate the double counting of funds circulated within the public broadcasting system. Thus, for example, income from a non-Federal source received in the first instance by a national public broadcasting organization and then distributed to stations or other public broadcasting entities would be counted only once.

In addition, the term is defined to include income received for public broadcasting purposes from State and local governments and educational institutions, as well as contract payments from such entities in exchange for services or materials relating to the provision of educational or instructional television or radio programs. Excluded from the definition are contract payments for such services from sources other than State and local governments and educational institutions, as well as contract payments in exchange for commercial services which might be provided by public broadcasting entities.

COST ESTIMATE

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the cost of this legislation will be a maximum total of \$634 million for the 5 fiscal years 1976-80 plus the 3-month transition period between July 1, 1976, and September 30, 1976. The committee knows of no cost estimate by any Federal agency which is at variance with its estimate.

CHANGES IN EXISTING LAW

In accordance with subsection (4) of rule XXIX of the Standing Rules for the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

§ 396. Corporation for Public Broadcasting—Congressional declaration of policy.

* * * * *

PURPOSES AND ACTIVITIES OF THE CORPORATION; POWERS UNDER THE DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT

(g) (1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are among others not specifically named—

(A) to obtain grants from and to make contracts with the individuals and with private, State, and Federal agencies, organizations, and institutions;

(B) to contract with or make grants to program production broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programming costs of such stations, particularly innovative approaches thereto, and other costs of operation of such station;

(D) to establish and maintain a library and archives of noncommercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such service on a local, State, regional, and national basis;

(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to noncommercial educational television or radio broadcasting [I] and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.

* * * * *

REPORT TO CONGRESS

(i) The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate. *The officers and directors of the Corporation shall be available to testify annually before appropriate committees of the Congress with respect to such report and with respect to the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.*

* * * * *

FINANCING

(k) (1) There is authorized to be appropriated for expenses of the Corporation \$50 million for the fiscal year ending June 30, 1974, and \$60 million for the fiscal year ending June 30, 1975.

(2) In addition to the sums authorized to be appropriated by paragraph (1) of this subsection, there are authorized to be appropriated for payment to the Corporation for each fiscal year during the period July 1, 1970, to June 30, 1975, amounts equal to the amount of total grants, donations, bequests, or other contributions (including money and the fair market value of any property) from non-Federal sources received by the Corporation under subsection (g)(2)(A) of this section during such fiscal year; except that the amount appropriated pursuant to this paragraph for any fiscal year may not exceed \$5 million.

(3) There is hereby established in the Treasury a fund which shall be known as the "Public Broadcasting Fund," administered by the Secretary of the Treasury. There are authorized to be appropriated to said Fund for each of the fiscal years during the period beginning July 1, 1957, and ending September 30, 1980, an amount equal to forty (40) percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976 through September 30, 1976 an amount equal to ten (10) percent of the total

amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1974; Provided, however, that the amount so appropriated shall not exceed \$88,000,000 for the fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976 through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976 through September 30, 1976, pursuant to the provisions of this subsection.

(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than forty (40) percent of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more but less than \$121,000,000; not less than forty-five (45) percent in each fiscal year in which the amount disbursed is \$121,000,000 or more but less than \$60,000,000; and not less than fifty (50) percent in each fiscal year in which the amount disbursed is \$160,000,000.

(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on the air, establish and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

(iii) assure that each eligible licensee and permittee of a noncommercial educational radio station receives a basic grant.

(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programming, including but not limited to: producing, acquiring, broadcasting or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programming purposes.

* * * * *

SUBPART C.—GENERAL PROVISIONS

§ 397. Definitions.

For the purposes of sections 390–399 of this title—

* * * * *

(10) The term "non-Federal financial support" means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

(11) The term "public broadcasting entity" means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television and radio programs.

APPENDIX A

CORPORATION FOR PUBLIC BROADCASTING,
Washington, D.C., August 13, 1974.

Senator JOHN O. PASTORE,

Chairman, Subcommittee on Communications, Senate Committee on Commerce, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Board and management of the Corporation for Public Broadcasting, I want to thank you and the subcommittee for your prompt scheduling and conduct of hearings on S. 3825, to provide 5-year, insulated Federal support for public broadcasting. Our Board, and I personally, are deeply grateful for the leadership and constructive attitude of the subcommittee evident throughout the hearings.

We are also grateful for the opportunity you have provided for us to comment upon certain matters mentioned before the subcommittee by other witnesses.

Several of the witnesses before your committee were concerned with CPB's responsibilities to women and ethnic and other minorities. For example, reference was made during the hearings to the CPB leadership role in effecting equal employment opportunities for minorities and women in public broadcasting. One witness argued that SPB should assume a regulatory role in this area. You questioned this point, and we believe you are entirely correct. The Corporation is not a government agency, and does not possess regulatory or judicial authority in the equal employment opportunity area. In our opinion, it should not.

On the other hand, the Board is keenly aware that the cause of equal employment opportunity is one that deserves the full attention, encouragement, and support of CPB. The Board's awareness of its own opportunities to enhance equal employment opportunity in the public broadcasting community has prompted a number of significant achievements in this regard. Not the least of these is the Board's adoption on March 1, 1974, of a strengthened, comprehensive equal employment opportunity policy regarding both grant applicants and grant recipients. A copy of this policy is attached to this letter. CPB is committed to the full, contractual enforcement of this policy by all grant applicants and recipients. We believe that this policy is consistent with CPB's private status, statutory mandate to "facilitate the full development of noncommercial educational radio and television broadcasting", and its commitment to assist in the attainment of the equal employment opportunity goals of the public broadcasting community.

Another witness before your committee gave statistics to support a contention that black employment is at a lower level in public broad-

casting than in commercial broadcasting. We have checked the study cited as well as statistics published by the Research Branch of the Federal Communications Commission. These sources do not support the statement made. They show that the percentage of minority employment in public broadcasting is slightly higher than in commercial broadcasting. We can supply additional details if the Committee wishes. We agree, however, that the record is far from satisfactory, and we are attempting to improve it.

For example, CPB is pleased to note that its Minority Training Program, now in its third year is, even under continuing resolution funding for CPB, enjoying increased financial support. Since its inception, the program has assisted 51 public television and radio stations to employ 53 minority persons in internships designed to equip these persons for specific positions of responsibility at the individual stations. By agreeing to pay half the salary and benefits of minority candidates who will acquire on-the-job training for these positions, CPB is engaging in an upward mobility program that is already accomplishing significant results.

One or more witnesses suggested that CPB data regarding the employment of minorities and women in public broadcasting become a part of CPB's statutory Annual Report, or that specific legislative oversight hearings on this matter be conducted regularly. CPB is, of course, prepared to furnish this data to the Committee and the public on a regular basis, and is always ready to participate in whatever oversight hearings Congressional committees with jurisdiction may require. We believe, however, that the data involved, complex and voluminous as it is, should not be incorporated in the Annual Report presently required in the Public Broadcasting Act of 1967 as amended. The Corporation, in cooperation with the Office of Education, publishes annual statistical compilations containing this data. We believe that these are the appropriate means for its dissemination.

The record also demonstrates a misunderstanding on the part of some witnesses regarding the report of CPB's Advisory Panel on Essentials for Effective Minority Programming. This panel, chaired by a Board member, Dr. Gloria Anderson, submitted its final report to the CPB Board in May 1974. The Report was also furnished to your Committee and to other legislative units concerned with the issues treated in the Report, to the general press, and to 1,022 persons representing minority interest groups, public broadcasting stations, the Advisory Council of National Organizations, and others. The CPB Board has already indicated its preliminary approval for the general thrust of the Report. Full Board consideration of the recommendations contained in the Report is presently scheduled for a September 1974 meeting. We will, of course, be pleased to furnish a follow-up on the Board's considerations as soon as possible.

We will be pleased to furnish whatever additional information your Committee may require, including any details that you would like to have in connection with the matters referred to in this letter.

Sincerely,

HENRY LOOMIS.

CORPORATION FOR PUBLIC BROADCASTING—STATEMENT OF POLICY ON EQUAL OPPORTUNITY AND CPB ASSISTANCE

I. POLICY

It is the policy of the Corporation for Public Broadcasting: (1) to fully comply with all applicable laws and regulations, including laws and regulations prohibiting discrimination against any person on the basis of race, color, religion, national origin, age, or sex, and (2) to require that each recipient of assistance from the Corporation whether in cash or in kind, comply with all such laws and regulations.

II. CPB ROLE AND COOPERATION WITH GOVERNMENT AGENCIES

The Corporation for Public Broadcasting is a private, non-profit Corporation. Because CPB is neither a government agency nor a law enforcement body, it does not have the legal authority to investigate and adjudicate complaints based upon allegedly discriminatory practices by recipients of its assistance that such agencies and bodies do. CPB will, however, promptly refer all such complaints received by it to a government agency with jurisdiction for any proceedings that may be appropriate. Further, the Corporation will cooperate fully with every agency with jurisdiction to inquire into allegedly discriminatory practices of recipients of CPB assistance.

III. LAWS AND REGULATIONS APPLICABLE

Applicable laws and regulations prohibiting discrimination against persons on the basis of race, color, religion, national origin, age, or sex may be federal, state or local, and may vary from recipient to recipient and from jurisdiction to jurisdiction. Each applicant or recipient of CPB assistance shall inform itself of the laws and regulations applicable to it, and the Corporation shall not undertake to so inform the applicant or recipient, unless a law or regulation requires that the Corporation do so, and then the Corporation shall undertake to inform the applicant or recipient only to the extent the law requires.

IV. SUSPENSION OR CANCELLATION OF CPB ASSISTANCE

Whenever a court or government agency with jurisdiction shall determine finally that a recipient of assistance from the Corporation is in violation of federal, state or local laws and regulations, prohibiting discrimination on the basis of race, color, religion, age, national origin or sex, and notice of such determination is given in writing to the Corporation by the court, agency, or any other person and officially certified, the Corporation shall promptly notify the recipient that unless the recipient shall demonstrate to the satisfaction of the Corporation within 30 days that the violation has been fully corrected or that the recipient is in full compliance with all remedial provisions of such final determination, the Corporation shall suspend or cancel all assistance to the recipient.

Whenever such final determination is appealed or otherwise challenged in an appropriate forum, whether or not the effect of such

determination is stayed pending appeal, the Corporation shall notify the recipient that, unless the recipient can show cause to the contrary within 30 days, the Corporation shall suspend or cancel CPB assistance. If the Corporation decides to suspend such assistance, then all sums that would otherwise have been payable to the recipient shall be held by the Corporation pending completion of the appellate process, but the provision of in kind assistance shall not be suspended or cancelled pending the appeal.

V. APPLICANTS INELIGIBLE TO RECEIVE CPB ASSISTANCE

An applicant for assistance from the Corporation whom a court or government agency with jurisdiction has determined finally to be in violation of any federal, state or local law or regulation prohibiting discrimination on the basis of race, color, religion, national origin, age, or sex shall be ineligible for assistance from the Corporation, unless the applicant shall demonstrate to the satisfaction of the Corporation that the violation has been fully corrected or that it is in full compliance with all remedial provisions of such final determination.

VI. EFFECTIVE DATE

The provisions of this policy statement shall become effective with respect to assistance granted or applications for assistance filed or pending on or after March 1, 1974.

APPENDIX B

PUBLIC BROADCASTING SERVICE,
Washington, D.C., August 9, 1974.

Hon. JOHN O. PASTORE,
Chairman, Senate Commerce Committee Subcommittee on Communications, New Senate Office Building, Washington, D.C.

DEAR SENATOR PASTORE: Among one of the most important and difficult problems we face, one which was addressed by some of the witnesses at the hearing for S 3825 last Tuesday, is how best to serve the special needs of minority persons and women.

Each station, PBS & CPB must come to grips with the questions of which type of services to provide and how to evaluate the success and merit of these services. Just as there is very little consensus among white males as to their beliefs and lifestyles, so also are there vast differences of opinions among minority persons and women as to how their needs can best be met by the media. This lack of consensus, however, must not forestall our efforts to meet these needs.

PBS has recently instituted a Committee of the Board through which we intend to make service to minorities and women a priority at both the national and local level. The Committee expects very soon to undertake substantive projects in the areas of programming and employment.

We readily concede that minorities and women are not adequately represented on public television staffs. This is a situation which we

deplore, and which the system is attempting to correct. PBS has adopted a strong affirmative action plan by which we hope to increase substantially the number of minority persons and women in increasingly influential positions at PBS. This plan has served as a model for similar plans at several of our member stations. (The PBS Affirmative Action Plan is attached.)

CPB has been engaged for some years now in making it possible for several stations throughout the country to initiate training programs for minority persons. One of the largest independent efforts by an individual station is the minority training program at WNET in New York, which grew out of production of the "Black Journal" series. We receive reports from our members that one of the largest problems they face with regard to minority hiring is the lure of higher salaries from commercial enterprises for high level minority employees. Promising and talented new minority staff members are no sooner trained than they are hired away by more affluent employers.

We note with little satisfaction that, according to the FCC's 1973 figures, public television's percentage of female employees is higher than their percentage in commercial television. (Public Television Employment figures are attached.) We are aware that about two-thirds of women in public broadcasting are relegated to positions of little responsibility. At PBS, however, we are making an effort to bring women into fields which have traditionally been considered for men only. For example, we have been training 4 women to work on our technical staff, and one, a Black woman, was recently promoted to the position of technician.

The problem of bringing minority persons and women into positions on our Board of Governors and Board of Managers is more difficult, since the Boards are elected from individual station Boards and staffs. In effect, not even PBS has control over the composition of its Boards and to assume such control would be to interfere with the essentially representational structure of PBS. The problem is further complicated by the fact that many individual station Boards are made up of the trustees of the Universities or governmental organizations to which the station is licensed and over which the local stations can exercise no control of the selection process.

This does not mean, however, that the "public" does not have a voice in PBS. The lay persons who make up the Board of Governors are not broadcasting professionals, but are members of the public whose job is to see that the public is served by their public television station. Public television licensees have both a moral responsibility and a legal mandate to reflect their local communities in their programming and hiring policies.

PBS fully supports the concept that public television licensees must ascertain the needs of their communities. Licensees are currently required to carry out such ascertainment insofar as it is necessary for their operation in the public interest, convenience and necessity. While PBS would welcome FCC guidelines on ascertainment, we oppose the adoption for public television of the ascertainment primer which commercial stations use.

PBS also opposes any measure which would make CPB an enforcer of federal laws, as was suggested by 2 witnesses, on Tuesday. We agree

with CPB's statement in a letter to Congressman Harley O. Staggers of July 20, 1973 that the enforcement of anti-discrimination provisions of laws "is not and should not be the function of CPB or any other private person. This is a governmental function that should be carried out by a duly constituted federal government or agency. CPB's congressional charter requires it to promote the development of noncommercial broadcasting and to foster diverse programming. CPB was not intended by Congress to be a federal policeman." 119 Cong. Rec. H. 6450 (July 20, 1973). Congress accepted that view and the House rejected an amendment to the 1973 appropriation bill which would have required CPB to police the equal employment laws.

PBS supports CPB's position in this matter. CPB has neither the facilities nor the expertise to assume police powers. Moreover, were CPB to take on some of the duties of a governmental agency, which it is not, it—and the programs it develops—will become increasingly subject to governmental control.

In programming, as in employment, public television has begun to fulfill its potential to serve audiences too long ignored by all television broadcasters. Determining which programs best meet minority and female needs is a major task in itself. Should we adopt a somewhat separatist approach, and develop programs exclusively by, exclusively for, and exclusively about a particular target group? Are minorities and women best served by general audience programs which show them interacting with the so-called white establishment in non-stereo-typed racial ethnic or sexual roles? Is a program which deals with problems facing the urban poor a "minority program" regardless of the racial balance of the reporters? These are questions on which reasonable people disagree.

At present, PBS tries to offer all of these types of programs through national distribution. The number of prime-time hours of PBS programming for minority persons and women has increased from 101 hours in 1972 to 169 hours in 1974. (A list of the 1974 programs for minorities and women is attached.)

Since corporate underwriting of this type of programming is very difficult to obtain however, further increases will depend in large part upon our success in obtaining adequate federal funding. PBS, through the Board Committee, is also investigating methods of providing incentives to the stations to increase their minority program development. We hope that our cooperative program market plan, rather than being a disincentive to the development of minority programs, as one witness suggested, will prove to be a vehicle whereby more such programs developed by local stations will find national distribution.

One must recognize that the station program cooperative was not meant to provide a panacea for all the program needs of the stations. The cooperative plan was designed to provide only a portion of the national program needs of the stations. Even if it were designed to fulfill all the needs of the stations, it could not. The stations do not have enough money to buy through the cooperative all the programs they want and need. In a number of cases hard economics dictated that a station pass up the purchase of nationally produced programs for minorities and women in order to have the money to continue to produce programs for minorities and women in their community in their

own studies. These are painful choices but ones necessitated by the system's chronic underfinancing.

Programming is the service which public television can most uniquely provide to minority persons and women. Individual stations are making hard efforts to provide this service on a local level. For example, a station in the midwest has offered the following programs in recent months: a special entitled, "Jerry" about the experience of an inner-city black youth contrasted with the environment of an Iowa farm boy; the three-month series, "Black Perspective on the News"; two programs on "Africa Reports"; a tennis profile of Arthur Ashe; a special on the prison system involving many blacks; the special, "Trial : The City and County of Denver vs. Watson"; "The Descendants" exploring the African heritage; "Gondola", a play featuring an attorney crusading to save two black youths wrongly accused of a crime; a Bill Moyers' special on the "Challenge of Poverty"; interviews with Sarah Vaughan, Roosevelt Greer, Julian Bond, Mrs. Martin Luther King, Jr., Martina Arroyo and Wilt Chamberlain; two "Religious America" features on black churches; an examination of school busing; our own local series on "Policemen: Images and Realities" which explored how the police are viewed by the black community; "Man and His Music" included an exploration of the origins of Jazz from African roots; an in-depth exploration of Sickle Cell Anemia; a special on The Alvin Ailey Dance Theater of Harlem; and a moving performance of Lorraine Hansberry's "To Be Young, Gifted and Black." In addition, the station's Instructional Programming, structured specifically for classroom use, has had four regular series dealing wholly or in part with the black experience: "Americans ALL," "Other Families, Other Friends," "Reflection in Black," and "History of Black Americans." This station also regularly carried, in addition, the three minority-oriented series "Black Journal," "Interface," and "Soul."

In conclusion, I want to assure you again of the sense of urgency we feel with regard to improving our service to minority persons and women. We cannot promise miracles. We can only express our deep commitment to improving this service substantially in as short a time as possible. We hope that speedy passage of S. 3825 will hasten this improvement.

Sincerely,

HARTFORD N. GUNN, Jr.,
President.

PUBLIC BROADCASTING SERVICE—EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the Public Broadcasting Service (hereafter "Service") to provide equal opportunity in employment for all qualified persons and to avoid discrimination in employment because of race, color, religion, sex, age or national origin. This policy will be implemented by affirmative action on the part of all officials, managerial personnel and employees of PBS. Notice of this policy shall be given to all Service employees.

I. RECRUITING

A. When positions are to be filled, qualified applicants will be sought without regard to race, color, religion, sex, age or national origin.

B. Notices shall be posted in the Service's employment offices in accordance with federal, state and local law, informing applicants of their equal employment rights and their right to notify cognizant governmental agencies if they believe that they have been the victim of discrimination.

C. The Service's employment application form will carry a notice in bold type informing applicants that discrimination because of race, color, religion, sex, age or national origin is prohibited and that they should notify the Service's Equal Employment Opportunity Officer if they feel that discrimination has been practiced against them and that they have the right to refer their complaints to their local Equal Employment Opportunity Commission office.

D. A continuing relationship shall be established with referral sources likely to produce minority applicants, including colleges and universities in the vicinity of the Service's offices with substantial minority enrollment, minority and human relations organizations, and minority leaders and spokesmen. It shall be made clear to these sources that the Public Broadcasting Service seeks referrals of qualified minority applicants for employment.

E. Service employees shall be encouraged to refer minority applicants for employment.

F. When employment agencies are asked to refer applicants for employment, it shall be made clear that applications from members of minority groups are specifically encouraged.

G. When advertisements are placed seeking applicants for employment, media with significant circulation among minority groups in the recruiting area shall be included. All employment advertisements shall identify the Public Broadcasting Service as an "Equal Opportunity Employer."

II. SELECTION AND HIRING OF NEW EMPLOYEES

A. All individuals making hiring decisions shall consider all applicants without discriminating on the basis of race, color, national origin, age, religion, or sex.

B. The Service will comply in all respects with employee selection procedure guidelines issued by the U.S. Equal Opportunity Employment Commission, including the avoidance of selection techniques or tests which have the effect of discriminating against minority applicants.

C. All applications for employment shall be processed promptly.

1. All applicants shall be requested to complete written application forms.

2. If an applicant is rejected, the hiring office involved shall (a) advise the applicant in writing of the reason for the rejection; (b) send a copy of the rejection notice to the organization which referred the applicant, if any; (c) retain a copy of the rejection notice.

D. The Service shall maintain a special file known as the "Affirmative Action File."

1. All applications from members of minority groups which are not accepted or are rejected shall be placed in the Affirmative Action File. The file shall consist of the applications of all minority group applicants not hired who are qualified for any position with the Service and also of those whose qualifications have not been established.

2. When employment vacancies occur for which no minority group applicant is presently available, the Service will consult the Affirmative Action File and will give every consideration to the hiring of applicants from that file before turning to outside sources.

3. The maintenance and use of the Affirmative Action File does not require the exclusion from consideration of any other applicant, nor does it imply a quota system for the hiring of members of any specific racial or ethnic group.

III. PLACEMENT AND PROMOTION OF EMPLOYEES

A. All placement and promotion shall be made on the basis of individual ability performance and the staffing needs of the Service. All minority group employees shall be considered for positions without discrimination.

B. The Service will continuously review the personnel records of minority group employees to identify their skills and qualifications for advancement. Employees found to have advancement potential will be encouraged to apply for better paid positions.

IV. WORKING CONDITIONS AND BENEFITS

A. All rates of pay and fringe benefits for employees shall be determined without regard to race, color, religion, sex, age or national origin.

B. All qualified employees in a department or section shall be advised whenever there is an opportunity to perform overtime work in the department or section.

C. Access to all Public Broadcasting Service programs (such as training programs and recreational activities) and facilities shall be without regard to race, color, religion, sex, age or national origin.

V. IMPLEMENTATION

A. The success of the Equal Employment Opportunity Policy of the Public Broadcasting Service is the responsibility of all officials and employees of the Service.

B. The President of the Public Broadcasting Service shall designate a person to be Equal Employment Opportunity Officer. The Equal Employment Opportunity Officer shall in turn designate a Deputy Equal Employment Officer in charge of Enforcement and a

Deputy Equal Employment Officer in charge of Complaints in each city where the Service has offices. In cities other than the principal place of business, the Equal Employment Officer may designate one Deputy for both functions.

1. The Deputy Equal Employment Officer in charge of Enforcement shall maintain the Affirmative Action File; be informed of all job openings; review this Policy with all personnel responsible for hiring no less frequently than quarterly; and generally review the practices of the Service covered by this Policy.

2. The Deputy Equal Employment Officer in charge of Complaints shall be the person to whom employees may come if they believe they have been the subject of discrimination.

C. The Equal Employment Opportunity Officer, with the assistance of the Deputy Equal Employment Opportunity Officers, shall:

1. Review all job areas within the Service in which there is little or no minority representation to insure that the situation is not the result of discrimination;

2. Review any seniority practices of the Service to insure that they do not have a discriminatory effect in practice; and

3. Maintain a continuing review of this Equal Employment Opportunity Policy and revise it as necessary to insure equal employment opportunity within the Public Broadcasting Service.

D. Each year, no later than May 31, the Equal Employment Opportunity Officer shall prepare a report for the President to include the following:

1. A statistical employment report prepared in accordance with the format of FCC Form 395;

2. An evaluation of the Service's Equal Opportunity Employment Policy, including comments on its operation in practice and any recommended changes; and

3. A summary of all complaints concerning discrimination made during the past year to the Equal Employment Opportunity Officer or any Deputy Equal Employment Opportunity Officer and the disposition of each such complaint.

VI. COMPLAINT PROCEDURE

A. Any person who believes that he or she has been the victim of discrimination because of race, color, religion, sex, age or national origin, may make a complaint to the Public Broadcasting Service.

B. Each complaint shall be in writing and signed by the complainant and shall state with specificity the date and nature of the alleged discrimination.

C. Complaints shall be submitted to the Deputy Equal Employment Opportunity Officer in charge of Complaints in the city where the discrimination complained of is thought to have taken place. The Deputy shall investigate the complaint and shall hold a hearing unless the complainant does not wish to have a hearing. If there is no hearing, the Deputy shall advise the complainant in writing of his determina-

tion of the case within 15 days after receipt of the complaint. If there is a hearing, the hearing shall commence within 15 days of receipt of the complaint by the Deputy, and the Deputy's decision shall be rendered within 7 days after completion of the hearing.

D. If the Deputy Equal Employment Opportunity Officer finds the complaint justified, he shall recommend remedial action to the appropriate authority. If he finds the complaint not justified, he shall so notify the complainant and shall also notify the complainant that review of the determination may be obtained by submitting a written request to the Equal Employment Opportunity Officer within 30 days.

E. Upon receipt of a request for review, the Equal Employment Opportunity Officer shall review the original complaint and the Deputy Equal Employment Opportunity Officer's decision and shall then make a determination of the case. The Equal Employment Opportunity Officer's decision shall be made known to the complainant in writing within 15 days of receipt of the request for review. The letter shall be closed with the following paragraph: If you still believe you have not been given an equal opportunity in employment, you have the right to seek assistance from the Equal Employment Opportunity Commission. Their offices in Washington, D.C., are located at 1800 G Street, N.W., Washington, D.C. 20506.

F. No person shall be penalized, disciplined or the object of any reprisal because of the fact that he submitted a complaint concerning discrimination.

MINORITY EMPLOYMENT REPORT FOR U.S. BROADCASTING SERVICES BY STATES—NUMBER OF EMPLOYEES

| State community, market or metro area | Total employees | Total females | Minorities (including female employees) | | | | |
|---------------------------------------|-----------------|---------------|---|--------|----------|-----------------|------------------|
| | | | Total | Negro | Oriental | American Indian | Spanish-American |
| U.S. broadcasting totals: | | | | | | | |
| Commercial television | 45,742 | 10,694 | 6,096 | 3,835 | 375 | 183 | 1,703 |
| Commercial radio | 62,697 | 14,488 | 6,606 | 4,153 | 240 | 314 | 1,899 |
| FM radio | 5,431 | 1,170 | 540 | 388 | 20 | 23 | 109 |
| Noncommercial television | 6,983 | 2,045 | 719 | 502 | 70 | 22 | 125 |
| Noncommercial radio | 2,277 | 579 | 255 | 189 | 14 | 12 | 40 |
| Broadcasting headquarters | 13,830 | 4,025 | 1,923 | 1,229 | 183 | 16 | 495 |
| All classes for U.S. broadcasting | 136,960 | 33,001 | 16,139 | 10,296 | 902 | 570 | 4,371 |

MINORITY AND WOMEN'S PROGRAMMING HOURS FOR FISCAL YEAR 1974

| | Time (hours) | Hours repeated within the week |
|---|--------------|--------------------------------|
| Programming by, for and/or about blacks | 79.0 | 25.0 |
| Programming by, for and/or about other minorities | 57.5 | 1.0 |
| Programming by, for and/or about women | 32.5 | 8.5 |
| Total | 169.0 | 30.5 |

PROGRAMING BY, FOR AND/OR ABOUT BLACKS

| | Time (hours) | Hours repeated within the week |
|---|-----------------|-----------------------------------|
| Black Journal..... | 16.0 | |
| Interface..... | 8.0 | 8.0 |
| Black performers..... | 6.5 | |
| Black Perspective on the News..... | | |
| Specials of the Week: Black Life: Mrs. Martin Luther King; Newport Jazz Festival: A Tribute to Louis Armstrong; The Trial of Henry Flipper; Mabel Mercer, Bobby Short and friends; Soul: Alvin Ailey: Memories and Visions On the Road with Duke Ellington..... | 5.5 | 5.5 |
| Jazz Set..... | 4.5 | 1.5 |
| Homewood..... | 2.0 | |
| Evening at Pops..... | 7.0 | 7.0 |
| Firing Line: Politics and Black Progress; What Now for the Ghetto?..... | 2.0 | |
| Just Jazz..... | 2.5 | 2.0 |
| Bill Moyers Journal: John Hope Franklin; Maya Angelou..... | 1.5 | |
| Free Stage..... | 1.0 | |
| One of a Kind..... | 1.0 | |
| Advocates: Should Colleges give Preferential Treatment to Minority Group Applicants?..... | 1.0 | |
| Decade of Change..... | 1.0 | |
| Black Political Power..... | 1.0 | |
| Black is a Beautiful Woman..... | 1.0 | |
| Religious America..... | 1.0 | |
| Boboquivari..... | 1.0 | |
| Arthur Prysock..... | 1.0 | .5 |
| Cosby on Prejudice..... | .5 | .5 |
| Lighthrin Hopkins..... | .5 | |
| Washington Connection: Busing..... | .5 | |
| Washington Straight Talk: Andrew Brimmer..... | .5 | |
| Devout Young..... | .5 | |
| Towers of Frustration..... | .5 | .5 |
| Sessions..... | 3.5 | 3.0 |
| Total..... | 79.0 | 25.0 |

PROGRAMING BY, FOR AND/OR ABOUT OTHER MINORITIES

| | Time (hours) | Hours repeated within the week |
|--------------------------------------|-----------------|-----------------------------------|
| Carrascolendas..... | 36.5 | |
| Killers..... | 10.0 | |
| LoLoma..... | .5 | |
| American Indian Days..... | 1.0 | 1.0 |
| Menomines..... | 1.0 | 1.0 |
| Religious America..... | .5 | |
| Sesame Street "En Todas Partes"..... | .5 | |
| America Tropical..... | .5 | |
| Total..... | 57.5 | 1.0 |

PROGRAMING BY, FOR AND/OR ABOUT WOMEN

| | Time (hours) | Hours repeated within the week |
|--|-----------------|-----------------------------------|
| Woman..... | 19.5 | 4.5 |
| Firing Line: Abortion; Germaine Greer; ERA..... | 3.0 | |
| Specials of the Week: Cambridge Debate on Women's Lib; Growing Up Female..... | 2.5 | 2.5 |
| What's The Big Idea? Why Women Don't Succeed; The Making of Presidents By Wives and Mothers..... | 2.0 | |
| Bill Moyers Journal: ERA; Lillian Hellman..... | 2.0 | |
| Book Best: Male Chauvinism; A Woman Alone; A Different Woman..... | 1.5 | |
| Woman Alive..... | 1.0 | 1.0 |
| Fear Woman..... | .5 | |
| Joyce at 34..... | .5 | .5 |
| Total..... | 32.5 | 8.5 |

APPENDIX C

CORPORATION FOR PUBLIC BROADCASTING,
Washington, D.C., March 5, 1975.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Senate Committee on
Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee now has under consideration S. 893, the Public Broadcasting Financing Act of 1975. Except for technical changes, this Bill as proposed by the Administration is identical to the Administration Bill proposed last year (S. 3825, 93rd Congress, Public Broadcasting Financing Act of 1974). On behalf of public broadcasting, we urge that your Committee consider S. 893 at an early date and that it approve the Bill with the same amended ceilings included in S. 3825 when that Bill was reported out on August 20, 1974.

Last year, as you recall, you and your colleagues accepted the unanimous conviction of the public broadcasting community that the ceilings in the Bill as introduced were too low to allow the primary feature of this funding approach—the matching grant principle—to work effectively.

Your Committee Report, No. 93-1113 of August 20, 1974, stated:

If the matching grants principle is to provide incentives for increased non-Federal funding, these ceilings must be high enough so that it is realistic to expect them to provide such incentives.

The matching provisions of the Bill allocate \$1.00 Federal for each \$2.50 of non-Federal income raised by public broadcasting. In fiscal year 1973, the verified income from non-Federal sources was almost \$200 million; in fiscal year 1974, although we do not have a final tally, it is clear that the total will be approximately \$220 million. Applying the 1:2.5 ratio, with 1974 serving as a base year for the determination of the fiscal 1976 appropriation, the fiscal year 1976 Federal allocation would be \$88 million—or \$18 million above the initial ceiling contained in the Administration Bill.

We are pleased that the President has restated the principle of insulated funding for public broadcasting in his transmittal letter. In the 1967 report of the Carnegie Commission, the essentiality of insulated funding was similarly recognized. The considerations involved are fundamental to our nation: first amendment freedoms of speech and of the press.

The ceilings in any "insulated, long-range financing bill," containing the matching concept, therefore must be high enough to permit the match to work so appropriations will be determined by the amount generated by the match. It is the arithmetical nature of arriving at the appropriations level that is the heart of true insulation, coupled with the multi-year feature of this Bill. Conversely, a ceiling in the Bill, lower than that which could be achieved by a one to two and one-half ratio, would really defeat the purpose stated in the Administration's transmittal. We feel this makes the Administration's recommended ceilings no better than a request for annual appropriations. This would

not achieve the desired insulation. Your Committee's action last August in support of higher ceilings—\$88 million for fiscal year 1976, up to \$160 million for fiscal 1980, clearly recognized these principles and is endorsed by all facets of public broadcasting.

The matching principle contained in the legislation not only provides insulation and incentive for the system to raise non-Federal funds, but also offers a gauge of the effectiveness of the system itself. If public broadcasting is proving a worthwhile service, it will be able to increase its local and national non-Federal support and thus earn additional Federal dollars with which to provide still better service to the American people.

All of us in public broadcasting are keenly aware of the understanding support that your colleagues and you have extended to us over the years. Please let us know if there is anything we can do to facilitate your consideration of this very important legislation.

Very truly yours,

ROBERT S. BENJAMIN,
*Chairman of the Board,
Corporation for Public Broadcasting.*

RALPH B. ROGERS,
*Chairman of the Board,
Public Broadcasting Service*

WILLIAM H. KLING,
*Chairman of the Board,
Association of Public Radio Stations.*

TEXT OF S. 2584, AS REPORTED

A BILL To amend certain provisions of the Communications Act of 1934, as amended, to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Broadcasting Financing Act of 1975".

SEC. 2. Subsection 396(k) of the Communications Act of 1934 is amended by inserting after paragraph (2), the following paragraphs:

"(3) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund, administered by the Secretary of the Treasury. There are authorized to be appropriated to said fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975: Provided, however, That the amount so appropriated shall not exceed \$88,000,000 for the fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976, through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

"(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

"(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on the air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more but less than \$121,000,000, not less than 45 per centum in each fiscal year in which the amount disbursed is \$121,000,000 or more but less than \$160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is \$160,000,000.

"(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on the air, establish, and review annually, criteria and conditions re-

garding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

"(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on the air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a non-commercial educational radio station receives a basic grant.

"(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programing, including but not limited to producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educationl television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes".

SEC. 3. Subsection 396 (g)(2)(H) of the Communications Act of 1934 is amended by deleting the period after the "Broadcasting" and inserting the following: "and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs".

SEC. 4. Subsection 396(i) of the Communications Act of 1934 is amended by inserting after the word "appropriate" the following sentence: "The officers and directors of the Corporation shall be available to testify annually before appropriate committees of the Congress with respect to such report and with respect to the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.".

SEC. 5 Section 397 of the Communications Act of 1934 is amended by inserting, after paragraph (9), the following paragraphs:

"(10) The term 'non-Federal fianancial support' means the total value of cash and fair market value of property and services (except for personal services of volunteers) received—

"(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of eductional television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

"(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncomercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television and radio programs."

AGENCY COMMENTS

OFFICE OF TELECOMMUNICATIONS POLICY,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., October 28, 1975.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee on Communications, Senate Committee on Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: When I testified recently before the Senate Appropriations Subcommittee on S. 893, the Public Broadcasting Financing Act of 1975, I assured you that should anything cause this Office to reconsider its support for the legislation, I would notify you at once so that any disparity could be resolved.

As you know, the House Appropriations Committee apparently has rejected the principle of insulated funding for the Corporation for Public Broadcasting. In its Adverse Report on the bill, the committee stated that it "is not persuaded that the budgetary problems of the CPB are sufficiently different from those of other publicly supported agencies and institutions to justify such a radical departure from the normal appropriation process." I know you disagree with this observation, and that we share the opinion that a "radical departure" is exactly what is needed.

I recognize, as you said when I testified before your subcommittee, that the concept of multiyear appropriations may be difficult for some in Congress to accept. Indeed, the concept was the subject of more than a year's circumspection by the fiscal and budgetary arms of the executive branch. It was our conclusion that, our reservations aside, the financing of public broadcasting presented a unique problem warranting an innovative and sure solution. Multiyear funding is simply a prerequisite to assuring that public broadcasting is able to operate free of the possibilities of Government control that are accompanied

by its participation each year in the normal budgetary process of the Congress and the executive branch.

In proposing to strike the appropriations language from H.R. 6461, the committee offered a "compromise." The committee proposed to offer at a later date a 2- or 3-year "advance" appropriation to the CPB. Under this plan, the CPB would appear before the Appropriations Committee each year, as it does now, to justify an appropriation 2 or 3 years hence.

This is not a compromise. The committee has ducked the issue. The committee's proposal does not insulate the Corporation from the possibilities of Government control which could be manifested during the annual budgetary process. While such advance funding does offer the Corporation leadtime for program scheduling, fund raising, and the like, these are not the reason why the multiyear appropriation language was placed in the bill. If they were, then the House Appropriations Committee's declaration would be irrefutable. But public broadcasting is different, it is unique. It is a mass medium of communications operating under the protection of the first amendment on the one hand, yet funded and accountable to the Congress and susceptible to the budgetary decisions of the executive branch on the other. No other federally funded program endures such status, and it is for this reason, and this reason alone, that the administration agreed to the 5-year appropriation language in the legislation.

As you know, under the provisions of S. 893 as introduced, the Congress would both authorize and appropriate the funds in one lump sum into a special account in the Treasury. Using the matching formula contained in the bill, the CPB would then draw on this account each year. The CPB would not have to justify another congressional appropriation for 5 years, at which time the program would be reevaluated. This method of appropriation is the cornerstone of the Public Broadcasting Financing Act of 1975; in short, it is the essential insulating feature of the bill.

It is my understanding that you have recently drafted a new version of S. 893 which excludes the 5-year appropriation language. I have no problem with this approach, insofar as it represents what is probably the best possible accommodation of the jurisdictional dispute between the Commerce Committee and Appropriations Committee in the House. However, I believe it is premature to accede to the proposal of the House Appropriations Committee for something less than a full 5-year appropriation, or to the committee's apparent intention to continue with annual, albeit advanced funding. The appropriate course of action, in my opinion, is to get a 5-year authorization law on the books and to continue to press vigorously for an appropriation bill which mirrors the authorization. The Appropriation Committee's proposal represents such a radical departure from the original plan as submitted by the President to this Congress last February that OTP could not support an appropriation bill which embodied it and would strongly recommend against its enactment.

I respectfully urge you and your colleagues to do everything within your power to assure that public broadcasting receives the kind of insulated funding that you have so eloquently and so effectively argued in favor of since the passage of the Public Broadcasting Act of 1967.

I recall that during the June 22, 1972, floor debate on a CPB authorization bill you summed up the frustrations shared by many during that long and arduous time when a long-range funding bill seemed further away than ever before:

I had urged the Johnson administration time and time again, and now the Nixon administration, to come up with a long-range plan of financing, and up [to] this date, both the previous administration and this administration have ducked the issue. They have ducked the issue. The time has come when they should come up with a program of long-range financing * * * I think their feet should be put to the fire * * *.

In my view, if Congress is no longer committed to the principle of the Public Broadcasting Act of 1967 and the necessity of insulating the medium from government control, then criticism of past administrations for failure to submit a long-range funding plan was not much more than rhetoric, and it is time to reassess the entire enterprise—time to question whether we really want, need, or can afford a federally funded medium of expression that will remain forever susceptible to governmental influence and control.

In closing, Mr. Chairman, let me say that I am well aware of your efforts to transform the Carnegie Commission Report into the Public Broadcasting Act of 1967, that it was your Communications Subcommittee that first took action on the new financing bill, and that after Commerce Committee approval it was under your guidance that the Appropriations Subcommittee moved expeditiously, all long before there was any corresponding action in the House. Like yourself, this Office remains firmly committed to the promise of public broadcasting, and stands ready to work with you and your colleagues for the passage of a truly long-range insulated funding bill.

Sincerely,

JOHN EGER,
Acting Director.





Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Broadcasting Financing Act of 1975".

SEC. 2. Subsection 396(k) of the Communications Act of 1934 is amended by inserting after paragraph (2), the following paragraphs:

"(3) There is hereby established in the Treasury a fund which shall be known as the 'Public Broadcasting Fund' administered by the Secretary of the Treasury. There are authorized to be appropriated to such fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975; except that the amount so appropriated shall not exceed \$88,000,000 for the fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976, through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending ~~September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.~~

"(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

"(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more, but less than \$121,000,000; not less than 45 per centum in each fiscal year in which the amount disbursed is \$121,000,000 or more, but less than \$160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is \$160,000,000.

"(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on-the-air, establish, and review annually, criteria and conditions

H. R. 6461—2

regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

“(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

“(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

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

“(iii) assure that each eligible licensee and permittee of a non-commercial educational radio station receives a basic grant.

“(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

“(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programing, including but not limited to the following: producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes.”

SEC. 3. Subsection 396(g)(2)(H) of the Communications Act of 1934 is amended by deleting the period after “broadcasting” and inserting the following: “and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.”

SEC. 4. Subsection 396(i) of the Communications Act of 1934 is amended by adding at the end thereof the following sentence: “The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.”

SEC. 5. Section 397 of the Communications Act of 1934 is amended by inserting, after paragraph (9), the following paragraphs:

“(10) The term ‘non-Federal financial support’ means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—

“(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio

H. R. 6461—3

programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or

“(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.

“(11) The term ‘public broadcasting entity’ means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television or radio programs.”

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

FOR IMMEDIATE RELEASE

JANUARY 1, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am pleased to sign H.R. 6461, the Public Broadcasting Financing Act of 1975. This legislation, while not perfect, represents a milestone in the history of public broadcasting. It will help assure that public broadcasting can concentrate on being the effective and innovative source of educational and cultural programming which the American people have come to expect.

I congratulate the Congress for including in this new legislation most of the provisions originally recommended by the Administration. Under the bill, the level of Federal funding will be keyed to the ability of the Corporation for Public Broadcasting and the local broadcasters themselves to generate contributions from other sources. In addition, a significant percentage of the Federal contribution to public broadcasting will be required by law to be distributed to local public broadcasting stations. Both of these features insure that the Federal commitment to public broadcasting will be dependent upon and responsive to the interests and needs of local audiences.

I am also pleased that the legislation provides for a five-year authorization. Multi-year financing for public broadcasting has been a long-sought objective as a means of insulating this important medium of expression from the possibility of undue governmental control.

I am disappointed, therefore, that the present bill does not include the corresponding five-year appropriation originally proposed by the Administration.

I am also concerned about the authorization ceilings contained in H.R. 6461. The bill proposed by the Administration contained funding ceilings for a five-year period ranging from \$70 million in the first year to \$100 million in the fifth year. Unfortunately, the Congress has increased these ceilings significantly, providing for a five-year authorization ranging from \$88 million to \$160 million. In this time of severe strain on the Federal budget, I consider it essential that the appropriations provided under this bill conform to the limits which I intend to recommend in my fiscal year 1977 budget.

In spite of the deficiencies I have mentioned, I believe the bill I have signed will significantly enhance the ability of the public broadcasting community to continue providing programming of excellence and diversity for the American people.

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December 19, 1975

Dear Mr. Director:

The following bills were received at the White House on December 19th:

- | | |
|---------------|----------------|
| ✓ H.R. 3474 ✓ | ✓ H.R. 8631 ✓ |
| ✓ H.R. 4073 ✓ | ✓ H.R. 10555 ✓ |
| ✓ H.R. 5541 ✓ | ✓ H.R. 10792 ✓ |
| ✓ H.R. 6461 ✓ | ✓ H.R. 11016 ✓ |
| ✓ H.R. 7862 ✓ | ✓ H.R. 11172 ✓ |

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.