

117TH CONGRESS
1ST SESSION

S. 2456

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

IN THE SENATE OF THE UNITED STATES

JULY 22, 2021

Mr. PETERS (for himself and Mr. MENENDEZ) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadcast Varied Own-
5 ership Incentives for Community Expanded Service Act”
6 or the “Broadcast VOICES Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) BROADCAST STATION.—The term “broad-
2 cast station” has the meaning given the term in sec-
3 tion 3 of the Communications Act of 1934 (47
4 U.S.C. 153).

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

7 (3) OWNED BY SOCIALLY DISADVANTAGED IN-
8 DIVIDUALS.—The term “owned by socially disadvan-
9 taged individuals” has the meaning given the term
10 in section 344(a) of the Communications Act of
11 1934, as added by section 5(a)(1) of this Act.

12 **SEC. 3. FINDINGS.**

13 Congress finds the following:

14 (1) One of the main missions of the Commis-
15 sion, and a compelling governmental interest, is to
16 ensure that there is a diversity of ownership and
17 viewpoints in the broadcasting industry.

18 (2) The Commission should continue to collect
19 relevant data on the diversity described in paragraph
20 (1), adopt improvements to that data collection and
21 related studies, and make appropriate recommenda-
22 tions to Congress regarding how to increase the
23 number of minority- and women-owned broadcast
24 stations.

1 (3) Data from 2017 shows that, of the nearly
2 1,700 full power commercial broadcast television sta-
3 tions in the United States, less than 6 percent are
4 owned by women and less than 3 percent are minor-
5 ity-owned. With respect to full power commercial
6 radio stations, women owned approximately 7 per-
7 cent of FM broadcast radio stations and minorities
8 owned less than 3 percent of those stations.

9 (4) In the 17 years that a minority tax certifi-
10 cate program was in place at the Commission be-
11 tween 1978 and 1995, the Commission issued 287
12 certificates for radio stations, and 40 certificates for
13 television stations, under that program.

14 **SEC. 4. FCC REPORTS TO CONGRESS.**

15 (a) BIENNIAL REPORT CONTAINING RECOMMENDA-
16 TIONS FOR INCREASING NUMBER AND VALUE OF BROAD-
17 CAST STATIONS OWNED BY SOCIALLY DISADVANTAGED
18 INDIVIDUALS.—Not later than 180 days after the date of
19 enactment of this Act, and not less frequently than once
20 every 2 years thereafter, the Commission shall submit to
21 Congress a report containing recommendations for how to
22 increase the total number, and the value, of broadcast sta-
23 tions that are owned by socially disadvantaged individuals.

24 (b) BIENNIAL REPORT ON NUMBER OF BROADCAST
25 STATIONS OWNED BY SOCIALLY DISADVANTAGED INDI-

1 VIDUALS.—Not later than 180 days after the date of en-
 2 actment of this Act, and not less frequently than once
 3 every 2 years thereafter, the Commission shall submit to
 4 Congress a report that identifies the total number of
 5 broadcast stations that are owned by socially disadvan-
 6 taged individuals, based on data reported to the Commis-
 7 sion on Form 323 of the Commission.

8 **SEC. 5. TAX CERTIFICATE PROGRAM FOR BROADCAST STA-**
 9 **TION TRANSACTIONS FURTHERING OWNER-**
 10 **SHIP BY SOCIALLY DISADVANTAGED INDIVID-**
 11 **UALS.**

12 (a) REQUIREMENTS FOR ISSUANCE OF CERTIFICATE
 13 BY FCC.—

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

17 **“SEC. 344. TAX CERTIFICATE PROGRAM FOR BROADCAST**
 18 **STATION TRANSACTIONS FURTHERING OWN-**
 19 **ERSHIP BY SOCIALLY DISADVANTAGED INDI-**
 20 **VIDUALS.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) OWNED BY SOCIALLY DISADVANTAGED IN-
 23 DIVIDUALS.—The term ‘owned by socially disadvan-
 24 taged individuals’ means, with respect to a broadcast
 25 station, that—

1 “(A) the station is at more than 50 per-
2 cent (or some other percentage determined by
3 the Commission) owned by 1 or more socially
4 disadvantaged individuals, or, in the case of any
5 publicly traded broadcast station, more than 50
6 percent (or some other percentage determined
7 by the Commission) of the securities of such
8 station is owned by 1 or more socially disadvan-
9 tagged individuals; and

10 “(B) the management and daily business
11 operations of the station are controlled by 1 or
12 more socially disadvantaged individuals.

13 “(2) SOCIALLY DISADVANTAGED INDIVIDUAL.—
14 The term ‘socially disadvantaged individual’
15 means—

16 “(A) a woman; or

17 “(B) an individual who has been subjected
18 to racial or ethnic prejudice or cultural bias be-
19 cause of the identity of the individual as a
20 member of a group, without regard to the indi-
21 vidual qualities of the individual.

22 “(b) ISSUANCE OF CERTIFICATE BY COMMISSION.—
23 Subject to the rules adopted by the Commission under
24 subsection (d), upon application by a person that engages
25 in a sale described in subsection (c), the Commission shall

1 issue to that person a certificate stating that the sale
2 meets the requirements of this section.

3 “(c) SALES DESCRIBED.—A sale described in this
4 subsection is either of the following:

5 “(1) SALE RESULTING IN OR PRESERVING OWN-
6 ERSHIP AND CONTROL BY SOCIALLY DISADVAN-
7 TAGED INDIVIDUALS.—A sale of an interest in a
8 broadcast station if, immediately after the sale, the
9 station is owned by socially disadvantaged individ-
10 uals, without regard to whether, before the sale, the
11 station was owned by socially disadvantaged individ-
12 uals.

13 “(2) SALE BY INVESTOR IN STATION OWNED BY
14 SOCIALLY DISADVANTAGED INDIVIDUALS.—In the
15 case of a person that has contributed capital in ex-
16 change for an interest in a broadcast station that is
17 owned by socially disadvantaged individuals, a sale
18 by that person of some or all of that interest.

19 “(d) RULES.—The Commission shall adopt rules for
20 the issuance of a certificate under subsection (b) that pro-
21 vide for the following:

22 “(1) LIMIT ON VALUE OF SALE.—A limit on the
23 value of an interest the sale of which qualifies for
24 the issuance of such a certificate, which shall be not
25 greater than \$50,000,000.

1 “(2) MINIMUM HOLDING PERIOD.—In the case
2 of a sale described in subsection (c)(1), a minimum
3 period after the sale during which the broadcast sta-
4 tion shall remain owned by socially disadvantaged
5 individuals, which shall be not shorter than 2 years
6 and not longer than 3 years.

7 “(3) CUMULATIVE LIMIT ON NUMBER OR
8 VALUE OF SALES.—A limit on the total number of
9 sales per year or the total value of sales per year,
10 or both, for which a person may be issued certifi-
11 cates under subsection (b).

12 “(4) PARTICIPATION IN STATION MANAGEMENT
13 BY SOCIALLY DISADVANTAGED INDIVIDUALS.—Re-
14 quirements for participation by socially disadvan-
15 taged individuals in the management of the broad-
16 cast station.

17 “(5) CERTIFICATION.—

18 “(A) IN GENERAL.—In the case of a sale
19 described in subsection (c)(1), a requirement
20 that the buyer of the interest in the broadcast
21 station certify, every 180 days during the min-
22 imum holding period adopted under paragraph
23 (2), compliance with the rules issued under that
24 paragraph and paragraph (4).

1 “(B) FAILURE TO COMPLY.—With respect
2 to a failure to make a certification required
3 under subparagraph (A), the Commission
4 shall—

5 “(i) report the failure to the Commis-
6 sioner of Internal Revenue; and

7 “(ii) include the failure in the report
8 to Congress submitted under subsection (e)
9 that covers the period during which the
10 failure occurred.

11 “(e) ANNUAL REPORT TO CONGRESS.—The Commis-
12 sion shall submit to Congress an annual report describing
13 the sales for which certificates have been issued under sub-
14 section (b) during the period covered by the report.”.

15 (2) DEADLINE FOR ISSUANCE OF RULES.—Not
16 later than 1 year after the date of enactment of this
17 Act, the Commission shall issue rules to implement
18 section 344 of the Communications Act of 1934, as
19 added by paragraph (1).

20 (3) REPORT TO CONGRESS ON PROGRAM EX-
21 PANSION.—Not later than 6 years after the date of
22 enactment of this Act, the Commission shall submit
23 to Congress a report regarding whether Congress
24 should expand section 344 of the Communications
25 Act of 1934, as added by paragraph (1), beyond

1 broadcast stations to cover other entities regulated
2 by the Commission.

3 (4) EXAMINATION AND REPORT TO CONGRESS
4 ON NEXUS BETWEEN DIVERSITY OF OWNERSHIP
5 AND DIVERSITY OF VIEWPOINT.—

6 (A) EXAMINATION.—Not later than 60
7 days after the date of enactment of this Act,
8 the Commission shall initiate an examination of
9 whether there is a nexus between diversity of
10 ownership or control of broadcast stations (in-
11 cluding ownership or control by members of mi-
12 nority groups or women, or by both members of
13 minority groups and women) and diversity of
14 the viewpoints expressed in the matter broad-
15 cast by broadcast stations.

16 (B) REPORT TO CONGRESS.—Not later
17 than 2 years after the date of enactment of this
18 Act, the Commission shall submit to Congress
19 a report on the findings of the Commission in
20 the examination under subparagraph (A), in-
21 cluding supporting data.

22 (b) NONRECOGNITION OF GAIN OR LOSS FOR TAX
23 PURPOSES.—

1 (1) IN GENERAL.—Subchapter O of chapter 1
2 of the Internal Revenue Code of 1986 is amended by
3 inserting after part IV the following new part:

4 **“PART V—SALE OF INTEREST IN CERTAIN**
5 **BROADCAST STATIONS**

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

9 “(a) NONRECOGNITION OF GAIN OR LOSS.—If a sale
10 of an interest in a broadcast station, within the meaning
11 of section 344 of the Communications Act of 1934, is cer-
12 tified by the Federal Communications Commission under
13 such section, such sale shall, if the taxpayer so elects, be
14 treated as an involuntary conversion of such property
15 within the meaning of section 1033. For purposes of such
16 section as made applicable by the provisions of this sec-
17 tion, stock of a corporation operating a broadcast station
18 shall be treated as property similar or related in service
19 or use to the property so converted. The part of the gain,
20 if any, on such sale to which section 1033 is not applied
21 shall nevertheless not be recognized, if the taxpayer so
22 elects, to the extent that it is applied to reduce the basis
23 for determining gain or loss on any such sale, of a char-
24 acter subject to the allowance for depreciation under sec-
25 tion 167, remaining in the hands of the taxpayer imme-

1 diately after the sale, or acquired in the same taxable year.
2 The manner and amount of such reduction shall be deter-
3 mined under regulations prescribed by the Secretary. Any
4 election made by the taxpayer under this section shall be
5 made by a statement to that effect in his return for the
6 taxable year in which the sale takes place, and such elec-
7 tion shall be binding for the taxable year and all subse-
8 quent taxable years.

9 “(b) MINIMUM HOLDING PERIOD; CONTINUED MAN-
10 AGEMENT.—If—

11 “(1) there is nonrecognition of gain or loss to
12 a taxpayer under this section with respect to a sale
13 of property (determined without regard to this para-
14 graph), and

15 “(2) the taxpayer ceases to fulfill any require-
16 ments of the rules adopted by the Federal Commu-
17 nications Commission under paragraph (2) or (4) of
18 section 344(c) of the Communications Act of 1934
19 (as such rules are in effect on the date of such sale),
20 there shall be no nonrecognition of gain or loss under this
21 section to the taxpayer with respect to such sale, except
22 that any gain or loss recognized by the taxpayer by reason
23 of this subsection shall be taken into account as of the
24 date on which the taxpayer so ceases to fulfill such re-
25 quirements.

1 “(c) BASIS.—For basis of property acquired on a sale
2 treated as an involuntary conversion under subsection (a),
3 see section 1033(b).”.

4 (2) CLERICAL AMENDMENT.—The table of
5 parts for subchapter O of chapter 1 of the Internal
6 Revenue Code of 1986 is amended by inserting after
7 the item related to part IV the following new part:

“PART V—SALE OF INTEREST IN CERTAIN BROADCAST STATIONS

“Section 1071. Nonrecognition of gain or loss from sale of interest in certain
broadcast stations.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply with respect to sales of interests
10 in broadcast stations after the date that is 1 year after
11 the date of enactment of this Act.

12 (d) SUNSET.—The amendments made by this section
13 shall not apply with respect to sales of interests in broad-
14 cast stations after the date that is 16 years after the date
15 of enactment of this Act.

16 **SEC. 6. CREDIT FOR CERTAIN CONTRIBUTIONS WITH RE-**
17 **SPECT TO BROADCAST STATIONS.**

18 (a) IN GENERAL.—Subpart D of part IV of sub-
19 chapter A of chapter 1 of the Internal Revenue Code of
20 1986 is amended by adding at the end the following new
21 section:

1 **“SEC. 45U. CREDIT FOR CERTAIN CONTRIBUTIONS WITH**
2 **RESPECT TO BROADCAST STATIONS.**

3 “(a) IN GENERAL.—For purposes of section 38, the
4 broadcast station contribution credit determined under
5 this section for any taxable year is an amount equal to
6 the fair market value of any broadcast station, or any in-
7 terest in a broadcast station, which is contributed in a
8 qualified contribution during such taxable year.

9 “(b) QUALIFIED CONTRIBUTION.—For purposes of
10 this section—

11 “(1) IN GENERAL.—The term ‘qualified con-
12 tribution’ means a contribution or gift to or for the
13 use of an entity described in section 170(c)(2) which
14 has as a part of its charitable purpose the training
15 of socially disadvantaged individuals in the manage-
16 ment and operation of broadcast stations (as cer-
17 tified by the Federal Communications Commission),
18 but only if the recipient holds such station or inter-
19 est for not less than 2 years after the date of the
20 contribution.

21 “(2) SOCIALLY DISADVANTAGED INDIVID-
22 UALS.—The term ‘socially disadvantaged individuals’
23 has the meaning given such term in section
24 344(a)(2) of the Communications Act of 1934.

25 “(c) BROADCAST STATION.—For purposes of this
26 section, the term ‘broadcast station’ has the same meaning

1 as when used in section 344 of the Communications Act
2 of 1934.

3 “(d) DENIAL OF DEDUCTION.—No deduction shall be
4 allowed under section 170 with respect to any contribution
5 for which credit is allowed under this section.”.

6 (b) CREDIT TO BE PART OF GENERAL BUSINESS
7 CREDIT.—Section 38(b) of the Internal Revenue Code of
8 1986 is amended by striking “plus” at the end of para-
9 graph (32), by striking the period at the end of paragraph
10 (33) and inserting “, plus”, and by adding at the end the
11 following new paragraph:

12 “(34) the broadcast station contribution credit
13 determined under section 45U(a).”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for subpart D of part IV of subchapter A of chapter 1
16 of the Internal Revenue Code of 1986 is amended by add-
17 ing at the end the following new item:

“Sec. 45U. Credit for certain contributions with respect to broadcast stations.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to contributions made in taxable
20 years beginning after the date of the enactment of this
21 Act.

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