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111TH CONGRESS
2^D SESSION

S. 2764

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2009

Mr. ROCKEFELLER (for himself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 17, 2010

Reported by Mr. ROCKEFELLER, with an amendment

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

A BILL

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, 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 “Satellite Television Ex-
5 tension and Localism Act of 2009”.

1 **SEC. 2. EXTENSION OF AUTHORITY.**

2 Section 325(b) of the Communications Act of 1934
3 (47 U.S.C. 325(b)) is amended—

4 (1) in paragraph (2)(C), by striking “December
5 31, 2009” and inserting “December 31, 2014”; and

6 (2) in paragraph (3)(C), by striking “January
7 1, 2010” each place it appears in clauses (ii) and
8 (iii) and inserting “January 1, 2015”.

9 **SEC. 3. SIGNIFICANTLY VIEWED STATIONS.**

10 (a) IN GENERAL.—Paragraphs (1) and (2) of section
11 340(b) of such Act (47 U.S.C. 340(b)) are amended to
12 read as follows:

13 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-
14 ING LOCAL-INTO-LOCAL SERVICE.—This section shall
15 apply only to retransmissions to subscribers of a sat-
16 ellite carrier who receive retransmissions of a signal
17 from that satellite carrier pursuant to section 338.

18 “(2) SERVICE LIMITATIONS.—A satellite carrier
19 may retransmit to a subscriber in high definition
20 format the signal of a station determined by the
21 Commission to be significantly viewed under sub-
22 section (a) only if such carrier also retransmits in
23 high definition format the signal of a station located
24 in the local market of such subscriber and affiliated
25 with the same network whenever such format is
26 available from such station.”

1 (b) **RULEMAKING REQUIRED.**—Within 180 days after
 2 the date of the enactment of this Act, the Federal Commu-
 3 nications Commission shall take all actions necessary to
 4 promulgate a rule to implement the amendments made by
 5 subsection (a).

6 **SEC. 4. CONFORMING AMENDMENTS.**

7 (a) **SECTION 338.**—Section 338 of the Communica-
 8 tions Act of 1934 (47 U.S.C. 338) is amended—

9 (1) by striking “119(a)(14)” in the first para-
 10 graph (3) of subsection (a) and inserting
 11 “119(a)(15)”;

12 (2) by striking the second paragraph (3) of sub-
 13 section (a); and

14 (3) by striking subsection (g) and inserting the
 15 following:

16 “(g) **CARRIAGE OF LOCAL STATIONS ON A SINGLE**
 17 **RECEPTION ANTENNA.**—

18 “(1) **SINGLE RECEPTION ANTENNA.**—Each sat-
 19 ellite carrier that retransmits the signals of local tel-
 20 evision broadcast stations in a local market shall re-
 21 transmits such stations in such market so that a sub-
 22 scriber may receive such stations by means of a sin-
 23 gle reception antenna and associated equipment.

24 “(2) **ADDITIONAL RECEPTION ANTENNA.**—If
 25 the carrier retransmits the signals of local television

1 broadcast stations in a local market in high defini-
2 tion format, the carrier shall retransmit such signals
3 in such market so that a subscriber may receive
4 such signals by means of a single reception antenna
5 and associated equipment, but such antenna and as-
6 sociated equipment may be separate from the single
7 reception antenna and associated equipment used to
8 comply with paragraph (1).”.

9 (b) SECTION 339.—Section 339 of such Act (47
10 U.S.C. 339) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1)(B), by striking “Such
13 two network stations” and all that follows
14 through “more than two network stations.”;
15 and

16 (B) in paragraph (2)—

17 (i) in the heading for subparagraph
18 (A), by striking “GRANDFATHERED SUB-
19 SCRIBERS TO ANALOG SIGNALS.—” and in-
20 serting “CERTAIN GRANDFATHERED SUB-
21 SCRIBERS.—”;

22 (ii) by striking “Satellite Home View-
23 er Extension and Reauthorization Act of
24 2004.” and inserting “Satellite Television
25 Extension and Localism Act of 2009.”;

- 1 (iii) in subparagraph (A)—
 2 (I) in the heading for clause (i),
 3 by striking “ANALOG”;
 4 (II) in clause (i)—
 5 (aa) by striking “analog”
 6 each place it appears; and
 7 (bb) by striking “October 1,
 8 2004,” and inserting “October 1,
 9 2009,”;
 10 (III) in the heading for clause
 11 (ii), by striking “ANALOG”; and
 12 (IV) in clause (ii)—
 13 (aa) by striking “analog”
 14 each place it appears; and
 15 (bb) by striking “2004,”
 16 and inserting “2009,”;
 17 (iv) by amending subparagraph (B) to
 18 read as follows:

19 “(B) RULES FOR OTHER SUBSCRIBERS.—
 20 A subscriber of a satellite carrier, other than a
 21 subscriber to whom subparagraph (A) applies,
 22 who was lawfully receiving the distant signal of
 23 a network station on the day before the date of
 24 enactment of the Satellite Television Extension
 25 and Localism Act of 2009 may continue to re-

1 receive such distant signal until such subscriber
 2 chooses to no longer receive such distant signal
 3 from such carrier, whether or not such sub-
 4 scriber elects to subscribe to local signals.”;

5 (v) in subparagraph (C)—

6 (I) by striking “analog”;

7 (II) in clause (i), by striking “the
 8 Satellite Home Viewer Extension and
 9 Reauthorization Act of 2004;” and in-
 10 sserting “the Satellite Television Ex-
 11 tension and Localism Act of 2009;”;
 12 and

13 (III) by amending clause (ii) to
 14 read as follows:

15 “(ii) either—

16 “(I) at the time such person
 17 seeks to subscribe to receive such sec-
 18 ondary transmission, resides in a local
 19 market where the satellite carrier
 20 makes available to that person the
 21 signal of a local network station affili-
 22 ated with the same television network
 23 pursuant to section 338, and the re-
 24 transmission of such signal by such
 25 carrier can reach such subscriber; or

1 “(H) receives from the satellite
 2 carrier the signal of a network station
 3 affiliated with the same network that
 4 is broadcast by a local station in the
 5 market where the subscriber resides,
 6 but is not the local station’s primary
 7 video.”;

8 (vi) by striking subparagraph (D) and
 9 inserting the following:

10 “(D) SPECIAL RULES FOR DISTANT SIG-
 11 NALS.—

12 “(i) IN GENERAL.—In the case of a
 13 subscriber of a satellite carrier who, with
 14 respect to a local network station—

15 “(I) is a subscriber whose house-
 16 hold is not predicted by the model
 17 specified in subsection (e)(3) of this
 18 section to receive the signal intensity
 19 required under section 73.622(e)(1) or
 20 73.683(a) of 47 of the Code of Fed-
 21 eral Regulations, or a successor regu-
 22 lation, or

23 “(II) is in an unserved house-
 24 hold, as determined under section

1 119(d)(10)(A) of title 17, United
2 States Code,

3 such subscriber is eligible to receive the
4 signal of a distant network station affili-
5 ated with the same network under this sec-
6 tion, subject to the provisions of this sub-
7 paragraph.

8 “(ii) SIGNAL TESTING.—A subscriber
9 shall be eligible to receive a distant signal
10 of a distant network station affiliated with
11 the same network under this section if
12 such subscriber is determined, based on a
13 test conducted in accordance with section
14 73.686(d) of title 47, Code of Federal Reg-
15 ulations, or any successor regulation, not
16 to be able to receive a signal that exceeds
17 the signal intensity standard in section
18 73.622(c)(1) or 73.683(a) of title 47, Code
19 of Federal Regulations.

20 “(iii) TIME-SHIFTING PROHIBITED.—
21 In a case in which the satellite carrier
22 makes available to an eligible subscriber
23 under this subparagraph the signal of a
24 local network station pursuant to section
25 338, the carrier may only provide the dis-

1 tant signal of a station affiliated with the
 2 same network to that subscriber if, in the
 3 case of any local market in the 48 contig-
 4 uous States of the United States, the dis-
 5 tant signal is the secondary transmission
 6 of a station whose prime time network pro-
 7 gramming is generally broadcast simulta-
 8 neously with, or later than, the prime time
 9 network programming of the affiliate of
 10 the same network in the local market.

11 “(iv) SAVINGS PROVISION.—Nothing
 12 in this subparagraph shall be construed to
 13 affect a satellite carrier’s obligations under
 14 section 338.”; and

15 (vii) in subparagraph (E), by striking
 16 “distant analog signal or” and all that fol-
 17 lows through “(B), or (D))” and inserting
 18 “distant signal”; and

19 (2) in subsection (c)—

20 (A) by striking paragraph (3) and insert-
 21 ing the following:

22 “(3) ESTABLISHMENT OF IMPROVED PRE-
 23 DICTIVE MODEL AND ON-LOCATION TESTING RE-
 24 QUIRED.—

1 “(A) PREDICTIVE MODEL.—Within 180
2 days after the date of the enactment of the Sat-
3 elite Television Extension and Localism Act of
4 2009, the Commission shall take all actions
5 necessary to develop and prescribe by rule a
6 point-to-point predictive model for reliably and
7 presumptively determining the ability of indi-
8 vidual locations, through the use of an antenna,
9 to receive signals in accordance with the signal
10 intensity standard in section 73.622(c)(1) of
11 title 47, Code of Federal Regulations, including
12 to account for the continuing operation of
13 translator stations and low power television sta-
14 tions. In prescribing such model, the Commis-
15 sion shall rely on the Individual Location
16 Longley-Rice model set forth by the Commis-
17 sion in CS Docket No. 98–201, as previously
18 revised with respect to analog signals, and as
19 recommended by the Commission with respect
20 to digital signals in its Report to Congress in
21 ET Docket No. 05–182, FCC 05–199 (released
22 December 9, 2005). The Commission shall es-
23 tablish procedures for the continued refinement
24 in the application of the model by the use of ad-
25 ditional data as it becomes available.

1 “~~(B) ON-LOCATION TESTING.—~~The Com-
2 mission shall issue an order completing its rule-
3 making proceeding in ET Docket No. 06–94
4 within 180 days after the date of enactment of
5 the Satellite Television Extension and Localism
6 Act of 2009. In conducting such rulemaking,
7 the Commission shall seek ways to minimize
8 consumer burdens associated with on-location
9 testing.”;

10 ~~(B)~~ by striking paragraph (4)(A) and in-
11 sserting the following:

12 “~~(A) IN GENERAL.—~~If a subscriber’s re-
13 quest for a waiver under paragraph (2) is re-
14 jected and the subscriber submits to the sub-
15 scriber’s satellite carrier a request for a test
16 verifying the subscriber’s inability to receive a
17 signal of the signal intensity referenced in
18 clause (i) of subsection (a)(2)(D), the satellite
19 carrier and the network station or stations as-
20 sserting that the retransmission is prohibited
21 with respect to that subscriber shall select a
22 qualified and independent person to conduct the
23 test referenced in such clause. Such test shall
24 be conducted within 30 days after the date the
25 subscriber submits a request for the test. If the

1 written findings and conclusions of a test con-
 2 ducted in accordance with such clause dem-
 3 onstrate that the subscriber does not receive a
 4 signal that meets or exceeds the requisite signal
 5 intensity standard in such clause, the subscriber
 6 shall not be denied the retransmission of a sig-
 7 nal of a network station under section 119 of
 8 title 17, United States Code.”;

9 (C) in paragraph (4)(B), by striking “the
 10 signal intensity” and all that follows through
 11 “United States Code” and inserting “such req-
 12 uisite signal intensity standard”; and

13 (D) in paragraph (4)(E), by striking
 14 “Grade B intensity”.

15 (e) SECTION 340.—Section 340(i) of such Act (47
 16 U.S.C. 340(i)) is amended by striking paragraph (4).

17 **SEC. 5. APPLICATION PENDING COMPLETION OF**
 18 **RULEMAKINGS.**

19 (a) IN GENERAL.—Between the date of enactment of
 20 this Act and the adoption of rules by the Federal Commu-
 21 nications Commission pursuant to the amendments to the
 22 Communications Act of 1934 made by sections 3 and 4
 23 of this Act, the Federal Communications Commission shall
 24 follow its rules and regulations promulgated pursuant to
 25 sections 338, 339, and 340 of the Communications Act

1 of 1934 as in effect on the day before the date of enact-
2 ment of this Act.

3 (b) TRANSLATOR STATIONS AND LOW POWER TELE-
4 VISION STATIONS.—Notwithstanding subsection (a), for
5 purposes of determining whether a subscriber within the
6 local market served by a translator station or a low power
7 television station affiliated with a television network is eli-
8 gible to receive distant signals under section 339 of such
9 Act, the Federal Communications Commission shall follow
10 its rules and regulations for determining such subscriber’s
11 eligibility as in effect on the day before the date of enact-
12 ment of this Act until the date on which the translator
13 station or low power television station is licensed to broad-
14 cast a digital signal.

15 (c) DEFINITIONS.—As used in this Act:

16 (1) LOCAL MARKET; LOW POWER TELEVISION
17 STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-
18 VISION BROADCAST STATION.—The terms “local
19 market”, “low power television station”, “satellite
20 carrier”, “subscriber”, and “television broadcast sta-
21 tion” have the meanings given such terms in section
22 338(k) of the Communications Act of 1934.

23 (2) NETWORK STATION; TELEVISION NET-
24 WORK.—The terms “network station” and “tele-

1 vision network” have the meanings given such terms
2 in section 339(d) of such Act.

3 **SEC. 6. SAVINGS CLAUSE REGARDING DEFINITIONS.**

4 Nothing in this Act or the amendments made by this
5 Act shall be construed to affect the definitions of “pro-
6 gram related” and “primary video” in the Communica-
7 tions Act of 1934 or in any regulations promulgated pur-
8 suant to such Act by the Federal Communications Com-
9 mission.

10 **SEC. 7. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINI-**
11 **TION DIGITAL SIGNALS OF NONCOMMER-**
12 **CIAL EDUCATIONAL TELEVISION STATIONS.**

13 (a) IN GENERAL.—Section 338(a) of the Commu-
14 nications Act of 1934 (47 U.S.C. 338(a)) is amended by
15 adding at the end the following new paragraph:

16 “(5) NONDISCRIMINATION IN CARRIAGE OF
17 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL
18 EDUCATIONAL TELEVISION STATIONS.—

19 “(A) EXISTING CARRIAGE OF HIGH DEFINI-
20 TION SIGNALS.—Each eligible satellite carrier
21 providing, under section 122 of title 17, United
22 States Code, any secondary transmissions in
23 high definition to subscribers located within the
24 local market of a television broadcast station of
25 a primary transmission made by that station

1 prior to the date of enactment of the Satellite
2 Television Extension and Localism Act of 2009
3 shall carry the high definition signals of quali-
4 fied noncommercial educational television sta-
5 tions located within that local market in accord-
6 ance with the following schedule:

7 “(i) By December 31, 2010, in at
8 least 50 percent of the markets in which
9 such satellite carrier provides such sec-
10 ondary transmissions in high definition.

11 “(ii) By December 31, 2011, in every
12 market in which such satellite carrier pro-
13 vides such secondary transmissions in high
14 definition.

15 “(B) NEW INITIATION OF SERVICE.—Each
16 eligible satellite carrier that initiates the provi-
17 sion, under section 122 of title 17, United
18 States Code, of any secondary transmissions in
19 high definition to subscribers located within the
20 local market of a television broadcast station of
21 a primary transmission made by that station
22 after the date of enactment of the Satellite Tel-
23 evision Extension and Localism Act of 2009
24 shall carry the high definition signals of all

1 qualified noncommercial educational television
 2 stations located within that local market.”.

3 (b) DEFINITIONS.—Section 338(k) of such Act (47
 4 U.S.C. 338(k)) is amended—

5 (1) by redesignating paragraphs (2) through
 6 (8) as paragraphs (3) through (9), respectively;

7 (2) by inserting after paragraph (1) the fol-
 8 lowing new paragraph:

9 “(2) ELIGIBLE SATELLITE CARRIER.—The term
 10 ‘eligible satellite carrier’ means any satellite carrier
 11 that is not a party to a carriage contract with a
 12 qualified noncommercial educational television sta-
 13 tion or its representative that—

14 “(A) governs carriage of more than 30
 15 such stations; and

16 “(B) is in force and effect as of the date
 17 of enactment of the Satellite Television Exten-
 18 sion and Localism Act of 2009.”;

19 (3) by redesignating paragraphs (6) through
 20 (9) (as previously redesignated) as paragraphs (7)
 21 through (10), respectively; and

22 (4) by inserting after paragraph (5) (as so re-
 23 designatd) the following new paragraph:

24 “(6) QUALIFIED NONCOMMERCIAL EDU-
 25 CATIONAL TELEVISION STATION.—The term ‘quali-

1 fied noncommercial educational television station'
 2 has the meaning given such term in section
 3 615(l)(1) of this Act.”.

4 **SEC. 8. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
 5 **STATUTORY LICENSING MODIFICATIONS.**

6 (a) **STUDY.**—The Comptroller General shall conduct
 7 a study that analyzes and evaluates the changes to the
 8 carriage requirements currently imposed on multichannel
 9 video programming distributors under the Communica-
 10 tions Act of 1934 (47 U.S.C. 151 et seq.) and the regula-
 11 tions promulgated by the Federal Communications Com-
 12 mission that would be required or beneficial to consumers,
 13 and such other matters as the Comptroller General deems
 14 appropriate, if Congress implemented a phase-out of the
 15 current statutory licensing requirements set forth under
 16 sections 111, 119, and 122 of title 17, United States
 17 Code. Among other things, the study shall consider the
 18 impact such a phase-out and related changes to carriage
 19 requirements would have on consumer prices and access
 20 to programming.

21 (b) **REPORT.**—Not later than 12 months after the
 22 date of enactment of this Act, the Comptroller General
 23 shall report to the Senate Committee on Commerce,
 24 Science, and Transportation and the House of Represent-
 25 atives Committee on Energy and Commerce the results of

1 the study, including any recommendations for legislative
2 or administrative actions.

3 **SEC. 9. SEVERABILITY.**

4 If any provision of this Act, an amendment made by
5 this Act, or the application of such provision or amend-
6 ment to any person or circumstance is held to be unconsti-
7 tutional, the remainder of this Act, the amendments made
8 by this Act, and the application of such provisions to any
9 person or circumstance shall not be affected thereby.

10 **SECTION 1. SHORT TITLE.**

11 *This Act may be cited as the “Satellite Television Ex-*
12 *tension and Localism Act of 2009”.*

13 **SEC. 2. EXTENSION OF AUTHORITY.**

14 *Section 325(b) of the Communications Act of 1934 (47*
15 *U.S.C. 325(b)) is amended—*

16 *(1) in paragraph (2)(C), by striking “December*
17 *31, 2009” and inserting “December 31, 2014”; and*

18 *(2) in paragraph (3)(C), by striking “January*
19 *1, 2010” each place it appears in clauses (ii) and*
20 *(iii) and inserting “January 1, 2015”.*

21 **SEC. 3. SIGNIFICANTLY VIEWED STATIONS.**

22 *(a) IN GENERAL.—Paragraphs (1) and (2) of section*
23 *340(b) of such Act (47 U.S.C. 340(b)) are amended to read*
24 *as follows:*

1 “(1) *SERVICE LIMITED TO SUBSCRIBERS TAKING*
2 *LOCAL-INTO-LOCAL SERVICE.*—*This section shall*
3 *apply only to retransmissions to subscribers of a sat-*
4 *ellite carrier who receive retransmissions of a signal*
5 *from that satellite carrier pursuant to section 338.*

6 “(2) *SERVICE LIMITATIONS.*—*A satellite carrier*
7 *may retransmit to a subscriber in high definition for-*
8 *mat the signal of a station determined by the Com-*
9 *mission to be significantly viewed under subsection*
10 *(a) only if such carrier also retransmits in high defi-*
11 *nition format the signal of a station located in the*
12 *local market of such subscriber and affiliated with the*
13 *same network whenever such format is available from*
14 *such station.”.*

15 **(b) *RULEMAKING REQUIRED.***—*Within 180 days after*
16 *the date of the enactment of this Act, the Federal Commu-*
17 *nications Commission shall take all actions necessary to*
18 *promulgate a rule to implement the amendments made by*
19 *subsection (a).*

20 **SEC. 4. CONFORMING AMENDMENTS.**

21 **(a) *SECTION 338.***—*Section 338 of the Communica-*
22 *tions Act of 1934 (47 U.S.C. 338) is amended—*

23 **(1)** *by striking “119(a)(14)” in the first para-*
24 *graph (3) of subsection (a) and inserting*
25 *“119(a)(15)”;*

1 (2) *by striking the second paragraph (3) of sub-*
2 *section (a); and*

3 (3) *by striking subsection (g) and inserting the*
4 *following:*

5 “(g) *CARRIAGE OF LOCAL STATIONS ON A SINGLE RE-*
6 *CEPTION ANTENNA.—*

7 “(1) *SINGLE RECEPTION ANTENNA.—Each sat-*
8 *ellite carrier that retransmits the signals of local tele-*
9 *vision broadcast stations in a local market shall re-*
10 *transmit such stations in such market so that a sub-*
11 *scriber may receive such stations by means of a single*
12 *reception antenna and associated equipment.*

13 “(2) *ADDITIONAL RECEPTION ANTENNA.—If the*
14 *carrier retransmits the signals of local television*
15 *broadcast stations in a local market in high defini-*
16 *tion format, the carrier shall retransmit such signals*
17 *in such market so that a subscriber may receive such*
18 *signals by means of a single reception antenna and*
19 *associated equipment, but such antenna and associ-*
20 *ated equipment may be separate from the single re-*
21 *ception antenna and associated equipment used to*
22 *comply with paragraph (1).”.*

23 (b) *SECTION 339.—Section 339 of such Act (47 U.S.C.*
24 *339) is amended—*

25 (1) *in subsection (a)—*

1 (A) in paragraph (1)(B), by striking “Such
2 two network stations” and all that follows
3 through “more than two network stations.”; and

4 (B) in paragraph (2)—

5 (i) in the heading for subparagraph
6 (A), by striking “GRANDFATHERED SUB-
7 SCRIBERS TO ANALOG SIGNALS.— and in-
8 serting “CERTAIN GRANDFATHERED SUB-
9 SCRIBERS.—”;

10 (ii) by striking “Satellite Home Viewer
11 Extension and Reauthorization Act of
12 2004:” and inserting “Satellite Television
13 Extension and Localism Act of 2009:”;

14 (iii) in subparagraph (A)—

15 (I) in the heading for clause (i),
16 by striking “ANALOG”;

17 (II) in clause (i)—

18 (aa) by striking “analog”
19 each place it appears; and

20 (bb) by striking “October 1,
21 2004,” and inserting “October 1,
22 2009,”;

23 (III) in the heading for clause
24 (ii), by striking “ANALOG”; and

25 (IV) in clause (ii)—

1 (aa) by striking “analog”
2 each place it appears; and

3 (bb) by striking “2004,” and
4 inserting “2009,”;

5 (iv) by amending subparagraph (B) to
6 read as follows:

7 “(B) *RULES FOR OTHER SUBSCRIBERS.—A*
8 *subscriber of a satellite carrier, other than a sub-*
9 *scriber to whom subparagraph (A) applies, who*
10 *was lawfully receiving the distant signal of a*
11 *network station on the day before the date of en-*
12 *actment of the Satellite Television Extension and*
13 *Localism Act of 2009 may continue to receive*
14 *such distant signal until such subscriber chooses*
15 *to no longer receive such distant signal from*
16 *such carrier, whether or not such subscriber elects*
17 *to subscribe to local signals.”;*

18 (v) in subparagraph (C)—

19 (I) by striking “analog”;

20 (II) in clause (i), by striking “the
21 *Satellite Home Viewer Extension and*
22 *Reauthorization Act of 2004;” and in-*
23 *serting “the Satellite Television Exten-*
24 *sion and Localism Act of 2009;”;* and

1 (III) by amending clause (ii) to
2 read as follows:

3 “(ii) either—

4 “(I) at the time such person seeks
5 to subscribe to receive such secondary
6 transmission, resides in a local market
7 where the satellite carrier makes avail-
8 able to that person the signal of a local
9 network station affiliated with the
10 same television network pursuant to
11 section 338, and the retransmission of
12 such signal by such carrier can reach
13 such subscriber; or

14 “(II) receives from the satellite
15 carrier the signal of a network station
16 affiliated with the same network that is
17 broadcast by a local station in the
18 market where the subscriber resides,
19 but is not the local station’s primary
20 video.”;

21 (vi) by striking subparagraph (D) and
22 inserting the following:

23 “(D) SPECIAL RULES FOR DISTANT SIG-
24 NALS.—

1 “(i) *IN GENERAL.*—*In the case of a*
2 *subscriber of a satellite carrier who, with re-*
3 *spect to a local network station—*

4 “(I) *is a subscriber whose house-*
5 *hold is not predicted by the model spec-*
6 *ified in subsection (c)(3) of this section*
7 *to receive the signal intensity required*
8 *under section 73.622(e)(1) or 73.683(a)*
9 *of 47 of the Code of Federal Regula-*
10 *tions, or a successor regulation, or*

11 “(II) *is in an unserved household,*
12 *as determined under section*
13 *119(d)(10)(A) of title 17, United States*
14 *Code,*

15 *such subscriber is eligible to receive the sig-*
16 *nal of a distant network station affiliated*
17 *with the same network under this section,*
18 *subject to the provisions of this subpara-*
19 *graph.*

20 “(ii) *SIGNAL TESTING.*—*A subscriber*
21 *shall be eligible to receive a distant signal*
22 *of a distant network station affiliated with*
23 *the same network under this section if such*
24 *subscriber is determined, based on a test*
25 *conducted in accordance with section*

1 73.686(d) of title 47, Code of Federal Regu-
2 lations, or any successor regulation, not to
3 be able to receive a signal that exceeds the
4 signal intensity standard in section
5 73.622(e)(1) or 73.683(a) of title 47, Code of
6 Federal Regulations.”;

7 “(iii) *TIME-SHIFTING PROHIBITED.*—
8 *In a case in which the satellite carrier*
9 *makes available to an eligible subscriber*
10 *under this subparagraph the signal of a*
11 *local network station pursuant to section*
12 *338, the carrier may only provide the dis-*
13 *tant signal of a station affiliated with the*
14 *same network to that subscriber if, in the*
15 *case of any local market in the 48 contig-*
16 *uous States of the United States, the distant*
17 *signal is the secondary transmission of a*
18 *station whose prime time network program-*
19 *ming is generally broadcast simultaneously*
20 *with, or later than, the prime time network*
21 *programming of the affiliate of the same*
22 *network in the local market.*

23 “(iv) *SAVINGS PROVISION.*—*Nothing in*
24 *this subparagraph shall be construed to af-*

1 *fect a satellite carrier's obligations under*
 2 *section 338.”; and*

3 *(vii) in subparagraph (E), by striking*
 4 *“distant analog signal or” and all that fol-*
 5 *lows through “(B), or (D))” and inserting*
 6 *“distant signal”; and*

7 *(2) in subsection (c)—*

8 *(A) by striking paragraph (3) and inserting*
 9 *the following:*

10 *“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE*
 11 *MODEL AND ON-LOCATION TESTING REQUIRED.—*

12 *“(A) PREDICTIVE MODEL.—Within 180*
 13 *days after the date of the enactment of the Sat-*
 14 *ellite Television Extension and Localism Act of*
 15 *2009, the Commission shall take all actions nec-*
 16 *essary to develop and prescribe by rule a point-*
 17 *to-point predictive model for reliably and pre-*
 18 *sumptively determining the ability of individual*
 19 *locations, through the use of an antenna, to re-*
 20 *ceive signals in accordance with the signal inten-*
 21 *sity standard in section 73.622(e)(1) of title 47,*
 22 *Code of Federal Regulations, including to ac-*
 23 *count for the continuing operation of translator*
 24 *stations and low power television stations. In*
 25 *prescribing such model, the Commission shall*

1 *rely on the Individual Location Longley-Rice*
2 *model set forth by the Commission in CS Docket*
3 *No. 98–201, as previously revised with respect to*
4 *analog signals, and as recommended by the Com-*
5 *mission with respect to digital signals in its Re-*
6 *port to Congress in ET Docket No. 05–182, FCC*
7 *05–199 (released December 9, 2005). The Com-*
8 *mission shall establish procedures for the contin-*
9 *ued refinement in the application of the model*
10 *by the use of additional data as it becomes avail-*
11 *able.*

12 “(B) *ON-LOCATION TESTING.*—*The Commis-*
13 *sion shall issue an order completing its rule-*
14 *making proceeding in ET Docket No. 06–94*
15 *within 180 days after the date of enactment of*
16 *the Satellite Television Extension and Localism*
17 *Act of 2009. In conducting such rulemaking, the*
18 *Commission shall seek ways to minimize con-*
19 *sumer burdens associated with on-location test-*
20 *ing.”;*

21 (B) *by striking paragraph (4)(A) and in-*
22 *serting the following:*

23 “(A) *IN GENERAL.*—*If a subscriber’s request*
24 *for a waiver under paragraph (2) is rejected and*
25 *the subscriber submits to the subscriber’s satellite*

1 carrier a request for a test verifying the sub-
2 scriber's inability to receive a signal of the sig-
3 nal intensity referenced in clause (i) of sub-
4 section (a)(2)(D), the satellite carrier and the
5 network station or stations asserting that the re-
6 transmission is prohibited with respect to that
7 subscriber shall select a qualified and inde-
8 pendent person to conduct the test referenced in
9 such clause. Such test shall be conducted within
10 30 days after the date the subscriber submits a
11 request for the test. If the written findings and
12 conclusions of a test conducted in accordance
13 with such clause demonstrate that the subscriber
14 does not receive a signal that meets or exceeds
15 the requisite signal intensity standard in such
16 clause, the subscriber shall not be denied the re-
17 transmission of a signal of a network station
18 under section 119 of title 17, United States
19 Code.”;

20 (C) in paragraph (4)(B), by striking “the
21 signal intensity” and all that follows through
22 “United States Code” and inserting “such req-
23 uisite signal intensity standard”; and

24 (D) in paragraph (4)(E), by striking
25 “Grade B intensity”.

1 (c) *SECTION 340.*—Section 340(i) of such Act (47
2 *U.S.C. 340(i)*) is amended by striking paragraph (4).

3 **SEC. 5. APPLICATION PENDING COMPLETION OF**
4 **RULEMAKINGS.**

5 (a) *IN GENERAL.*—Between the date of enactment of
6 *this Act* and the adoption of rules by the Federal Commu-
7 *nications Commission* pursuant to the amendments to the
8 *Communications Act of 1934* made by sections 3 and 4 of
9 *this Act*, the Federal Communications Commission shall fol-
10 *low its rules and regulations promulgated pursuant to sec-*
11 *tions 338, 339, and 340 of the Communications Act of 1934*
12 *as in effect on the day before the date of enactment of this*
13 *Act.*

14 (b) *TRANSLATOR STATIONS AND LOW POWER TELE-*
15 *VISION STATIONS.*—Notwithstanding subsection (a), for
16 *purposes of determining whether a subscriber within the*
17 *local market served by a translator station or a low power*
18 *television station affiliated with a television network is eli-*
19 *gible to receive distant signals under section 339 of such*
20 *Act*, the Federal Communications Commission shall follow
21 *its rules and regulations for determining such subscriber's*
22 *eligibility as in effect on the day before the date of enact-*
23 *ment of this Act until the date on which the translator sta-*
24 *tion or low power television station is licensed to broadcast*
25 *a digital signal.*

1 (c) *DEFINITIONS.—As used in this Act:*

2 (1) *LOCAL MARKET; LOW POWER TELEVISION*
 3 *STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-*
 4 *VISION BROADCAST STATION.—The terms “local mar-*
 5 *ket”, “low power television station”, “satellite car-*
 6 *rier”, “subscriber”, and “television broadcast station”*
 7 *have the meanings given such terms in section 338(k)*
 8 *of the Communications Act of 1934.*

9 (2) *NETWORK STATION; TELEVISION NETWORK.—*
 10 *The terms “network station” and “television network”*
 11 *have the meanings given such terms in section 339(d)*
 12 *of such Act.*

13 **SEC. 6. SAVINGS CLAUSE REGARDING DEFINITIONS.**

14 *Nothing in this Act or the amendments made by this*
 15 *Act shall be construed to affect the definitions of “program*
 16 *related” and “primary video” in the Communications Act*
 17 *of 1934 or in any regulations promulgated pursuant to such*
 18 *Act by the Federal Communications Commission.*

19 **SEC. 7. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINI-**
 20 **NITION DIGITAL SIGNALS OF NONCOMMER-**
 21 **CIAL EDUCATIONAL TELEVISION STATIONS.**

22 (a) *IN GENERAL.—Section 338(a) of the Communica-*
 23 *tions Act of 1934 (47 U.S.C. 338(a)) is amended by adding*
 24 *at the end the following new paragraph:*

1 “(5) *NONDISCRIMINATION IN CARRIAGE OF HIGH*
2 *DEFINITION SIGNALS OF NONCOMMERCIAL EDU-*
3 *CATIONAL TELEVISION STATIONS.—*

4 “(A) *EXISTING CARRIAGE OF HIGH DEFINI-*
5 *TION SIGNALS.—Each eligible satellite carrier*
6 *providing, under section 122 of title 17, United*
7 *States Code, any secondary transmissions in*
8 *high definition to subscribers located within the*
9 *local market of a television broadcast station of*
10 *a primary transmission made by that station*
11 *prior to the date of enactment of the Satellite*
12 *Television Extension and Localism Act of 2009*
13 *shall carry the high definition signals of quali-*
14 *fied noncommercial educational television sta-*
15 *tions located within that local market in accord-*
16 *ance with the following schedule:*

17 “(i) *By December 31, 2010, in at least*
18 *50 percent of the markets in which such sat-*
19 *ellite carrier provides such secondary trans-*
20 *missions in high definition.*

21 “(ii) *By December 31, 2011, in every*
22 *market in which such satellite carrier pro-*
23 *vides such secondary transmissions in high*
24 *definition.*

1 “(B) *NEW INITIATION OF SERVICE.*—Each
2 *eligible satellite carrier that initiates the provi-*
3 *sion, under section 122 of title 17, United States*
4 *Code, of any secondary transmissions in high*
5 *definition to subscribers located within the local*
6 *market of a television broadcast station of a pri-*
7 *mary transmission made by that station after*
8 *the date of enactment of the Satellite Television*
9 *Extension and Localism Act of 2009 shall carry*
10 *the high definition signals of all qualified non-*
11 *commercial educational television stations lo-*
12 *cated within that local market.”.*

13 (b) *DEFINITIONS.*—Section 338(k) of such Act (47
14 *U.S.C. 338(k)) is amended—*

15 (1) *by redesignating paragraphs (2) through (8)*
16 *as paragraphs (3) through (9), respectively;*

17 (2) *by inserting after paragraph (1) the fol-*
18 *lowing new paragraph:*

19 “(2) *ELIGIBLE SATELLITE CARRIER.*—The term
20 *‘eligible satellite carrier’ means any satellite carrier*
21 *that is not a party to a carriage contract with a*
22 *qualified noncommercial educational television sta-*
23 *tion or its representative that—*

24 (1) *governs carriage of more than 30 such*
25 *stations; and*

1 “(B) is in force and effect as of the date of
2 enactment of the Satellite Television Extension
3 and Localism Act of 2009.”;

4 (3) by redesignating paragraphs (6) through (9)
5 (as previously redesignated) as paragraphs (7)
6 through (10), respectively; and

7 (4) by inserting after paragraph (5) (as so redesi-
8 gnated) the following new paragraph:

9 “(6) **QUALIFIED NONCOMMERCIAL EDUCATIONAL**
10 **TELEVISION STATION.**—The term ‘qualified non-
11 commercial educational television station’ has the
12 meaning given such term in section 615(l)(1) of this
13 Act.”.

14 **SEC. 8. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
15 **STATUTORY LICENSING MODIFICATIONS.**

16 (a) *STUDY.*—The Comptroller General shall conduct a
17 study that analyzes and evaluates the changes to the car-
18 riage requirements currently imposed on multichannel
19 video programming distributors under the Communications
20 Act of 1934 (47 U.S.C. 151 et seq.) and the regulations pro-
21 mulgated by the Federal Communications Commission that
22 would be required or beneficial to consumers, and such other
23 matters as the Comptroller General deems appropriate, if
24 Congress implemented a phase-out of the current statutory
25 licensing requirements set forth under sections 111, 119,

1 *and 122 of title 17, United States Code. Among other*
2 *things, the study shall consider the impact such a phase-*
3 *out and related changes to carriage requirements would*
4 *have on consumer prices and access to programming.*

5 **(b) REPORT.**—*Not later than 12 months after the date*
6 *of enactment of this Act, the Comptroller General shall re-*
7 *port to the Senate Committee on Commerce, Science, and*
8 *Transportation and the House of Representatives Com-*
9 *mittee on Energy and Commerce the results of the study,*
10 *including any recommendations for legislative or adminis-*
11 *trative actions.*

12 **SEC. 9. LOCAL NETWORK CHANNEL BROADCAST REPORTS.**

13 **(a) IN GENERAL.**—*Beginning 6 months after the date*
14 *of enactment of this Act, each satellite carrier shall submit*
15 *a report to the Federal Communications Commission set-*
16 *ting forth—*

17 **(1)** *each local market in which it provides sig-*
18 *nals of 1 or more network stations licensed to provide*
19 *signals in that market;*

20 **(2)** *detailed information regarding the use of sat-*
21 *ellite capacity for the provision of local signals into*
22 *local markets;*

23 **(3)** *each local market in which it has commenced*
24 *providing such signals in the 6-month period covered*
25 *by the report; and*

1 (4) *each local market in which it has ceased to*
2 *provide such signals in the 6-month period covered by*
3 *the report.*

4 (b) *FCC STUDY.*—*As soon as practicable after the date*
5 *of enactment of this Act, the Federal Communications Com-*
6 *mission shall initiate a study of—*

7 (1) *incentives that would induce a satellite car-*
8 *rier to provide the signals of 1 or more television sta-*
9 *tions licensed to provide signals in local markets in*
10 *which the satellite carrier does not provide such sig-*
11 *nals; and*

12 (2) *the economic and satellite capacity condi-*
13 *tions affecting delivery of local signals by satellite*
14 *carriers to these markets.*

15 (c) *REPORT.*—*Within 1 year after the date of enact-*
16 *ment of this Act, the Commission shall submit a report to*
17 *the Senate Committee on Commerce, Science, and Trans-*
18 *portation and the House of Representatives Committee on*
19 *Energy and Commerce containing its findings, conclusions,*
20 *and recommendations.*

21 (d) *DEFINITIONS.*—*In this section, the terms “local*
22 *market”, “network station”, “satellite carrier”, and “tele-*
23 *vision network” have the meaning given such terms in sec-*
24 *tion 339(d) of the Communications Act of 1934 (47 U.S.C.*
25 *339(d)).*

1 **SEC. 10. STATE PUBLIC AFFAIRS BROADCASTS.**

2 *Section 335(b) of the Communications Act of 1934 (47*
3 *U.S.C. 335(b)) is amended—*

4 *(1) by inserting “STATE PUBLIC AFFAIRS,” after*
5 *“EDUCATIONAL,” in the heading;*

6 *(2) by striking paragraph (1) and inserting the*
7 *following:*

8 *“(1) CHANNEL CAPACITY REQUIRED.—*

9 *“(A) Except as provided in subparagraph*
10 *(B), the Commission shall require, as a condition*
11 *of any provision, initial authorization, or au-*
12 *thorization renewal for a provider of direct*
13 *broadcast satellite service providing video pro-*
14 *gramming, that the provider of such service re-*
15 *serve a portion of its channel capacity, equal to*
16 *not less than 4 percent nor more than 7 percent,*
17 *exclusively for noncommercial programming of*
18 *an educational or informational nature.*

19 *“(B) The Commission shall require, as a*
20 *condition of any provision, initial authorization,*
21 *or authorization renewal for a qualified satellite*
22 *provider of direct broadcast satellite service pro-*
23 *viding video programming, that such provider*
24 *reserve a portion of its channel capacity, equal*
25 *to not less than 3.5 percent nor more than 7 per-*
26 *cent, exclusively for noncommercial program-*

1 *ming of an educational or informational na-*
2 *ture.”; and*

3 *(3) by adding at the end of paragraph (5) the*
4 *following:*

5 *“(C) The term ‘qualified satellite provider’*
6 *means any provider of direct broadcast satellite*
7 *service that—*

8 *“(i) provides the retransmission of the*
9 *State public affairs networks of at least 15*
10 *different States;*

11 *“(ii) offers the programming of State*
12 *public affairs networks upon reasonable*
13 *prices, terms, and conditions as determined*
14 *by the Commission under paragraph (4) of*
15 *this subsection; and*

16 *“(iii) does not delete any noncommer-*
17 *cial programming of an educational or in-*
18 *formational nature in connection with the*
19 *carriage of a State public affairs network.*

20 *“(D) The term ‘State public affairs network’*
21 *means a non-commercial non-broadcast network*
22 *or a noncommercial educational television sta-*
23 *tion—*

1 “(i) whose programming consists of in-
2 formation about State government delibera-
3 tions and public policy events; and

4 “(ii) that is operated by—

5 “(I) a State government;

6 “(II) an organization described in
7 section 501(c)(3) of the Internal Rev-
8 enue Code of 1986 that is exempt from
9 taxation under section 501(a) of such
10 Code and that is governed by an inde-
11 pendent board of directors; or

12 “(III) a cable system.”.

13 **SEC. 11. SEVERABILITY.**

14 *If any provision of this Act, an amendment made by*
15 *this Act, or the application of such provision or amendment*
16 *to any person or circumstance is held to be unconstitu-*
17 *tional, the remainder of this Act, the amendments made by*
18 *this Act, and the application of such provisions to any per-*
19 *son or circumstance shall not be affected thereby.*

Calendar No. 709

11TH CONGRESS
2^D SESSION

S. 2764

A BILL

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes.

DECEMBER 17, 2010

Reported with an amendment